

## ENGROSSED LEGISLATIVE BILL 317

Introduced by Brandt, 32; at the request of the Governor.

A BILL FOR AN ACT relating to the Department of Water, Energy, and Environment;

to amend sections 2-408, 2-969, 2-1501, 2-1504, 2-1508, 2-1509, 2-1510, 2-1511, 2-1588, 2-1592, 2-1593, 2-1594, 2-1595, 2-2626, 2-3202, 2-3225, 2-3241, 2-3254, 2-3279, 2-3280, 2-4602, 2-4603, 2-4604, 2-4901, 13-1701, 13-2008, 13-2009, 13-2042.01, 16-6,106, 25-1062.01, 25-1064, 25-1920, 25-2159, 25-2160, 31-415, 31-509, 31-515, 31-516, 31-1003, 31-1015, 37-707, 37-708.01, 46-106, 46-122, 46-190, 46-192, 46-193, 46-1,155, 46-1,157, 46-205, 46-226, 46-226.01, 46-226.02, 46-226.03, 46-227, 46-229, 46-229.01, 46-229.02, 46-229.03, 46-229.04, 46-229.05, 46-229.06, 46-230, 46-231, 46-233, 46-233.01, 46-234, 46-235, 46-235.01, 46-235.02, 46-235.03, 46-235.04, 46-236, 46-237, 46-238, 46-240.01, 46-241, 46-242, 46-250, 46-252, 46-254, 46-256, 46-258, 46-261, 46-263.02, 46-273, 46-286, 46-288, 46-289, 46-290, 46-291, 46-292, 46-293, 46-294, 46-294.01, 46-294.02, 46-294.05, 46-297, 46-2,101, 46-2,104, 46-2,105, 46-2,108, 46-2,109, 46-2,110, 46-2,111, 46-2,112, 46-2,113, 46-2,114, 46-2,115, 46-2,116, 46-2,116.01, 46-2,116.02, 46-2,117, 46-2,118, 46-2,119, 46-2,120, 46-2,122, 46-2,123, 46-2,124, 46-2,125, 46-2,128, 46-2,130, 46-2,139, 46-302, 46-303, 46-304, 46-305, 46-312, 46-315, 46-514, 46-515, 46-516, 46-517, 46-518, 46-519, 46-521, 46-522, 46-524, 46-525, 46-526, 46-527, 46-528, 46-529, 46-530, 46-536, 46-541, 46-583, 46-601.01, 46-602, 46-604, 46-606, 46-609, 46-610, 46-613.01, 46-613.02, 46-637, 46-638, 46-639, 46-640, 46-641, 46-642, 46-644, 46-645, 46-648, 46-649, 46-653, 46-654, 46-655.01, 46-676, 46-677, 46-678, 46-679, 46-680, 46-682, 46-683, 46-683.01, 46-684, 46-685, 46-686, 46-686.01, 46-688, 46-691, 46-703, 46-704, 46-705, 46-706, 46-707, 46-709, 46-711, 46-712, 46-713, 46-714, 46-715, 46-716, 46-717, 46-718, 46-719, 46-720, 46-721, 46-722, 46-723, 46-724, 46-725, 46-726, 46-728, 46-729, 46-730, 46-731, 46-732, 46-733,

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Reissue Revised Statutes of Nebraska, and sections 2-414, 2-415, 2-416,  
2-1507, 19-1201, 19-1202, 19-1203, 19-1204, 19-5706, 31-508, 37-806,  
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70-1003, 71-2433, 71-3503, 71-5301, 71-5316, 71-5328, 71-6406, 72-804, 72-805, 76-2602, 76-2608, 77-27,150, 77-27,151, 77-27,152, 77-27,153, 77-27,154, 77-27,187.01, 77-27,236, and 77-3442, Revised Statutes Cumulative Supplement, 2024; to merge the Department of Natural Resources with the Department of Environment and Energy; to rename the department, the director, and certain funds; to change procedures for appointment of the director; to create a new position; to provide, change, transfer, and eliminate powers and duties; to provide exemptions from the State Personnel System; to change and eliminate provisions relating to irrigation districts and natural resources districts; to eliminate provisions relating to the Conservation Corporation Act, the Low-Level Radioactive Waste Disposal Act, the Nebraska Soil Survey Fund, and the state water planning and review process; to eliminate obsolete provisions; to change provisions relating to the Water Sustainability Fund and the boundary lines of state game refuges; to harmonize provisions; to provide an operative date; to repeal the original sections; to outright repeal sections 2-1596, 2-1597, 2-1598, 2-1599, 2-15,100, 2-15,101, 2-15,103, 2-15,105, 2-15,106, 2-3277, 2-3278, 2-4201, 2-4202, 2-4203, 2-4204, 2-4205, 2-4206, 2-4207, 2-4208, 2-4209, 2-4210, 2-4211, 2-4212, 2-4213, 2-4214, 2-4215, 2-4216, 2-4217, 2-4218, 2-4219, 2-4220, 2-4221, 2-4222, 2-4223, 2-4224, 2-4225, 2-4226, 2-4227, 2-4228, 2-4229, 2-4230, 2-4231, 2-4232, 2-4233, 2-4234, 2-4235, 2-4236, 2-4237, 2-4238, 2-4239, 2-4240, 2-4241, 2-4242, 2-4243, 2-4244, 2-4245, 2-4246, 46-199, 71-3508.02, 81-15,254, 81-15,255, 81-15,256, 81-15,257, 81-15,258, 81-15,259, 81-15,293, 81-15,294, 81-15,295, 81-15,296, 81-15,297, and 81-15,298, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

**Section 1.** (1) On and after July 1, 2025, the Department of Natural Resources shall be merged into the Department of Environment and Energy, which shall be renamed as the Department of Water, Energy, and Environment, and the Director of Environment and Energy shall be renamed as the Director of Water,

Energy, and Environment. The Director of Natural Resources shall be renamed the Chief Water Officer and retain authorities previously prescribed for the administration of duties of the Department of Natural Resources, except as otherwise provided by law.

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

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

**Sec. 3.** On and after July 1, 2025, whenever the Department of Natural Resources or the Department of Environment and Energy is referred to or

designated by any contract or other document in connection with the duties and functions of the Department of Natural Resources or the Department of Environment and Energy as such departments existed prior to July 1, 2025, such reference or designation shall apply to the Department of Water, Energy, and Environment or the Chief Water Officer, as determined by the duties and functions assigned to each in statute. All contracts entered into by the Department of Natural Resources or the Department of Environment and Energy prior to July 1, 2025, in connection with the duties and functions of the Department of Natural Resources or the Department of Environment and Energy as such departments existed prior to July 1, 2025, are hereby recognized, with the Department of Water, Energy, and Environment or the Chief Water Officer, as determined by the duties and functions assigned to each in statute, succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to such department or the Chief Water Officer for the payment of such obligations. All documents and records transferred, or copies of the same, may be authenticated or certified by such department or the Chief Water Officer for all legal purposes.

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

**Sec. 5.** On and after July 1, 2025, unless otherwise specified, whenever any provision of law refers to the Department of Natural Resources or the

Department of Environment and Energy in connection with duties and functions of the Department of Water, Energy, and Environment, such law shall be construed as referring to the Department of Water, Energy, and Environment or the Chief Water Officer, as determined by the duties and functions assigned to each in statute.

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

**Sec. 7.** Section 2-408, Reissue Revised Statutes of Nebraska, is amended to read:

2-408 For purposes of the Resilient Soils and Water Quality Act:

(1) Demonstration and research farms means large-scale field and pasture settings located across the state that provide a demonstration of healthy soil practices in support of the educational and research programs of the producer learning community;

(2) Department means the Department of Water, Energy, and Environment; and

(3) Producer learning community means an agricultural producer-led, nonprofit, voluntary membership organization dedicated to fostering learning, skills, and abilities and the gathering and sharing of knowledge for the purpose of carrying out the Resilient Soils and Water Quality Act.

**Sec. 8.** Section 2-414, Revised Statutes Cumulative Supplement, 2024, is amended to read:

2-414 (1) The nitrogen reduction incentive program is created and shall be administered by the Department of Water, Energy, and Environment. The department may collaborate with natural resources districts to administer the program.

(2) The purposes of the program are to:

(a) Provide incentive payments to farmers; and

(b) Encourage farmers to (i) reduce the use of commercial fertilizer and

(ii) incorporate innovative technology into farming practices, including the proper use of biological nitrogen products.

(3) The program shall provide an annual per-acre incentive for any farmer who verifies through documentation that commercial fertilizer rates were reduced by the lesser of forty pounds per acre for nitrogen or fifteen percent by incorporating a qualifying product in the farmer's nutrient plans.

(4) A commercial fertilizer rate reduction from historic baseline use shall be completed to qualify for the program.

(5) The department shall review the required commercial fertilizer rate of reduction for the program on a biennial basis to determine if higher reduction targets are necessary.

(6) The department shall:

(a) Collaborate with natural resources districts to add any new technology to the program as it becomes available. Such technology shall replace nitrogen fertilizer use and maintain farm productivity;

(b) Identify geographically beneficial target areas while keeping the program open to all farmers in the state;

(c) Consult with farmers and commercial entities in the agriculture industry to determine a per-acre payment rate tied to the commercial fertilizer rate reduction but not less than ten dollars per acre; and

(d) Review the per-acre payment rate based on inflation or emerging technology in subsequent years.

(7)(a) The department shall not award an amount of incentive payments in total per year under the nitrogen reduction incentive program that is greater than the lesser of:

(i) Five million dollars; or

(ii) The amount appropriated for such purpose by the Legislature.

(b) It is the intent of the Legislature that any appropriation from the General Fund to carry out the Nitrogen Reduction Incentive Act be used only for operating expenses.

**Sec. 9.** Section 2-415, Revised Statutes Cumulative Supplement, 2024, is

amended to read:

2-415 The Department of Water, Energy, and Environment may adopt and promulgate rules and regulations that adopt a standard for labeled commercial fertilizer products to qualify for the nitrogen reduction incentive program and may adopt and promulgate rules and regulations to carry out the Nitrogen Reduction Incentive Act.

**Sec. 10.** Section 2-416, Revised Statutes Cumulative Supplement, 2024, is amended to read:

2-416 (1) The Nitrogen Reduction Incentive Cash Fund is created and shall be administered by the Department of Water, Energy, and Environment for purposes of the Nitrogen Reduction Incentive Act. The Nitrogen Reduction Incentive Cash Fund may consist of transfers as directed by the Legislature and gifts, grants, bequests, and money from any public or private source.

(2) The Department of Water, Energy, and Environment may apply for all grants from state, federal, and private sources that are applicable to the purposes of the Nitrogen Reduction Incentive Act.

(3) Any such grant applied for by the Department of Water, Energy, and Environment that is awarded to the Department of Water, Energy, and Environment or the State of Nebraska shall be credited to the Nitrogen Reduction Incentive Cash Fund.

(4) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

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

2-969 The Riparian Vegetation Management Task Force is created. The Governor shall appoint the members of the task force. The members shall include one surface water project representative from each river basin that has ever been determined to be fully appropriated pursuant to section 46-714 or 46-720 or is designated as overappropriated pursuant to section 46-713 by the Chief Water Officer; one surface water project representative from a river basin that



has not been determined to be fully appropriated pursuant to section 46-714 or 46-720 or is not designated as overappropriated pursuant to section 46-713 by the Chief Water Officer; one representative from the Department of Agriculture, the Department of Water, Energy, and Environment, the office of the State Forester, the Game and Parks Commission, and the University of Nebraska; three representatives selected from a list of at least ten individuals nominated by the Nebraska Association of Resources Districts; two representatives selected from a list of at least five individuals nominated by the Nebraska Weed Control Association; one riparian landowner from each of the state's congressional districts; and one representative from the Nebraska Environmental Trust. In addition to such members, any member of the Legislature may serve as a nonvoting, ex officio member of the task force at his or her option. For administrative and budgetary purposes only, the task force shall be housed within the Department of Agriculture.

**Sec. 12.** Section 2-1501, Reissue Revised Statutes of Nebraska, is amended to read:

2-1501 As used in sections 2-1501 to 2-15,123, unless the context otherwise requires:

- (1) Commission means the Nebraska Natural Resources Commission;
- (2) State means the State of Nebraska;
- (3) Agency of this state means the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state;
- (4) United States or agencies of the United States means the United States of America, the Natural Resources Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America;
- (5) Government or governmental means the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them;
- (6) Lands, easements, and rights-of-way means lands and rights or

interests in lands whereon channel improvements, channel rectifications, or water-retarding or gully-stabilization structures are located, including those areas for flooding and flowage purposes, spoil areas, borrow pits, access roads, and similar purposes;

(7) Local organization means any natural resources district, drainage district, irrigation district, or other public district, county, city, or state agency;

(8) Subwatershed means a portion of a watershed project as divided by the department on a complete hydrologic unit;

(9) Rechanneling means the channeling of water from one watercourse to another watercourse by means of open ditches;

(10) Watercourse means any depression two feet or more below the surrounding land serving to give direction to a current of water at least nine months of the year, having a bed and well-defined banks and, upon order of the commission, also includes any particular depression which would not otherwise be within the definition of watercourse;

(11) Chief Water Officer means the Chief Water Officer of the Department of Water, Energy, and Environment;

(12) Department means the Department of Water, Energy, and Environment; and

(13) Combined sewer overflow project means a municipal project to reduce overflows from a combined sewer system pursuant to a long-term control plan approved by the department.

**Sec. 13.** Section 2-1504, Reissue Revised Statutes of Nebraska, is amended to read:

2-1504 (1) The Nebraska Natural Resources Commission is established. The commission shall advise the department as requested by the Chief Water Officer and shall perform such other functions as are specifically conferred on the commission by law. The commission shall have no jurisdiction over matters pertaining to water rights.

(2) Each member of the commission shall be a resident of the State of

Nebraska and shall have attained the age of majority. The voting members of the commission shall be:

(a) One resident of each of the following river basins, with delineations being those on the Nebraska river basin map officially adopted by the commission and on file with the department: (i) The Niobrara River, White River, and Hat Creek basin, (ii) the North Platte River basin, (iii) the South Platte River basin, (iv) the middle Platte River basin, (v) the lower Platte River basin, (vi) the Loup River basin, (vii) the Elkhorn River basin, (viii) the Missouri tributaries basin, (ix) the Republican River basin, (x) the Little Blue River basin, (xi) the Big Blue River basin, and (xii) the Nemaha River basin;

(b) One additional resident of each river basin which encompasses one or more cities of the metropolitan class; and

(c) Fourteen members appointed by the Governor, subject to confirmation by the Legislature. Of the members appointed by the Governor, one shall represent each of the following categories: Agribusiness interests; agricultural interests; ground water irrigators; irrigation districts; manufacturing interests; metropolitan utilities districts; municipal users of water from a city of the primary class; municipal users of water from a city of the first or second class or a village; outdoor recreation users; public power districts; public power and irrigation districts; range livestock owners; surface water irrigators; and wildlife conservation interests.

(3) Members of the commission described in subdivision (2)(a) of this section shall be selected for four-year terms at individual caucuses of the natural resources district directors residing in the river basin from which the member is selected. Such caucuses shall be held for each basin within ten days following the first Thursday after the first Tuesday of the year the term of office of the member from that basin expires. The dates and locations for such caucuses shall be established by the commission, and the commission shall provide notice to the public by issuing press releases for publication in a newspaper of general circulation in each county that comprises the river basin

for which a caucus election will be held. Terms of office of such members shall follow the sequence originally determined by the river basin representatives to the commission at their first meeting on the third Thursday after the first Tuesday in January 1975. All river basin members shall take office on the third Thursday after the first Tuesday in January following their selection and any vacancy shall be filled for the unexpired term by a caucus held within thirty days following the date such vacancy is created. Each member of the commission representing a river basin shall qualify by filing with the other members of the commission an acceptance in writing of his or her selection.

(4) Members of the commission described in subdivision (2)(b) of this section shall be residents of natural resources districts which encompass one or more cities of the metropolitan class and shall be selected in the same manner, at the same time, and for a four-year term having the same term sequence as provided for the other members from such basin under subsection (3) of this section.

(5) For members of the commission described in subdivision (2)(c) of this section:

(a) The Governor shall appoint the eleven additional members added by Laws 2014, LB1098, within thirty days after April 17, 2014. The eleven additional appointments shall be for staggered four-year terms, as determined by the Governor. The Governor shall also set the terms of the current members of the commission appointed under such subdivision and serving on April 17, 2014, to staggered four-year terms. Future appointments shall be for four-year terms. Members whose terms have expired shall continue to serve until their successors have been appointed. In the case of a vacancy, the Governor shall appoint a successor for the unexpired term. Members may be removed for cause. Initial appointees shall begin serving immediately following notice of appointment, except that the member appointed representing municipal users of water from the class of city or a village that is being represented by the current member representing municipal users of water and the members representing surface water irrigators and ground water irrigators shall not begin serving until the

term of the current member representative of the category expires or such member resigns or is otherwise removed; and

(b) In appointing such members, the Governor shall:

(i) Create a broad-based commission which has knowledge of, has experience with, and is representative of Nebraska's water use and economy;

(ii) Give recognition to the importance of both water quantity and water quality; and

(iii) Appoint members who represent diverse geographic regions of the state, including urban and rural areas, and represent, to the extent possible, the racial and ethnic diversity of the state.

(6) After the members have been appointed as required under this section, the commission shall revise or adopt and promulgate rules and regulations as necessary to administer the Water Sustainability Fund pursuant to sections 2-1506 to 2-1513.

**Sec. 14.** Section 2-1507, Revised Statutes Cumulative Supplement, 2024, is amended to read:

2-1507 (1) It is the intent of the Legislature that the Water Sustainability Fund be equitably distributed statewide to the greatest extent possible for the long term and give priority funding status to projects which are the result of federal mandates.

(2) Distributions to assist municipalities with the cost of constructing, upgrading, developing, and replacing sewer infrastructure facilities as part of a combined sewer overflow project shall be based on a demonstration of need and shall equal ten percent of the total annual appropriation to the Water Sustainability Fund if (a) applicants have applied for such funding as required under section 2-1509 and (b) any such application has been recommended for further consideration by the Chief Water Officer and is subsequently approved for allocation by the commission pursuant to subsection (1) of section 2-1511. If more than one municipality demonstrates a need for funds pursuant to this subsection, funds shall be distributed proportionally based on population.

(3) Any money in the Water Sustainability Fund may be allocated by the

commission to applicants in accordance with sections 2-1506 to 2-1513. Such money may be allocated in the form of grants or loans for water sustainability programs, projects, or activities undertaken within the state. The allocation of funds to a program, project, or activity in one form shall not of itself preclude additional allocations in the same or any other form to the same program, project, or activity. The commission shall, when ranking and scoring applications for funding, prioritize projects for drinking water improvements for any federally recognized Indian tribe whose drinking water is under a no-drink order from the United States Environmental Protection Agency.

(4) When the commission has approved an allocation of funds to a program, project, or activity, the department shall establish a subaccount in the Water Sustainability Fund and credit the entire amount of the allocation to the subaccount. Individual subaccounts shall be established for each program, project, or activity approved by the commission. The commission may approve a partial allocation to a program, project, or activity based upon available unallocated funds in the Water Sustainability Fund, but the amount of unfunded allocations shall not exceed eleven million dollars. Additional allocations to a program, project, or activity shall be credited to the same subaccount as the original allocation. Subaccounts shall not be subject to transfer out of the Water Sustainability Fund, except that the commission may authorize the transfer of excess or unused funds from a subaccount and into the unreserved balance of the fund.

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

(6) The commission shall utilize the resources and expertise of and collaborate with the department, the University of Nebraska, the Nebraska Environmental Trust Board, and the Game and Parks Commission on funding and planning for water programs, projects, or activities.

(7) A biennial report shall be made to the Clerk of the Legislature

describing the work accomplished by the use of funds towards the goals of the Water Sustainability Fund beginning on December 31, 2015. The report submitted to the Clerk of the Legislature shall be submitted electronically.

**Sec. 15.** Section 2-1508, Reissue Revised Statutes of Nebraska, is amended to read:

2-1508 The commission shall rank and score applications for funding based on criteria that demonstrate the extent to which a program, project, or activity:

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

(12) Addresses a statewide problem or issue;

(13) Contributes to the state's ability to leverage state dollars with local or federal government partners or other partners to maximize the use of its resources; and

(14) Contributes to watershed health and function.

**Sec. 16.** Section 2-1509, Reissue Revised Statutes of Nebraska, is amended to read:

2-1509 (1) Applicants for funds may file an application with the department for a grant or loan from the Water Sustainability Fund. Applications for grants to the department itself shall be filed by the department. Each application shall be filed in such manner and form and be accompanied by such information as may be prescribed by the Chief Water Officer and the commission.

(2) Any such application shall:

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

(b) Set forth or be accompanied by a plan for development of the proposed program, project, or activity, together with engineering, economic, and financial feasibility data and information, and such estimated costs of construction or implementation as may be required by the Chief Water Officer and the commission;

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

(d) When appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the program, project, or activity and related lands and has or may acquire all water rights necessary for the proposed program, project, or activity;

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

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



(3) Upon receipt of an application, the Chief Water Officer shall evaluate and investigate all aspects of the proposed program, project, or activity and the proposed schedule for development and completion of such program, project, or activity, determine eligibility for funding, and make appropriate recommendations to the commission pursuant to sections 2-1506 to 2-1513. As a part of his or her investigation, the Chief Water Officer shall consider whether the plan for development of the program, project, or activity is satisfactory. If the Chief Water Officer determines that the plan is unsatisfactory or that the application does not contain adequate information upon which to make determinations, the Chief Water Officer shall return the application to the applicant and may make such recommendations to the applicant as are considered necessary to make the plan or the application satisfactory.

(4) Requests for utilization of the Water Sustainability Fund for state participation in any water and related land-water resources projects shall also be filed with the department for the Chief Water Officer's evaluation, investigation, and recommendations. Such requests shall be filed in the manner and form and be accompanied by such information as shall be prescribed by the department and the commission.

**Sec. 17.** Section 2-1510, Reissue Revised Statutes of Nebraska, is amended to read:

2-1510 (1) Each program, project, or activity for which funding is requested, whether such request has as its origin an application or the action of the department itself, shall be reviewed as provided in sections 2-1506 to 2-1513 by the Chief Water Officer prior to the approval of any allocation for such program, project, or activity by the commission.

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

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

(b) The proposed program, project, or activity is economically and financially feasible based upon standards adopted by the commission pursuant to sections 2-1506 to 2-1513;

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

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

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

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

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

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

(3) The Chief Water Officer and staff of the department shall carry out their powers and duties under sections 2-1506 to 2-1513 independently of and without prejudice to their powers and duties under other provisions of law.

(4) No member of the commission shall be eligible to participate in the action of the commission concerning an application for funding to any entity in which such commission member has any interest. The Chief Water Officer may be delegated additional responsibilities consistent with the purposes of sections 2-1506 to 2-1513. It shall be the sole responsibility of the commission to determine the priority in which funds are allocated for eligible programs, projects, or activities under section 2-1508.

**Sec. 18.** Section 2-1511, Reissue Revised Statutes of Nebraska, is amended to read:

2-1511 (1) The Chief Water Officer shall make recommendations based upon his or her review of the criteria set forth in section 2-1510 of whether an application should be considered further or rejected and the form of allocation he or she deems appropriate. The commission shall act in accordance with such

recommendations according to the application procedures adopted and promulgated in rules and regulations.

(2) If, after review of the recommendation by the Chief Water Officer, the commission determines that an application for a grant, loan, acquisition of an interest, or combination thereof pursuant to sections 2-1506 to 2-1513 is satisfactory and qualified to be approved, before the final approval of such application may be given and the funds allocated, the department shall enter into an agreement in the name of the state with the applicant agency or organization and with any other organizations it deems to be involved in the program, project, or activity to which funds shall be applied. The department shall also enter into such agreements as are appropriate before allocation of any funds for the acquisition of an interest in any qualified program, project, or activity when such acquisition is initiated by the department itself pursuant to section 2-1512. All agreements entered into pursuant to this section shall include, but not be limited to, a specification of the amount of funds involved, whether the funds are considered as a grant or loan or for the acquisition of an interest in the name of the state, and, if a combination of these is involved, the amount of funds allocated to each category, the specific purpose for which the allocation is made, the terms of administration of the allocated funds, and any penalties to be imposed upon the applicant organization should it fail to apply or repay the funds in accordance with the agreement.

(3) If the allocation to be approved is a loan, the department and the applicant or applicants shall include in the agreement provisions for repayment to the Water Sustainability Fund of money loaned together with any interest at reasonable rates as established by the commission. The agreement shall further provide that repayment of the loan together with any interest thereon shall commence no later than one full year after construction of the project or implementation of the program or activity is completed and that repayment shall be completed within the time period specified by the commission. The repayment period shall not exceed fifty years, except that the commission may extend the

time for making repayment in the event of extreme emergency or hardship. Such agreement shall also provide for such assurances of and security for repayment of the loan as shall be considered necessary by the department.

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

(5) The state shall have a lien upon a program, project, or activity constructed, improved, or renovated with money from the Water Sustainability Fund for the amount of the loan together with any interest thereon. This lien shall attach to all program, project, or activity facilities, equipment, easements, real property, and property of any kind or nature in which the loan recipient has an interest and which is associated with the program, project, or activity. The department shall file a statement of the lien, its amount, terms, and a description of the program, project, or activity with the register of deeds of each county in which the program, project, or activity or any part thereof is located. The register of deeds shall record the lien, and it shall be indexed as other liens are required by law to be indexed. The lien shall be valid until paid in full or otherwise discharged. The lien shall be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens. Any lien provided for by this section may be subordinate to that which secures federal assistance or other secured assistance received on the same program, project, or activity.

**Sec. 19.** Section 2-1588, Reissue Revised Statutes of Nebraska, is amended to read:

2-1588 (1) No money in the Nebraska Resources Development Fund may be reallocated by the commission in accordance with sections 2-1586 to 2-1595 for utilization by the department, by any state office, agency, board, or commission, or by any political subdivision of the state which has the authority to develop the state's water and related land resources after March

30, 2014. The commission may commit appropriated funds to projects approved as of March 30, 2014, not to exceed amounts specifically allocated to such projects prior to March 30, 2014, unless specific appropriations or transfers to exceed the March 30, 2014, allocation amounts are approved by the Legislature. If such specific appropriations or transfers are made, the commission shall develop procedures to allocate the additional funding to projects approved as of March 30, 2014. Allocations shall not exceed funds appropriated for such purpose. Any of such funds remaining after all such project costs have been completely funded shall be transferred to the Water Sustainability Fund by the State Treasurer. Prior to March 30, 2014, the Nebraska Resources Development Fund may be allocated in the form of grants or loans or for acquiring state interests in water and related land resources programs and projects undertaken within the state. The allocation of funds to a program or project in one form shall not of itself preclude additional allocations in the same or any other form to the same program or project. Funds may also be allocated to assist natural resources districts in the preparation of management plans as provided in section 46-709. Funds so allocated shall not be subject to sections 2-1589 to 2-1595.

(2) No project, including all related phases, segments, parts, or divisions, shall receive more than ten million dollars from the fund. On July 1 of each year after 1993, the Chief Water Officer shall adjust the project cost and payment limitation of this subsection by an amount equal to the average percentage change in a readily available construction cost index for the prior three years.

(3) Prior to September 1 of each even-numbered year, a biennial report shall be made to the Governor and the Clerk of the Legislature describing the work accomplished by the use of such development fund during the immediately preceding two-year period. The report submitted to the Clerk of the Legislature shall be submitted electronically. The report shall include a complete financial statement. Each member of the Legislature shall receive an electronic copy of such report upon making a request to the Chief Water Officer.

**Sec. 20.** Section 2-1592, Reissue Revised Statutes of Nebraska, is amended to read:

2-1592 (1) Any organization qualified to apply for and receive funds from the Nebraska Resources Development Fund may file an application with the department for a grant or loan from such fund. Applications for grants to the department itself shall be filed by the department. Each application shall be filed in such manner and form and be accompanied by such information as may be prescribed by the Chief Water Officer and the commission. No applications may be made to receive funds by grant or loan from the Nebraska Resources Development Fund after March 30, 2014.

(2) Any such application shall:

(a) Describe the nature and purpose of the proposed program or project;

(b) Set forth or be accompanied by a plan for development of the proposed program or project, together with engineering, economic, and financial feasibility data and information, and such estimated costs of construction or implementation as may be required by the Chief Water Officer and the commission;

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

(d) When appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands and has or may acquire all water rights necessary for the proposed project;

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

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

(3) Upon receipt of an application, the Chief Water Officer shall evaluate and investigate all aspects of the proposed program or project and the proposed schedule for development and completion of such program or project, determine

the eligibility of the program or project for funding, and make appropriate recommendations to the commission pursuant to sections 2-1586 to 2-1595. As a part of his or her investigation, the Chief Water Officer shall consider whether the plan for development of the program or project is satisfactory. If the Chief Water Officer determines that the plan is unsatisfactory or that the application does not contain adequate information upon which to make determinations, the Chief Water Officer shall return the application to the applicant and may make such recommendations to the applicant as are considered necessary to make the plan or the application satisfactory.

(4) Requests for utilization of the Nebraska Resources Development Fund for state participation in any water and related land-water resources projects through acquisition of a state interest therein shall also be filed with the department for the Chief Water Officer's evaluation, investigation, and recommendations. Such requests shall be filed in the manner and form and be accompanied by such information as shall be prescribed by the department and the commission.

**Sec. 21.** Section 2-1593, Reissue Revised Statutes of Nebraska, is amended to read:

2-1593 Each program or project for which funding is requested, whether such request has as its origin an application or the action of the department itself, shall be reviewed as provided in sections 2-1586 to 2-1595 by the Chief Water Officer prior to the approval of any allocation for such program or project by the commission. The Chief Water Officer shall within a reasonable time, not to exceed six months, after receipt of such request report to the commission the results of his or her review and shall recommend approval or rejection of funding for the program or project. The Chief Water Officer shall indicate what form of allocation he or she deems to be appropriate. In the case of an approved application recommended for a loan, the commission shall indicate the appropriate repayment period and the rate of interest. The commission shall act in accordance with such recommendations unless action to the contrary is approved by each commission member eligible to vote on the

specific recommendation under consideration. No member of the commission shall be eligible to participate in the action of the commission concerning an application for funding to any entity in which such commission member has any interest. The Chief Water Officer may be delegated additional responsibilities consistent with the purposes of sections 2-1586 to 2-1595. It shall be the sole responsibility of the commission to determine the priority in which funds are allocated for eligible programs and projects under sections 2-1586 to 2-1595.

**Sec. 22.** Section 2-1594, Reissue Revised Statutes of Nebraska, is amended to read:

2-1594 The Chief Water Officer may recommend approval of and the commission may approve grants or loans for program or project costs or acquisition of interests in projects if after investigation and evaluation the Chief Water Officer finds that:

- (1) The plan does not conflict with any existing Nebraska state land plan;
- (2) The proposed program or project is economically and financially feasible based upon standards adopted by the commission pursuant to sections 2-1586 to 2-1595;
- (3) The plan for development of the proposed program or project is satisfactory;
- (4) The plan of development minimizes any adverse impacts on the natural environment;
- (5) The applicant is qualified, responsible, and legally capable of carrying out the program or project;
- (6) In the case of a loan, the borrower has demonstrated the ability to repay the loan and there is assurance of adequate operation, maintenance, and replacement during the repayment life of the project;
- (7) The plan considers other plans and programs of the state in accordance with section 84-135 and resources development plans of the political subdivisions of the state; and
- (8) The money required from the Nebraska Resources Development Fund is available.



The Chief Water Officer and staff of the department shall carry out their powers and duties under sections 2-1586 to 2-1595 independently of and without prejudice to their powers and duties under other provisions of law.

**Sec. 23.** Section 2-1595, Reissue Revised Statutes of Nebraska, is amended to read:

2-1595 (1) If after review of the recommendation by the Chief Water Officer the commission determines that an application for a grant, loan, acquisition of an interest, or combination thereof pursuant to sections 2-1586 to 2-1595 is satisfactory and qualified to be approved, before the final approval of such application may be given and the funds allocated, the department shall enter into an agreement in the name of the state with the applicant agency or organization and with any other organizations it deems to be involved in the program or project to which funds shall be applied. The department shall also enter into such agreements as are appropriate before allocation of any funds for the acquisition of interest in any qualified project when such acquisition is initiated by the department itself pursuant to section 2-1590. All agreements entered into pursuant to this section shall include, but not be limited to, a specification of the amount of funds involved, whether the funds are considered as a grant, loan, or for the acquisition of an interest in the name of the state, and, if a combination of these is involved, the amount of funds allocated to each category, the specific purpose for which the allocation is made, the terms of administration of the allocated funds, and any penalties to be imposed upon the applicant organization should it fail to apply or repay the funds in accordance with the agreement.

(2) If the allocation to be approved is a loan, the department and the applicant or applicants shall include in the agreement provisions for repayment to the Nebraska Resources Development Fund of money loaned together with any interest at reasonable rates as established by the commission. The agreement shall further provide that repayment of the loan together with any interest thereon shall commence no later than one full year after construction of the

project is completed and that repayment shall be completed within the time period specified by the commission. The repayment period shall not exceed fifty years, except that the commission may extend the time for making repayment in the event of extreme emergency or hardship. Such agreement shall also provide for such assurances of and security for repayment of the loan as shall be considered necessary by the department.

(3) With the express approval of the commission, an applicant may convey its interest in a project to a successor. The department shall contract with the qualified successor in interest of the original obligor for repayment of the loan together with any interest thereon and for succession to its rights and obligations in any contract with the department.

(4) The state shall have a lien upon a project constructed, improved, or renovated with money from the fund for the amount of the loan together with any interest thereon. This lien shall attach to all project facilities, equipment, easements, real property, and property of any kind or nature in which the loan recipient has an interest and which is associated with the project. The department shall file a statement of the lien, its amount, terms, and a description of the project with the county register of deeds of each county in which the project or any part thereof is located. The county register of deeds shall record the lien and it shall be indexed as other liens are required by law to be indexed. The lien shall be valid until paid in full or otherwise discharged. The lien shall be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens. Any lien provided for by this section may be subordinate to that which secures federal assistance or other secured assistance received on the same project.

**Sec. 24.** Section 2-2626, Reissue Revised Statutes of Nebraska, is amended to read:

2-2626 The department shall have the following powers, functions, and duties:

(1) To administer, implement, and enforce the Pesticide Act and serve as the lead state agency for the regulation of pesticides. The department shall

involve the natural resources districts and other state agencies, including the Department of Water, Energy, and Environment, in matters relating to water quality. Nothing in the act shall be interpreted in any way to affect the powers of any other state agency or of any natural resources district to regulate for ground water quality or surface water quality as otherwise provided by law;

(2) To be responsible for the development and implementation of a state management plan and pesticide management plans. The Department of Water, Energy, and Environment shall be responsible for the adoption of standards for pesticides in surface water, ground water, and drinking water. These standards shall be established as action levels in the state management plan and pesticide management plans at which prevention and mitigation measures are implemented. Such action levels may be set at or below the maximum contaminant level set for any product as set by the federal agency under the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the act existed on January 1, 2021. The Department of Agriculture shall cooperate with and use existing expertise in other state agencies when developing the state management plan and pesticide management plans and shall not hire a hydrologist within the department for such purpose;

(3) After notice and public hearing, to adopt and promulgate rules and regulations providing lists of state-limited-use pesticides for the entire state or for a designated area within the state, subject to the following:

(a) A pesticide shall be included on a list of state-limited-use pesticides if:

(i) The Department of Agriculture determines that the pesticide, when used in accordance with its directions for use, warnings, and cautions and for uses for which it is registered, may without additional regulatory restrictions cause unreasonable adverse effects on humans or the environment, including injury to the applicator or other persons because of acute dermal or inhalation toxicity of the pesticides;

(ii) The water quality standards set by the Department of Water, Energy,

and Environment pursuant to this section are exceeded; or

(iii) The Department of Agriculture determines that the pesticide requires additional restrictions to meet the requirements of the Pesticide Act, the federal act, or any plan adopted under the Pesticide Act or the federal act;

(b) The Department of Agriculture may regulate the specific time, locations, and conditions restricting the use of a state-limited-use pesticide, including allowable quantities or concentrations, and may require that it be purchased or possessed only with permission or under the direct supervision of the department or its designee;

(c) The Department of Agriculture may require a person authorized to distribute or use a state-limited-use pesticide to maintain records of the person's distribution or use and may require that the records be kept separate from other business records;

(d) The state management plan and pesticide management plans shall be coordinated with the Department of Agriculture and other state agency plans and with other state agencies and with natural resources districts;

(e) The state management plan and pesticide management plans may impose progressively more rigorous pesticide management practices as pesticides are detected in ground water or surface water at increasing fractions of the standards adopted by the Department of Water, Energy, and Environment; and

(f) A pesticide management plan may impose progressively more rigorous pesticide management practices to address any unreasonable adverse effect of pesticides on humans or the environment. When appropriate, a pesticide management plan may establish action levels for imposition of such progressively more rigorous management practices based upon measurable indicators of the adverse effect on humans or the environment;

(4) To adopt and promulgate such rules and regulations as are necessary for the enforcement and administration of the Pesticide Act. The regulations may include, but not be limited to, regulations providing for:

(a) The collection of samples, examination of records, and reporting of information by persons subject to the act;

(b) The safe handling, transportation, storage, display, distribution, use, and disposal of pesticides and their containers;

(c) Labeling requirements of all pesticides required to be registered under provisions of the act, except that such regulations shall not impose any requirements for federally registered labels contrary to those required pursuant to the federal act;

(d) Classes of devices which shall be subject to the Pesticide Act;

(e) Reporting and record-keeping requirements for persons distributing or using pesticide products made available under 7 U.S.C. 136i-1 of the federal act and for persons required to keep records under the Pesticide Act;

(f) Methods to be used in the application of pesticides when the Department of Agriculture finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Act. Such regulations may include methods to be used in the application of a restricted-use pesticide or state-limited-use pesticide, may relate to the time, place, manner, methods, materials, amounts, and concentrations in connection with the use of the pesticide, may restrict or prohibit use of the pesticides in designated areas during specified periods of time, and may provide specific examples and technical interpretations of subdivision (4) of section 2-2646. The regulations shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to (i) plants, including forage plants, or adjacent or nearby property, (ii) wildlife in the adjoining or nearby areas, (iii) fish and other aquatic life in waters in reasonable proximity to the area to be treated, (iv) surface water or ground water, and (v) humans, animals, or beneficial insects. In adopting and promulgating such regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government, or other reliable sources. The department may, by regulation, require that notice of a proposed use of a pesticide be given to landowners whose property is adjacent to the property to be treated or in the immediate vicinity thereof if the department finds that such notice is necessary to carry

out the purpose of the act;

(g) State-limited-use pesticides for the state or for designated areas in the state;

(h) Establishment of the amount of any fee or fine as directed by the act;

(i) Establishment of the components of any state management plan or pesticide management plan;

(j) Establishment of categories for licensed pesticide applicators in addition to those established in 40 C.F.R. part 171, as such regulations existed on January 1, 2019; and

(k) Establishment of a process for the issuance of permits for emergency-use pesticides made available under 7 U.S.C. 136p of the federal act;

(5) To enter any public or private premises at any reasonable time to:

(a) Inspect and sample any equipment authorized or required to be inspected under the Pesticide Act or to inspect the premises on which the equipment is kept or stored;

(b) Inspect or sample any area exposed or reported to be exposed to a pesticide or where a pesticide use has occurred;

(c) Inspect and sample any area where a pesticide is disposed of or stored;

(d) Observe the use and application of and sample any pesticide;

(e) Inspect and copy any records relating to the distribution or use of any pesticide or the issuance of any license, permit, or registration under the act; or

(f) Inspect, examine, or take samples from any application equipment, building, or place owned, controlled, or operated by any person engaging in an activity regulated by the act if, from probable cause, it appears that the application equipment, building, or place contains a pesticide;

(6) To sample, inspect, make analysis of, and test any pesticide found within this state;

(7) To issue and enforce a written or printed order to stop the sale, removal, or use of a pesticide if the Department of Agriculture has reason to

believe that the pesticide or use of the pesticide is in violation of any provision of the act. The department shall present the order to the owner or custodian of the pesticide. The person who receives the order shall not distribute, remove, or use the pesticide until the department determines that the pesticide or its use is in compliance with the act. This subdivision shall not limit the right of the department to proceed as authorized by any other provision of the act;

(8)(a) To sue in the name of the director to enjoin any violation of the act. Venue for such action shall be in the county in which the alleged violation occurred, is occurring, or is threatening to occur; and

(b) To request the county attorney or the Attorney General to bring suit to enjoin a violation or threatened violation of the act;

(9) To impose or levy an administrative fine of not more than five thousand dollars for each violation on any person who has violated any provision, requirement, condition, limitation, or duty imposed by the act or rules and regulations adopted and promulgated pursuant to the act. A violation means each action which violates any separate or distinct provision, requirement, condition, limitation, or duty imposed by the act or rules and regulations adopted and promulgated pursuant to the act;

(10) To cause a violation warning letter to be served upon the alleged violator or violators pursuant to the act;

(11) To take reasonable measures to assess and collect all fees and fines prescribed by the act and the rules or regulations adopted under the act;

(12) To access, inspect, and copy all books, papers, records, bills of lading, invoices, and other information relating to the use, manufacture, repackaging, and distribution of pesticides necessary for the enforcement of the act;

(13) To seize, for use as evidence, without formal warrant if probable cause exists, any pesticide which is in violation of the act or is not approved by the Department of Agriculture or which is found to be used or distributed in the violation of the act or the rules and regulations adopted and promulgated

under it;

(14) To adopt classifications of restricted-use pesticides as determined by the federal agency under the federal act. In addition to the restricted-use pesticides classified by the administrator, the Department of Agriculture may also determine state-limited-use pesticides for the state or for designated areas within the state as provided in subdivision (3) of this section;

(15) To receive grants-in-aid from any federal entity, and to enter into cooperative agreements with any federal entity, any agency of this state, any subdivision of this state, any agency of another state, any Indian tribe, or any private person for the purpose of obtaining consistency with or assistance in the implementation of the Pesticide Act. The Department of Agriculture may reimburse any such entity from the Pesticide Administrative Cash Fund for the work performed under the cooperative agreement. The department may delegate its administrative responsibilities under the act to cities of the metropolitan and primary classes if it reasonably believes that such cities can perform the responsibilities in a manner consistent with the act and the rules and regulations adopted and promulgated under it;

(16) To prepare and adopt such plans as are necessary to implement any requirements of the federal agency under the federal act;

(17) To request the assistance of the Attorney General or the county attorney in the county in which a violation of the Pesticide Act has occurred with the prosecution or enforcement of any violation of the act;

(18) To enter into a settlement agreement with any person regarding the disposition of any license, permit, registration, or administrative fine;

(19) To issue a cease and desist order pursuant to section 2-2649;

(20) To deny an application or cancel, suspend, or modify the registration of a pesticide pursuant to section 2-2632;

(21) To issue, cancel, suspend, modify, or place on probation any license or permit issued pursuant to the act; and

(22) To make such reports to the federal agency as are required under the federal act.



**Sec. 25.** Section 2-3202, Reissue Revised Statutes of Nebraska, is amended to read:

2-3202 For purposes of Chapter 2, article 32, unless the context otherwise requires:

- (1) Commission means the Nebraska Natural Resources Commission;
- (2) Natural resources district or district means a natural resources district operating pursuant to Chapter 2, article 32;
- (3) Board means the board of directors of a district;
- (4) Director means a member of the board;
- (5) Other special-purpose districts means rural water districts, drainage districts, reclamation districts, and irrigation districts;
- (6) Manager means the chief executive hired by a majority vote of the board to be the supervising officer of the district; and
- (7) Department means the Department of Water, Energy, and Environment.

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

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

(b) Each district shall also have the power and authority to levy a tax equal to the dollar amount by which its restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed its restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition to the power and authority granted in subdivisions (1)(a) and (b) of this section, each district located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section

46-714 or designated overappropriated pursuant to section 46-713 by the Chief Water Officer shall also have the power and authority to levy a tax equal to the dollar amount by which its restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed its restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

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

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

**Sec. 27.** Section 2-3241, Reissue Revised Statutes of Nebraska, is amended to read:

2-3241 Each district shall have the power and authority to provide technical and other assistance as may be necessary or desirable in rural areas to abate the lowering of water quality in the state caused by sedimentation, effluent from feedlots, and runoff from cropland areas containing agricultural chemicals. Such assistance shall be coordinated with the programs and the stream quality standards as established by the department.

**Sec. 28.** Section 2-3254, Reissue Revised Statutes of Nebraska, is amended to read:

2-3254 (1) The board shall hold a hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the establishment of or altering the boundaries of an existing improvement project area and the undertaking of such a project, upon the question of the appropriate boundaries describing affected land, upon the propriety of the petition, and upon all relevant questions regarding such inquiries. When a hearing has been initiated by petition, such hearing shall be held within one hundred twenty days of the filing of such petition. Notice of such hearing shall be published prior thereto once each week for three consecutive weeks in a legal newspaper published or of general circulation in the district. Landowners within the limits of the territory described in the petition and all other interested parties, including any appropriate agencies of state or federal government, shall have the right to be heard. If the board finds, after consultation with such appropriate agencies of state and federal government and after the hearing, that the project conforms with all applicable law and with the district's goals, criteria, and policies, it shall enter its findings in the board's official records and shall, with the aid of such engineers, surveyors, and other assistants as it may have chosen, establish an improvement project area or alter the boundaries of an existing improvement project area, proceed to make detailed plans and cost estimates, determine the total benefits, and carry out the project as provided in subsections (2) and (3) of this section. If the board finds that the project does not so conform, the findings shall be entered in the board's records and copies of such

findings shall be furnished to the petitioners and the commission.

(2) When any such special project would result in the provision of revenue-producing continuing services, the board shall, prior to commencement of construction of such project, determine, by circulation of petitions or by some other appropriate method, if such project can be reasonably expected to generate sufficient revenue to recover the reimbursable costs thereof. If it is determined that the project cannot be reasonably expected to generate sufficient revenue, the project and all work in connection therewith shall be suspended. If it is determined that the project can be reasonably expected to generate sufficient revenue, the board shall divide the total benefits of the project as provided in sections 2-3252 to 2-3254. If the proposed project involves the supply of water for any beneficial use, including a public water system as defined in section 71-5301, all plans and specifications for the project shall be filed with the secretary of the district and the Director of Water, Energy, and Environment. No construction of any such special project shall begin until the plans and specifications for such improvement have been approved by the Chief Water Officer of the Department of Water, Energy, and Environment. When such a special project involves a public water system as defined in section 71-5301, the Director of Water, Energy, and Environment shall review such plans and specifications and approve the same if in compliance with the Nebraska Safe Drinking Water Act and departmental rules and regulations adopted and promulgated under the act. All prescribed conditions having been complied with, each landowner within the improvement project area shall, within any limits otherwise prescribed by law, subscribe to a number of benefit units in proportion to the extent he or she desires to participate in the benefits of the special project. As long as the capacity of the district's facilities permit, participating landowners may subscribe to additional units, within any limits otherwise prescribed by law, upon payment of a unit fee for each such unit. The unit fees made and charged pursuant to this section shall be levied and fixed by rules and regulations of the district. The service provided may be withheld during the time such charges levied upon such parcel

of land are delinquent and unpaid. Such charges shall be cumulative, and the service provided by the project may be withheld until all delinquent charges for the operation and maintenance of such works of improvement are paid for past years as well as for the current year. All such charges, due and delinquent according to the rules and regulations of such district and unpaid on June 1 after becoming due and delinquent, may be certified by the governing authority of such district to the county clerk of such county in which are situated the lands against which such charges have been levied, and when so certified such charges shall be entered upon the tax list and spread upon the tax roll the same as other special assessment taxes are levied and assessed upon real estate, shall become a lien upon such real estate along with other real estate taxes, and shall be collectible at the same time, in the same manner, and in the same proceeding as other real estate taxes are levied.

(3) When the special project would not result in the provision of revenue-producing continuing services, the board shall apportion the benefits thereof accruing to the several tracts of land within the district which will be benefited thereby, on a system of units. The land least benefited shall be apportioned one unit of assessment, and each tract receiving a greater benefit shall be apportioned a greater number of units or fraction thereof, according to the benefits received. Nothing contained in this section shall prevent the district from establishing separate areas within the improvement project area so as to permit future allocation of costs for particular portions of the work to specific subareas. This subarea method of allocation shall not be used in any improvement project area which has heretofore made a final apportionment of units of benefits and shall not thereafter be changed except by compliance with the procedure prescribed in this section.

(4) A notice shall be inserted for at least one week in a newspaper published or of general circulation in the improvement project area stating the time when and the place where the directors shall meet for the purpose of hearing all parties interested in the apportionment of benefits by reason of the improvement, at which time and place such parties may appear in person or

by counsel or may file written objections thereto. The directors shall then proceed to hear and consider the same and shall make the apportionments fair and just according to benefits received from the improvement. The directors, having completed the apportionment of benefits, shall make a detailed report of the same and file such report with the county clerk. The board of directors shall include in such report a statement of the actual expenses incurred by the district to that time which relate to the proposed project and the actual cost per benefit unit thereof. Thereupon the board of directors shall cause to be published, once each week for three consecutive weeks in a newspaper published or of general circulation in the improvement project area, a notice that the report required in this subsection has been filed and notice shall also be sent to each party appearing to have a direct legal interest in such apportionment, which notice shall include the description of the lands in which each party notified appears to have such interest, the units of benefit assigned to such lands, the amount of actual costs assessable to date to such lands, and the estimated total costs of the project assessable to such lands upon completion thereof, as provided by sections 25-520.01 to 25-520.03. If the owners of record title representing more than fifty percent of the estimated total assessments file with the board within thirty days of the final publication of such notice written objections to the project proposed, such project and work in connection therewith shall be suspended, such project shall not be done in such project area, and all expenses relating to such project incurred by and accrued to the district may, at the direction of the board of directors, be assessed upon the lands which were to have been benefited by the completion of such improvement project in accordance with the apportionment of benefits determined and procedures established in this section. Upon completing the establishment of an improvement project area or altering the boundaries of an existing improvement project area as provided in this subsection and upon determining the reimbursable cost of the project and the period of time over which such cost shall be assessed, the board of directors shall determine the amount of money necessary to raise each year by special assessment within such

improvement project area and apportion the same in dollars and cents to each tract benefited according to the apportionment of benefits as determined by this section. The board of directors shall also, from time to time as it deems necessary, order an additional assessment upon the lands and property benefited by the project, using the original apportionment of benefits as a basis to ascertain the assessment to each tract of land benefited, to carry out a reasonable program of operation and maintenance upon the construction or capital improvements involved in such project. The chairperson and secretary shall thereupon return lists of such tracts with the amounts chargeable to each of the county clerks of each county in which assessed lands are located, who shall place the same on duplicate tax lists against the lands and lots so assessed. Such assessments shall be collected and accounted for by the county treasurer at the same time as general real estate taxes, and such assessments shall be and remain a perpetual lien against such real estate until paid. All provisions of law for the sale, redemption, and foreclosure in ordinary tax matters shall apply to such special assessments.

**Sec. 29.** Section 2-3279, Reissue Revised Statutes of Nebraska, is amended to read:

2-3279 All plans submitted by a district under section 2-3276 shall be accorded a thirty-day period for review and comment. Failure to reply within thirty days shall be conclusive that the plans have been endorsed by the reviewing agency. All comments on plans shall be reviewed by the district and alterations of the plans may be made as the district deems appropriate. If any state agency comments indicate a lack of conformance with the goals, criteria, and policies of any outdoor recreation plan, any fish and wildlife plan, or indicate a conflict with state policies or plans approved by the Legislature, such plans shall be altered as deemed necessary by the district prior to proceeding with implementation.

**Sec. 30.** Section 2-3280, Reissue Revised Statutes of Nebraska, is amended to read:

2-3280 No state funds shall be allocated or disbursed to a district unless

that district has submitted its master plan in accordance with sections 2-3229 and 2-3276 and until the disbursing agency has determined that such funds are for plans, facilities, works, and programs which are in conformance with the plans of the agency.

**Sec. 31.** Section 2-4602, Reissue Revised Statutes of Nebraska, is amended to read:

2-4602 The Legislature recognizes that erosion and sedimentation are serious problems throughout the state. Changes in farm and ranch enterprises, operations, and ownership, demands made upon farm and ranch enterprises which do not encourage sound resource utilization, rapid shifts in land use from agricultural and rural to nonagricultural and urban uses, construction of streets, highways, pipelines, recreation areas, schools and universities, public utilities and facilities, conversion of grasslands to croplands, and other land-disturbing activities have caused excessive wind erosion and water runoff and accelerated the process of soil erosion and sediment deposition. This has resulted in the pollution of the waters of the state and damage to domestic, agricultural, industrial, recreational, fish and wildlife, and other resources. It is declared to be the policy of the state to strengthen and extend the present erosion and sediment control activities and programs of the state for both rural and urban lands, to improve water quality, and to establish and implement, through the Director of Water, Energy, and Environment and the Nebraska Natural Resources Commission, a statewide, comprehensive, and coordinated erosion and sediment control program to reduce damage from wind erosion and storm water runoff, to retard nonpoint pollution from sediment and related pollutants, and to conserve and protect land, air, and other resources of the state. This program shall be carried out by the natural resources districts in cooperation with the counties, municipalities, and other local governments and political subdivisions of the state and other public and private entities.

**Sec. 32.** Section 2-4603, Reissue Revised Statutes of Nebraska, is amended to read:



2-4603 For purposes of the Erosion and Sediment Control Act, unless the context otherwise requires:

(1) Commission means the Nebraska Natural Resources Commission;

(2) Conservation agreement means an agreement between the owner or operator of a farm unit and the district in which the owner or operator agrees to implement a farm unit conservation plan or, with the approval of the district within which the farm unit is located, a portion of a farm unit conservation plan. The agreement shall include a schedule for implementation and may be conditioned on the district or other public entity furnishing technical, planning, or financial assistance in the establishment of the soil and water conservation practices necessary to implement the plan or a portion of the plan;

(3) Director means the Director of Water, Energy, and Environment;

(4) District means a natural resources district;

(5) Erosion or sediment control practice means:

(a) The construction or installation and maintenance of permanent structures or devices necessary to carry, to a suitable outlet away from any building site, any commercial or industrial development, or any publicly or privately owned recreational or service facility not served by a central storm sewer system, any water which would otherwise cause erosion in excess of the applicable soil-loss tolerance level and which does not carry or constitute sewage or industrial or other waste;

(b) The employment of temporary devices or structures, temporary seeding, fiber mats, plastic, straw, diversions, silt fences, sediment traps, or other measures adequate either to prevent erosion in excess of the applicable soil-loss tolerance level or to prevent excessive downstream sedimentation from land which is the site of or is directly affected by any nonagricultural land-disturbing activity; or

(c) The establishment and maintenance of vegetation upon the right-of-way of any completed portion of any public street, road, or highway or the construction or installation thereon of permanent structures or devices or

other measures adequate to prevent erosion of the right-of-way in excess of the applicable soil-loss tolerance level;

(6) Excess erosion means the occurrence of erosion in excess of the applicable soil-loss tolerance level which causes or contributes to an accumulation of sediment upon the lands of any other person to the detriment or damage of such other person;

(7) Farm unit conservation plan means a plan jointly developed by the owner and, if appropriate, the operator of a farm unit and the district within which the farm unit is located based upon the determined conservation needs for the farm unit and identifying the soil and water conservation practices which may be expected to prevent soil loss by erosion from that farm unit in excess of the applicable soil-loss tolerance level. The plan may also, if practicable, identify alternative practices by which such objective may be attained;

(8) Nonagricultural land-disturbing activity means a land change, including, but not limited to, tilling, clearing, grading, excavating, transporting, or filling land, which may result in soil erosion from wind or water and the movement of sediment and sediment-related pollutants into the waters of the state or onto lands in the state but does not include the following:

(a) Activities related directly to the production of agricultural, horticultural, or silvicultural crops, including, but not limited to, tilling, planting, or harvesting of such crops;

(b) Installation of aboveground public utility lines and connections, fenceposts, sign posts, telephone poles, electric poles, and other kinds of posts or poles;

(c) Emergency work to protect life or property;

(d) Activities related to the construction of housing, industrial, and commercial developments on sites under two acres in size; and

(e) Activities related to the operation, construction, or maintenance of industrial or commercial public power district or public power and irrigation district facilities or sites when such activity is conducted pursuant to state

or federal law or is part of the operational plan for such facility or site;

(9) Person means any individual, partnership, limited liability company, firm, association, joint venture, public or private corporation, trust, estate, commission, board, institution, utility, cooperative, municipality or other political subdivision of this state, interstate body, or other legal entity;

(10) Soil and water conservation practice means a practice which serves to prevent erosion of soil by wind or water in excess of the applicable soil-loss tolerance level from land used only for agricultural, horticultural, or silvicultural purposes. Soil and water conservation practice includes, but is not limited to:

(a) Permanent soil and water conservation practice, including the planting of perennial grasses, legumes, shrubs, or trees, the establishment of grassed waterways, the construction of terraces, and other permanent soil and water practices approved by the district; and

(b) Temporary soil and water conservation practice, including the planting of annual or biennial crops, use of strip-cropping, contour planting, minimum or mulch tillage, and other cultural practices approved by the district; and

(11) Soil-loss tolerance level means the maximum amount of soil loss due to erosion by wind or water, expressed in terms of tons per acre per year, which is determined to be acceptable in accordance with the Erosion and Sediment Control Act. Soil loss may be impacted by water erosion which may include (a) sheet and rill erosion which includes relatively uniform soil loss across the entire field slope which may leave small channels located at regular intervals across the slope and (b) ephemeral gully erosion which occurs in well-defined depressions or natural drainageways where concentrated overland flow results in the convergence of rills forming deeper and wider channels.

**Sec. 33.** Section 2-4604, Reissue Revised Statutes of Nebraska, is amended to read:

2-4604 (1) The director shall, in cooperation with the commission, the Natural Resources Conservation Service of the United States Department of Agriculture, and other appropriate state and federal agencies, develop and

coordinate a comprehensive state erosion and sediment control program designed to reduce soil erosion in this state to tolerable levels. The program, which shall be reasonable and attainable, shall include:

(a) The soil-loss tolerance level for the various types of soils in the state;

(b) State goals and a state strategy for reducing soil losses on all lands in the state to an amount no more than the applicable soil-loss tolerance level;

(c) Guidelines for establishing priorities for implementation of the program at the state and local levels;

(d) Types of assistance to be provided by the state to districts, cities, and counties in the implementation of the state and local erosion and sediment control programs; and

(e) Such other elements as the director deems appropriate in accordance with the objectives of the Erosion and Sediment Control Act, including any recommendations for further legislative or administrative action.

(2) The state erosion and sediment control program may be revised by the director and the commission at any time. Before approving any such changes, the director and the commission shall conduct at least four public hearings or meetings to receive information from interested persons in different parts of the state.

**Sec. 34.** Section 2-4901, Reissue Revised Statutes of Nebraska, is amended to read:

2-4901 (1) The Climate Assessment Response Committee is hereby created. The office of the Governor shall be the lead agency and shall oversee the committee and its activities. The committee shall be composed of representatives appointed by the Governor with the approval of a majority of the Legislature from livestock producers, crop producers, the Nebraska Emergency Management Agency, and the Conservation and Survey Division and Cooperative Extension Service of the University of Nebraska. The Director of Agriculture or his or her designee, the chief executive officer of the

Department of Health and Human Services or his or her designee, and the Director of Water, Energy, and Environment or his or her designee shall be ex officio members of the committee. Representatives from the federal Consolidated Farm Service Agency and Federal Crop Insurance Corporation may also serve on the committee at the invitation of the Governor. The chairperson of the Committee on Agriculture of the Legislature and the chairperson of the Committee on Natural Resources of the Legislature shall be nonvoting, ex officio members of the committee. The Governor may appoint a member of the Governor's Policy Research Office and any other state agency representatives or invite any other federal agencies to name representatives as he or she deems necessary. The Governor shall appoint one of the Climate Assessment Response Committee members to serve as the chairperson of the committee. Committee members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

(2) The committee shall meet at least twice each year and shall meet more frequently (a) at the call of the chairperson, (b) upon request of a majority of the committee members, and (c) during periods of drought or other severe climate situations.

(3) The chairperson may establish subcommittees and may invite representatives of agencies other than those with members on the committee to serve on such subcommittees.

(4) Any funds for the activities of the committee and for other climate-related expenditures may be appropriated directly to the office of the Governor for contracting with other agencies or persons for tasks approved by the committee.

**Sec. 35.** Section 13-1701, Reissue Revised Statutes of Nebraska, is amended to read:

13-1701 For purposes of sections 13-1701 to 13-1714 and 76-2,119:

(1) Applicant shall mean any person as defined in section 81-1502 who is required to obtain a permit from the department for a solid waste disposal area or a solid waste processing facility but shall not include any person applying

for renewal of such a permit or any person as defined in such section who proposes to dispose of waste which he or she generates on property which he or she owns as of January 1, 1991;

(2) Department shall mean the Department of Water, Energy, and Environment;

(3) Solid waste disposal area shall mean an area used for the disposal of solid waste from more than one residential premises or from one or more recreational, commercial, industrial, manufacturing, or governmental operations; and

(4) Solid waste processing facility shall mean an incinerator or a compost plant receiving material, other than yard waste, in quantities greater than one thousand cubic yards annually.

**Sec. 36.** Section 13-2008, Reissue Revised Statutes of Nebraska, is amended to read:

13-2008 Department shall mean the Department of Water, Energy, and Environment.

**Sec. 37.** Section 13-2009, Reissue Revised Statutes of Nebraska, is amended to read:

13-2009 Director shall mean the Director of Water, Energy, and Environment.

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

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

(2) Any municipality or county may apply to the department for the rebate authorized in subsection (1) of this section if the municipality or county has a written purchasing policy in effect requiring a preference for purchasing products, materials, or supplies which are manufactured or produced from recycled material. The policy shall provide that the preference shall not operate when it would result in the purchase of products, materials, or supplies which are of inadequate quality as determined by the municipality or county. Upon receipt of an application, the department shall submit the application to the materiel division of the Department of Administrative Services for review. The materiel division shall review the application for compliance with this section and any rules and regulations adopted pursuant to this section and to determine the probable effectiveness in assuring that a preference is given to products, materials, or supplies which are manufactured or produced from recycled material. The materiel division shall provide a report of its findings to the Department of Water, Energy, and Environment within thirty days after receiving the review request. The department shall approve the application or suggest modifications to the application within sixty days after receiving the application based on the materiel division's report, any analysis by the department, and any factors affecting compliance with this section or the rules and regulations adopted pursuant to this section.

(3) A municipality or county shall file a report complying with the rules and regulations adopted pursuant to this section with the Department of Water, Energy, and Environment before April 1 of each year documenting purchasing practices for the past calendar year in order to continue receiving the rebate. The report shall include, but not be limited to, quantities of products, materials, or supplies purchased which were manufactured or produced from recycled material. The department shall provide copies of each report to the materiel division in a timely manner. If the department determines that a municipality or county is not following the purchasing policy presented in the approved application or that the purchasing policy presented in the approved

application is not effective in assuring that a preference is given to products, materials, or supplies which are manufactured or produced from recycled material, the department shall suspend the rebate until it determines that the municipality or county is giving a preference to products, materials, or supplies which are manufactured or produced from recycled material pursuant to a written purchasing policy approved by the department subsequent to the suspension. The materiel division may make recommendations to the department regarding suspensions and reinstatements of rebates. The Department of Administrative Services may adopt and promulgate rules and regulations establishing procedures for reviewing applications and for annual reports.

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

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

**Sec. 39.** Section 16-6,106, Reissue Revised Statutes of Nebraska, is amended to read:

16-6,106 Cities of the first class are hereby authorized and empowered to develop and implement and from time to time amend, change, and modify a general plan or program of flood and storm water control, drainage, and disposal for such city. If the plan or program requires works of improvement outside of the city limits, it shall be submitted for review to the boards of the county or counties affected and to the Department of Water, Energy, and Environment. To accomplish such purposes, or any of them, the city may to the extent deemed needful or useful in the judgment of the city council:

(1) Procure and contract for professional and technical assistance of all



kinds;

(2) Build, construct, alter, modify, and improve, using either its own employees, equipment, and facilities or by contract with others, dams, dikes, levees, drainways, channels, structures, devices, storm water sewers and systems, and works of all kinds and appurtenances thereto all without any limitation whatsoever, including extensions, additions, and improvements and alterations of any such existing facilities, for the control, management, drainage, and disposal of flood, storm, or surface waters, both within and without the city as in the discretion of the city council may be required for the protection, benefit, and welfare of the city and its inhabitants and their property; and

(3) Acquire by purchase, lease, gift, and contract and through the exercise of the right of eminent domain all lands, structures, easements, rights-of-way, or other property real or personal both within and without the city as may in the discretion of the city council be required or useful in connection with any such plan or program and the implementation thereof.

**Sec. 40.** Section 19-1201, Revised Statutes Cumulative Supplement, 2024, is amended to read:

19-1201 (1) There is hereby established the Revitalize Rural Nebraska Grant Program. The governing body of a city of the first class, a city of the second class, or a village may apply, on behalf of the city or village, to the Department of Water, Energy, and Environment for approval of a dilapidated commercial property demolition grant. The Director of Water, Energy, and Environment shall prescribe the form and manner of application.

(2) The department shall award the grants annually on a competitive basis beginning in fiscal year 2023-24 subject to available funds. The department shall give priority to applications from cities of the second class and villages. If there are funds remaining at the end of each grant period, the department shall consider applications from cities of the first class. A city or village may apply for more than one grant. The department shall give preference to new applicants.

(3) There shall be no limit on the amount that can be awarded to each applicant within the available funding. It is the intent of the Legislature that if the department does not award all of the available appropriation for grants under the program, the unobligated amount of the appropriation shall be reappropriated for the next fiscal year to be awarded during the next grant period.

**Sec. 41.** Section 19-1202, Revised Statutes Cumulative Supplement, 2024, is amended to read:

19-1202 The Department of Water, Energy, and Environment shall award a grant to a city or village under the Revitalize Rural Nebraska Grant Program based on a completed application that demonstrates:

(1) A dilapidated commercial property within the corporate limits of the city or village is in need of demolition;

(2) The city or village owns the property or is completing the process prescribed in section 18-1722;

(3) The property has been abandoned or vacant for at least six months prior to application;

(4) The property is not listed, or eligible to be listed, on the National Register of Historic Places; and

(5) The city or village is able to contribute matching funds, whether in cash or in-kind donations, in the amount of ten percent for a village, fifteen percent for a city of the second class, and twenty percent for a city of the first class.

**Sec. 42.** Section 19-1203, Revised Statutes Cumulative Supplement, 2024, is amended to read:

19-1203 If a city or village fails to engage in the demolition of the commercial property identified in the application for a grant under the Revitalize Rural Nebraska Grant Program within twenty-four months after receiving the grant, the city or village shall return the grant to the Department of Water, Energy, and Environment. The department shall remit such grant money to the State Treasurer for credit to the Revitalize Rural Nebraska

Fund.

**Sec. 43.** Section 19-1204, Revised Statutes Cumulative Supplement, 2024, is amended to read:

19-1204 The Revitalize Rural Nebraska Fund is created. The Department of Water, Energy, and Environment shall use the fund for the Revitalize Rural Nebraska Grant Program. The fund shall include transfers as directed by the Legislature, money from grants returned under section 19-1203, and money from private contributions and other sources provided for purposes of the program. Any money in the Revitalize Rural Nebraska Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any interest earned on the fund shall be used for the program.

**Sec. 44.** Section 19-5706, Revised Statutes Cumulative Supplement, 2024, is amended to read:

19-5706 The Department of Economic Development may consult with statewide associations representing municipal officials, economic developers, the Department of Transportation, and the Department of Water, Energy, and Environment in order to carry out the Municipality Infrastructure Aid Act.

**Sec. 45.** Section 25-1062.01, Reissue Revised Statutes of Nebraska, is amended to read:

25-1062.01 (1) As used in this section and in sections 25-1064, 25-2159, and 25-2160, Chief Water Officer means the Chief Water Officer of the Department of Water, Energy, and Environment, State of Nebraska, his or her successor in office, or any agent, servant, employee, or officer of the State of Nebraska, now or hereafter exercising any powers or duties with respect to the administration of the irrigation water in the state, who may be a party in any court of the state in an action when the relief demanded involves the delivery of irrigation water.

(2) Whenever notice by either registered or certified letter to an appropriator is required in such sections, the address of the appropriator shall be that recorded in the office of the Department of Water, Energy, and

Environment under section 46-230.

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

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

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

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

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

temporary restraining order is granted without notice, the motion for a temporary injunction shall be heard at the earliest possible time in the district court and shall take precedence over all matters except older matters of the same character. When the motion for a temporary injunction comes up for hearing, the party who obtained the temporary restraining order shall proceed with the application for a temporary injunction, and if he or she does not do so, the district court shall dissolve the temporary restraining order. On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to such party as the district court may prescribe, the adverse party may appear and move for the dissolution or modification of the order, and in that event, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

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

Every temporary restraining order granted without notice shall: (i) Be endorsed with the date and hour of issuance; (ii) be filed immediately in the office of the clerk of the district court and entered of record; (iii) define the injury and state why the injury is irreparable and why the order was granted without notice; and (iv) expire by its terms within such time after

entry, not to exceed ten days, as the judge of the county court fixes unless within such fixed time period the order, for good cause shown, is extended by the district court for a like period or unless the party against whom the order is directed consents to an extension for a longer period. The reasons for the extension shall be entered of record.

(5) The Supreme Court or any judge thereof, the Court of Appeals or any judge thereof, the district court or any judge thereof, or a judge of the county court, if and when he or she has jurisdiction, shall have no power, when the relief demanded involves the delivery of irrigation water and the Chief Water Officer is a party, to grant a restraining order or temporary injunction at the time of the commencement of the action, except when notice by either registered or certified letter has been mailed seventy-two hours prior to the time of hearing to the Chief Water Officer and the division supervisor in the water division created by section 61-212 in which the action is brought and, in the manner provided in section 25-1062.01, to all appropriators whose rights to the delivery of irrigation water might in any manner be affected, of the time and place of the hearing. At the hearing on the restraining order or temporary injunction, the Chief Water Officer, appropriators, or riparian owners shall be entitled to be heard, in person or by their attorney or attorneys, on the question of whether the restraining order should be granted and, if so, in what amount the bond or undertaking is to be fixed.

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

**Sec. 47.** Section 25-1920, Reissue Revised Statutes of Nebraska, is amended to read:

25-1920 In all actions in which a temporary injunction has been granted and entered in the district court, which order allowing the temporary injunction is or has been superseded for by law, and in which action the trial court, on the merits, determined that the temporary injunction ought not to

have been granted and a permanent injunction was refused in such action, such cause shall be advanced by the Court of Appeals or Supreme Court for hearing. In all such actions, if the relief demanded involves the delivery of irrigation water, and the Chief Water Officer, as defined in section 25-1062.01, is a party, any appeal from the judgment or decree of the district court shall be perfected within thirty days after the entry of such judgment, decree, or final order by the district court, and the cause shall be advanced for hearing before the Court of Appeals or Supreme Court.

**Sec. 48.** Section 25-2159, Reissue Revised Statutes of Nebraska, is amended to read:

25-2159 When the right to require the performance of the act is clear and it is apparent that no valid excuse can be given for not performing it, a peremptory mandamus may be allowed in the first instance. In all other cases, the alternative writ must be first issued, except that a peremptory mandamus in the first instance shall not be given in any case involving the delivery of irrigation water if the Chief Water Officer as defined in section 25-1062.01 is a party.

**Sec. 49.** Section 25-2160, Reissue Revised Statutes of Nebraska, is amended to read:

25-2160 The motion for the writ must be made upon affidavit. The court may require a notice of the application to be given to the adverse party, may grant an order to show cause why it should not be allowed, or may grant the writ without notice. No peremptory writ of mandamus shall be allowed in any case involving the delivery of irrigation water if the Chief Water Officer, as defined in section 25-1062.01, is a party unless notice by either registered or certified mail has been given, as provided therein, seventy-two hours prior to the time of hearing to the Chief Water Officer and division supervisor in the water division created by section 61-212 in which the action is brought and to all appropriators whose rights to the delivery of water might in any manner be affected, of the time and place of the hearing. In such case, any person, natural or artificial, injured or likely to be injured by the granting of such

writ, may intervene in such action at any stage of the proceedings and become a party to such litigation.

**Sec. 50.** Section 31-415, Reissue Revised Statutes of Nebraska, is amended to read:

31-415 The drainage district shall have power to purchase such real estate or easement therein as it may need, and if it cannot agree on the purchase price of any needed real estate or easement therein, it shall have power to condemn the same whether the property be within the limits of such district or outside its boundaries. The exercise of the right of eminent domain on areas outside the boundaries of the district shall be limited only to those projects which have been approved by the Department of Water, Energy, and Environment. This limitation shall not apply to any drainage district subject to the supervision of the United States Army Corps of Engineers. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724. If such drainage district finds it expedient or necessary for the maintenance of any part of its improvement already constructed to add thereto further construction in the nature of a settling basin into which waters will be permitted to flow for the purpose of dropping silt before finding their outlet into any part of the main or lateral ditches of such drainage district improvement, such drainage district, if not able to agree with the landowner on the yearly cash rental of any premises taken and used for such purpose, shall have the right to condemn for the purpose of fixing the yearly rental for the land so taken. If such drainage district takes or damages any real estate of any minor or protected person, the guardian or conservator of such minor or protected person may agree and settle with the drainage district for all damages or claims by reason of taking such real estate or easement and may give valid releases and discharges therefor.

**Sec. 51.** Section 31-508, Revised Statutes Cumulative Supplement, 2024, is amended to read:

31-508 If a sanitary drainage district has constructed one or more channels, drains, or ditches from a city of the primary class to or beyond the



boundaries of the district downstream and there remains from the lower terminus of such improvement a portion or continuation of the watercourse unimproved, the Department of Water, Energy, and Environment shall investigate the conditions of such watercourse, and if the department determines that further improvement in such watercourse downstream is for the interest of lands adjacent to such watercourse below the point of the improvement, the department shall file a plan of such improvement in the office of the county clerk of each of the counties in which any of the lands to be benefited are situated and in which any portion of the watercourse to be improved is located. Such plan shall describe the boundaries of the district to be benefited and shall contain an estimate of the benefits that would accrue to the sanitary district by reason of such improvement as well as the cost thereof and an estimate of the special benefits that would accrue to lands adjacent to the watercourse by reason of improved drainage, such estimate being detailed as to the various tracts of land under separate ownership as shown by the records of the county in which such lands are situated.

**Sec. 52.** Section 31-509, Reissue Revised Statutes of Nebraska, is amended to read:

31-509 When the Department of Water, Energy, and Environment files a report and estimate, the county clerk of such county shall publish a notice once each week for three weeks in a newspaper published in the county seat of each of the counties having land within the sanitary drainage district, which notice shall state the filing of the report and estimate, the boundaries of the district to be benefited, that an election will be held at the office of the county clerk between the hours of 8 a.m. and 6 p.m. on a day named in the notice, and that at the election the question of the formation of a sanitary drainage district to include the area described in the report will be determined. The election shall be held in accordance with sections 31-406 to 31-408, except that no directors shall be elected. If a majority vote for the creation of a district based on acreage represented, the sanitary drainage district shall have jurisdiction to make the improvements recommended by the

Department of Water, Energy, and Environment and to levy a special assessment on the lands specially benefited. If a majority vote against the creation of a district, the work shall not be done.

**Sec. 53.** Section 31-515, Reissue Revised Statutes of Nebraska, is amended to read:

31-515 The proceedings for imposing of special assessment by the board of trustees shall be, as nearly as may be, according to those for special assessments by the mayor and council under the law governing cities of the first class. If improvements are recommended by the Department of Water, Energy, and Environment and a sanitary drainage district is formed adjacent to a watercourse previously improved above such district pursuant to sections 31-508 and 31-509, the board of trustees shall advertise for bids for the construction of such improvements as are recommended by the department and in accordance with plans recommended by the department.

**Sec. 54.** Section 31-516, Reissue Revised Statutes of Nebraska, is amended to read:

31-516 Upon the completion of the improvement, notice shall be given that the trustees will sit as a board of equalization, at a day and hour in such notice stated, for the purpose of equalizing the assessments of such portion of the cost of such improvement as the report of the Department of Water, Energy, and Environment finds to represent the special benefits of the land the drainage of which such improvements would improve. At such hearing such board of equalization shall hear all complaints with reference to the assessments proposed under the findings of the department. The trustees sitting as a board of equalization shall have power to increase or decrease such special assessments to the end that the property shall be assessed its equitable portion of the cost of such improvement, but not exceeding in the aggregate the percentage of the total cost recommended by the department to be assessed against such property and not exceeding in any case the actual special benefits accruing to such land. Notice of such meeting of the board of equalization shall be given by publishing a notice thereof in a paper, published in the

county seat in each of the counties where any of the lands to be assessed are situated, once each week for three consecutive weeks. Appeals from the findings of such board of equalization may be taken in the manner provided for appeals from assessments of drainage districts organized under sections 31-401 to 31-450.

**Sec. 55.** Section 31-1003, Reissue Revised Statutes of Nebraska, is amended to read:

31-1003 Department shall mean the Department of Water, Energy, and Environment.

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

31-1015 Obstruction shall mean any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Obstruction shall not include a dam designed to store or divert water for which permission for construction has been obtained from the Chief Water Officer pursuant to the Safety of Dams and Reservoirs Act.

**Sec. 57.** Section 37-707, Reissue Revised Statutes of Nebraska, is amended to read:

37-707 (1) The commission is directed to place suitable signs showing the boundaries of the refuges, as designated in section 37-706, using the map adopted by the commission pursuant to this section, on all roads leading into such refuges.

(2)(a) The commission shall adopt and promulgate rules and regulations determining the boundaries of the state game refuges. The commission's determination shall be based on the definitions in sections 37-701 to 37-708 and shall include maps showing such boundaries.

(b) The commission shall update any boundary determination required by subdivision (a) of this subsection whenever it determines that there has been a substantial change in the location of the banks of said stream used for locating such boundary.

(c) To the extent necessary to fulfill their obligations under sections 37-701 to 37-708 and pursuant to notice as provided in subdivision (d) of this subsection, the commission shall have access at all reasonable times to all properties to which access is needed to fulfill such obligations. Entry upon such properties for the purposes set forth in such sections shall not be considered trespass.

(d) Notice of intent to enter upon property for the purposes of subdivision (2)(c) of this section shall be satisfied by publishing such notice at least once each week for three consecutive weeks in a legal newspaper published or of general circulation in the county or counties in which such property and such game refuge are located.

(e) All rules and regulations adopted and promulgated pursuant to this section by the Department of Natural Resources as it existed prior to July 1, 2025, shall remain in effect unless revised, amended, repealed, or nullified pursuant to law.

**Sec. 58.** Section 37-708.01, Reissue Revised Statutes of Nebraska, is amended to read:

37-708.01 (1) The validity of any rule or regulation adopted by the commission pursuant to sections 37-701 to 37-708 may be determined pursuant to section 84-911.

(2) Any person aggrieved by any other order or act of the commission pursuant to its authority under sections 37-701 to 37-708 may, within thirty days after notice thereof, file a petition in the district court of the county in which the aggrieved person resides or, if the aggrieved person is not a resident of Nebraska, in the district court of Lancaster County, for review. The court shall summarily hear the petition as a case in equity without a jury and may order only declaratory or prospective injunctive relief with regard to

such order or act.

(3) Except as provided in subsection (1) of this section, the appeal procedures described in the Administrative Procedure Act shall not apply to actions taken pursuant to sections 37-701 to 37-708.

(4) The appeal procedures described in sections 61-206 and 61-207 do not apply to actions taken pursuant to sections 37-701 to 37-708.

**Sec. 59.** Section 37-806, Revised Statutes Cumulative Supplement, 2024, is amended to read:

37-806 (1)(a) Any species of wildlife or wild plants determined to be an endangered species pursuant to the Endangered Species Act shall be an endangered species under the Nongame and Endangered Species Conservation Act, and any species of wildlife or wild plants determined to be a threatened species pursuant to the Endangered Species Act shall be a threatened species under the Nongame and Endangered Species Conservation Act.

(b) Within a reasonable time after any federal listing, downlisting, removal, or uplisting, the commission may determine that any species of wildlife or wild plant should receive a different state-listed status throughout all or any portion of the range of such species within this state by completing the formal listing process as prescribed in this section or by retaining its previous state-listed status.

(2) In addition to the species determined to be endangered or threatened pursuant to the Endangered Species Act, the commission shall, by adopting and promulgating rules and regulations, determine whether any species of wildlife or wild plants normally occurring within this state is an endangered or threatened species as a result of any of the following factors:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, educational, or other purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence within this state.

(3)(a) The commission shall make determinations required by subsection (2) of this section on the basis of the best scientific, commercial, and other data available to the commission.

(b) Except with respect to species of wildlife or wild plants determined to be endangered or threatened species under subsection (1) of this section, the commission shall not add a species to nor remove a species from any list published pursuant to subsection (5) of this section unless the commission has first:

(i) Provided public notice of such proposed action by publication in a newspaper of general circulation in each county in that portion of the subject species' range in which it is endangered or threatened or, if the subject species' range extends over more than five counties, in a newspaper of statewide circulation distributed in the county;

(ii) Provided notice of such proposed action to and allowed comment from the Department of Agriculture, the Department of Water, Energy, and Environment, and any other state agency that the commission determines might be impacted by the proposed action;

(iii) Provided notice of such proposed action to and allowed comment from each natural resources district and public power district located in that portion of the subject species' range in which it is endangered or threatened;

(iv) Notified the Governor of any state sharing a common border with this state, in which the subject species is known to occur, that such action is being proposed;

(v) Allowed at least sixty days following publication for comment from the public and other interested parties;

(vi) Held at least one public hearing on such proposed action in each game and parks commissioner district of the subject species' range in which it is endangered or threatened;

(vii) Submitted the scientific, commercial, and other data that is the

basis of the proposed action to scientists or experts outside and independent of the commission for peer review of the data and conclusions. If the commission submits the data to a state or federal fish and wildlife agency for peer review, the commission shall also submit the data to scientists or experts not affiliated with such an agency for review. For purposes of this section, state fish and wildlife agency does not include a postsecondary educational institution; and

(viii) For species proposed to be added under this subsection but not for species proposed to be removed under this subsection, developed an outline of the potential impacts, requirements, or rules and regulations that may be placed on private landowners, or on other persons who hold state-recognized property rights on behalf of themselves or others, as a result of the listing of the species or the development of a proposed program for the conservation of the species as required in subsection (1) of section 37-807.

(c) The inadvertent failure to provide notice as required by subdivision (3)(b) of this section shall not prohibit the listing of a species and shall not be deemed to be a violation of the Administrative Procedure Act or the Nongame and Endangered Species Conservation Act.

(d) When the commission proposes to add or remove a species under this subsection, public notice under subdivision (3)(b)(i) of this section shall include, but not be limited to, (i) the species proposed to be listed and a description of that portion of its range in which the species is endangered or threatened, (ii) a declaration that the commission submitted the data that is the basis for the listing for peer review and developed an outline if required under subdivision (b)(viii) of this subsection, and (iii) a declaration of the availability of the peer review, including an explanation of any changes or modifications the commission has made to its proposal as a result of the peer review, and the outline required under subdivision (b)(viii) of this subsection, if applicable, for public examination.

(e) In cases when the commission determines that an emergency situation exists involving the continued existence of such species as a viable component

of the wild fauna or flora of the state, the commission may add species to such lists after first publishing public notice that such an emergency situation exists together with a summary of facts that support such determination.

(4) In determining whether any species of wildlife or wild plants is an endangered or threatened species, the commission shall take into consideration those actions being carried out by the federal government, by other states, by other agencies of this state or its political subdivisions, or by any other person which may affect the species under consideration.

(5) The commission shall adopt and promulgate rules and regulations containing a list of all species of wildlife and wild plants normally occurring within this state that it determines, in accordance with subsections (1) through (4) of this section, to be endangered or threatened species and a list of all such species. Each list shall refer to the species contained in such list by scientific and common name or names, if any, and shall specify with respect to each such species over what portion of its range it is endangered or threatened.

(6) Except with respect to species of wildlife or wild plants determined to be endangered or threatened pursuant to the Endangered Species Act, the commission shall, upon the petition of an interested person, conduct a review of any listed or unlisted species proposed to be removed from or added to the lists published pursuant to subsection (5) of this section, but only if the commission publishes a public notice that such person has presented substantial evidence that warrants such a review.

(7) Whenever any species of wildlife or wild plants is listed as a threatened species pursuant to subsection (5) of this section, the commission shall issue such rules and regulations as are necessary to provide for the conservation of such species. The commission may prohibit, with respect to any threatened species of wildlife or wild plants, any act prohibited under subsection (8) or (9) of this section.

(8) With respect to any endangered species of wildlife, it shall be unlawful, except as provided in subsection (7) of this section or section



37-807, for any person subject to the jurisdiction of this state to:

- (a) Export any such species from this state;
- (b) Take any such species within this state;
- (c) Possess, process, sell or offer for sale, deliver, carry, transport, or ship, by any means whatsoever except as a common or contract motor carrier under the jurisdiction of the Public Service Commission or the federal Surface Transportation Board, any such species; or
- (d) Violate any rule or regulation pertaining to the conservation of such species or to any threatened species of wildlife listed pursuant to this section and adopted and promulgated by the commission pursuant to the Nongame and Endangered Species Conservation Act.

(9) With respect to any endangered species of wild plants, it shall be unlawful, except as provided in subsection (7) of this section, for any person subject to the jurisdiction of this state to:

- (a) Export any such species from this state;
- (b) Possess, process, sell or offer for sale, deliver, carry, transport, or ship, by any means whatsoever, any such species; or
- (c) Violate any rule or regulation pertaining to such species or to any threatened species of wild plants listed pursuant to this section and adopted and promulgated by the commission pursuant to the act.

(10) Any endangered species of wildlife or wild plants that enters this state from another state or from a point outside the territorial limits of the United States and that is being transported to a point within or beyond this state may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(11) The commission may permit any act otherwise prohibited by subsection (8) of this section for scientific purposes or to enhance the propagation or survival of the affected species.

(12) Any law, rule, regulation, or ordinance of any political subdivision of this state that applies with respect to the taking, importation,

exportation, possession, sale or offer for sale, processing, delivery, carrying, transportation other than under the jurisdiction of the Public Service Commission, or shipment of species determined to be endangered or threatened species pursuant to the Nongame and Endangered Species Conservation Act shall be void to the extent that it may effectively (a) permit that which is prohibited by the act or by any rule or regulation that implements the act or (b) prohibit that which is authorized pursuant to an exemption or permit provided for in the act or in any rule or regulation that implements the act. The Nongame and Endangered Species Conservation Act shall not otherwise be construed to void any law, rule, regulation, or ordinance of any political subdivision of this state which is intended to conserve wildlife or wild plants.

**Sec. 60.** Section 37-814, Revised Statutes Cumulative Supplement, 2024, is amended to read:

37-814 (1) Any federally designated critical habitat under the Endangered Species Act shall be critical habitat under the Nongame and Endangered Species Conservation Act.

(2)(a) In addition to federally designated critical habitat under the Endangered Species Act, the commission shall by rule and regulation determine if any additional habitat of a species listed pursuant to subsection (2) of section 37-806 is critical habitat as a result of any of the following factors:

(i) The present or threatened destruction, modification, or curtailment of the habitat or range of such species;

(ii) Overutilization for commercial, recreational, scientific, educational, or other purposes;

(iii) Disease or predation;

(iv) The inadequacy of existing regulatory mechanisms; or

(v) Other natural or manmade factors affecting the continued existence within this state of such species.

(b) The commission shall not designate as critical habitat for any endangered or threatened species the entire geographical area that can be

occupied by such endangered or threatened species unless the commission determines that such designation is essential for the survival of the endangered or threatened species.

(c) The commission may, concurrently with making a determination under subsection (2) of section 37-806 that a species is an endangered or threatened species, designate any habitat of such species that is also considered to be critical habitat.

(d) The commission may designate critical habitat for any plant or animal species that is listed under section 37-806 that does not have a designated critical habitat.

(e) The commission may revise any previous designation of critical habitat.

(3)(a) The commission shall make determinations required by subsection (2) of this section on the basis of the best scientific, commercial, and other data available to the commission.

(b) Except with respect to critical habitat designated under subsection (1) of this section, the commission shall not designate or remove designation of critical habitat for a species from any list published pursuant to subsection (5) of this section unless the commission:

(i) Provides public notice of such proposed action by publication in a newspaper of general circulation in each county in which the critical habitat is proposed to be designated, or if the proposed critical habitat designation extends over more than five counties, in a newspaper of statewide circulation distributed in each of the counties;

(ii) Provides notice of such proposed action to and allows comment from the Department of Agriculture, the Department of Water, Energy, and Environment, and any other state agency that the commission determines might be impacted by the proposed action;

(iii) Provides notice of such proposed action to and allows comment from each natural resources district and public power district located within the area proposed to be designated as critical habitat;

(iv) Notifies the Governor of any state sharing a common border with this state, in which the species for which the critical habitat that is being proposed to be designated is known to occur, that such action is being proposed;

(v) Allows at least sixty days following publication for comment from the public and other interested parties;

(vi) Holds at least one public hearing on such proposed action in each game and parks commissioner district where the critical habitat is proposed to be designated;

(vii) Submits the scientific, commercial, and other data that is the basis of the proposed action to scientists or experts outside and independent of the commission for peer review of the data and conclusions. If the commission submits the data to a state or federal fish and wildlife agency for peer review, the commission shall also submit the data to scientists or experts not affiliated with such agency for review. For purposes of this section, state fish and wildlife agency does not include a postsecondary educational institution; and

(viii) For critical habitat proposed to be designated under this subsection, but not for critical habitat proposed to be removed from designation under this subsection, develops an outline of any potential impact, requirement, or rule or regulation that might be placed on any private landowner or other person who holds any state-recognized property right as a result of the listing of the critical habitat designation.

(c) The inadvertent failure to provide notice as required by subdivision (3)(b) of this section shall not prohibit the designation of critical habitat and shall not be deemed to be a violation of the Administrative Procedure Act or the Nongame and Endangered Species Conservation Act.

(d) When the commission proposes to designate or remove designation of critical habitat under this subsection, public notice under subdivision (3)(b) (i) of this section shall include (i) the critical habitat proposed to be listed as designated critical habitat and a description of the portion of the

range in which the species for which critical habitat is proposed to be designated is endangered or threatened, (ii) a declaration that the commission submitted the data that is the basis for the listing for peer review and developed an outline if required under subdivision (b)(viii) of this subsection, and (iii) a declaration of the availability of the peer review, including an explanation of any changes or modifications the commission has made to its proposal as a result of the peer review, and the outline required under subdivision (b)(viii) of this subsection, if applicable, for public examination.

(e) In cases when the commission determines that an emergency situation exists that requires the designation of critical habitat to provide for the continued existence of a species as a viable component of the wild fauna or flora of the state, the commission may add the designated critical habitat to such lists after first publishing public notice that such an emergency situation exists together with a summary of facts that support such determination.

(4) In determining whether any endangered or threatened species requires the designation of critical habitat, the commission shall take into consideration those actions being carried out by the federal government, by other states, by other agencies of this state or its political subdivisions, or by any other person which may affect the species under consideration.

(5) The commission shall adopt and promulgate rules and regulations containing a list of all designated critical habitat in this state and the endangered or threatened species for which such critical habitat was designated. Each species on such list shall be referred to by both scientific and common name or names, if any.

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

46-106 The petition for the proposed district shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper printed and published in the county where the petition is presented,

together with a notice stating the time of the meeting at which the petition will be presented. A copy of such petition and all maps and other papers filed with the petition shall be filed with the Chief Water Officer of the Department of Water, Energy, and Environment for at least four weeks before the date set for such hearing. The Chief Water Officer shall examine such petition, maps, and other papers and, if he or she deems it necessary, shall further examine the proposed district, the works proposed to be purchased, or the location of the works to be constructed. The Chief Water Officer shall prepare a report upon the matter in such form as he or she deems advisable and submit the report to the county board at the meeting set for the hearing of the petition.

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

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

(2) The board of directors may by the adoption of appropriate bylaws provide for the suspension of water delivery to any land in such district upon which the irrigation taxes levied and assessed thereon shall remain due and unpaid for two years. It shall be the duty of the directors to make all necessary arrangements for right-of-way for laterals from the main canal to each tract of land subject to assessment, and when necessary the board shall exercise its right of eminent domain to procure right-of-way for the laterals and shall make such rules in regard to the payment for such right-of-way as may be just and equitable.

(3) In times of reduced water supply, when the volume of water is not adequate to be beneficially used when equitably apportioned to all landowners in the district, the board may, after providing notice to landowners in a portion of the district and upon receiving no objections from the majority of such landowners, elect not to deliver water to that portion of the district.

Such election shall not subject the district to liability under section 46-160 and shall not affect the rights of landowners in that portion of the district to water deliveries in the future. Any election to not deliver water to a portion of the district shall be made on a year-to-year basis, not to exceed ten years, and such election shall not subject any landowner to adjudication of his or her water right under section 46-229. The board may adjust the tolls or charges made to landowners within the district to reflect the decrease in supply to those landowners in the portion of the district not receiving water pursuant to such election by the board.

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

46-190 After a sale of the property and franchises of the district, the board of directors shall, with the amount realized from such sale, together with such other funds as such district may have, make settlement, payment, and redemption, if possible, of all outstanding bonded and other indebtedness of the district, but shall in no case pay more than the market value of such outstanding bonds with interest up to the time of payment. In cases when bonds not yet due cannot be redeemed by reason of the refusal of the owner thereof to surrender them before due, the board may invest the surplus money of the district, after paying all debts that can be paid, in state, county, or other safe bonds, bearing the same or greater rate of interest, if possible, than the district bonds thus outstanding, for the purpose of paying such outstanding bonds of the district when due. In case the amount realized from the sale of such district property, together with other money of the district, is insufficient for the payment of all the indebtedness of the district, assessments shall continue to be made against the lands included in the district in the manner provided by law for assessments to pay bonds and other indebtedness of irrigation districts until a sufficient amount is raised to fully pay all obligations of such district.

Any balance of funds remaining after the sale or disposition of all property belonging to the district and after all obligations and indebtedness

of the district have been paid or discharged shall be distributed by the county treasurer to all assessment payers of the district of record as of the date of the filing with the Chief Water Officer of the Department of Water, Energy, and Environment of the report referred to in section 46-192. Such distribution shall be made pro rata in accordance with the number of acres of irrigable land owned within the district as of the date of the last assessment against such land for the district prior to the date of the filing of such report.

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

46-192 After all the property of the district is disposed of as provided in sections 46-186 to 46-188, except for any balance of funds remaining after all of the obligations of such district have been paid, the directors of such district shall file in the office of the county clerk of each county in which such district is located, and with the Chief Water Officer of the Department of Water, Energy, and Environment, a report attested by the secretary of the board, stating that the district has disposed of its property and franchises, except for any balance of funds remaining, and has discontinued operation, which report shall be recorded in the miscellaneous record of such counties. Each easement and right-of-way, whether owned by the district in fee or otherwise, shall automatically be terminated and extinguished and such interest together with any canal or other structure shall become the property of the owner of the land upon which such easement, right-of-way, canal, or other structure is located or, if owned in fee by the district, shall become the property of the owner of the land adjacent thereto, upon the filing of the report with the Chief Water Officer. If any person has any claim against such district which is not settled or disposed of at the time of the filing of such report and such person fails or neglects to bring suit upon such claim within one year after the time of the filing of such report, such claim or claims shall be forever barred as against such district as well as against all persons and property therein.

**Sec. 65.** Section 46-193, Reissue Revised Statutes of Nebraska, is amended



to read:

46-193 As soon as practicable after the organization of any such district, the board of directors shall, by a resolution entered on its record, formulate a general plan of its proposed operation in which it shall state (1) what constructed works or other property it proposes to purchase and the cost of purchasing the same and (2) what construction work it proposes to do and how it proposes to raise the funds for carrying out such plan. For the purpose of ascertaining the cost of any such construction work, the board shall cause such surveys, examinations, and plans to be made as will demonstrate the practicability of such plan and furnish the proper basis for an estimate of the costs of carrying out the same. All such surveys, examinations, maps, plans, and estimates shall be made under the direction of a competent irrigation engineer and certified by the engineer. The board shall then submit a copy of the same to the Chief Water Officer of the Department of Water, Energy, and Environment within ninety days thereafter, who shall file a report upon the same with the board, which report shall contain such matters as in the judgment of the Chief Water Officer may be desirable.

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

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

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

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

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

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

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

(6) The name of the proposed district; and

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

A certified copy of the petition for merger shall be filed with the Chief Water Officer of the Department of Water, Energy, and Environment and the Chief Water Officer shall either approve or disapprove such petition within twenty days. The boards of directors of the districts shall not take further action without such approval.

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

46-1,157 When such plan has been approved by the Chief Water Officer, it shall be designated as the final approved plan and shall be submitted to a vote as provided in section 46-1,158.

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

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

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

46-1,165 The Chief Water Officer shall establish procedures and criteria for awarding grants to irrigation districts from the Surface Water Irrigation Infrastructure Fund to be used for repair or construction of any headgate, flume, diversion structure, check valve, or any other physical structure used for irrigation projects. The Chief Water Officer may award grants, not to exceed five million dollars per applicant, to an irrigation district that applies to the Chief Water Officer based on criteria and procedures established by the Chief Water Officer. In order to receive a grant under this section, a grant applicant shall provide matching funds equal to ten percent of the grant amount awarded for such project.

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

46-205 The priority of an appropriation shall date from the filing of the application with the Chief Water Officer of the Department of Water, Energy, and Environment.

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

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

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

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

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

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

with the Chief Water Officer an application for recognition of incidental underground water storage associated with such appropriation on a form prescribed and furnished by the Chief Water Officer without cost. Upon receipt of an application, the Chief Water Officer shall proceed in accordance with rules and regulations adopted and promulgated by the Chief Water Officer.

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

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

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

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

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

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

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

(3) The Chief Water Officer may grant the application in a modified or reduced form, if required by the public interest, and may impose such other reasonable conditions as deemed appropriate to protect the public interest.

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

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

(b) The underground water storage method; and

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

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

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

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

(2) Department means the Department of Water, Energy, and Environment;

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

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

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

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

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

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

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

46-227 The Chief Water Officer shall measure or cause to be measured the quantity of water flowing in the several streams of the state, shall make a record thereof in the office of the department, and shall from time to time

make such additional measurements as may be necessary, in considering applications for water appropriations and such controversies as may arise regarding the distribution of water.

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

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

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

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

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

46-229.02 (1) If, based upon the results of a field investigation or upon information, however obtained, the Chief Water Officer makes preliminary determinations (a) that an appropriation has not been used, in whole or in part, for a beneficial or useful purpose or having been so used at one time has ceased to be used, in whole or in part, for such purpose for more than five consecutive years and (b) that the Chief Water Officer knows of no reason that constitutes sufficient cause, as provided in section 46-229.04, for such nonuse or that such nonuse has continued beyond the additional time permitted because of the existence of any applicable sufficient cause, the Chief Water Officer shall serve notice of such preliminary determinations upon the owner or owners of such appropriation and upon any other person who is an owner of the land

under such appropriation. Such notice shall contain the information required by section 46-229.03, shall be provided in the manner required by such section, and shall be posted on the department's website. Each owner of the appropriation and any owner of the land under such appropriation shall have thirty days after the mailing or last publication, as applicable, of such notice to notify the Chief Water Officer, on a form provided by the department, that such owner contests the Chief Water Officer's preliminary determination of nonuse or the department's preliminary determination of the absence of sufficient cause for such nonuse. Such notification shall indicate the reason or reasons the owner is contesting the Chief Water Officer's preliminary determination and include any information the owner believes is relevant to the issues of nonuse or sufficient cause for such nonuse.

(2) If no owner of the appropriation or of the land under the appropriation provides notification to the Chief Water Officer in accordance with subsection (1) of this section, the Chief Water Officer may issue an order canceling the appropriation in whole or in part. The extent of such cancellation shall not exceed the extent described in the Chief Water Officer's notice to the owner or owners in accordance with subsection (1) of this section. A copy of the order canceling the appropriation, or part thereof, shall be posted on the department's website and shall be provided to the owner or owners of the appropriation and to any other owner of the land under the appropriation in the same manner that notices are to be given in accordance with subsection (2), (3), or (4) of section 46-229.03, as applicable. No cancellation under this subsection shall prohibit an irrigation district, a reclamation district, a public power and irrigation district, or a mutual irrigation company or canal company from asserting the rights provided by subsections (5) and (6) of section 46-229.04.

(3) If an owner of the appropriation provides notification to the Chief Water Officer in accordance with subsection (1) of this section, the Chief Water Officer shall review the owner's stated reasons for contesting the Chief Water Officer's preliminary determination and any other information provided

with the owner's notice. If the Chief Water Officer determines that the owner has provided sufficient information for the Chief Water Officer to conclude that the appropriation should not be canceled, in whole or in part, the Chief Water Officer shall inform the owners of the appropriation, and any other owners of the land under the appropriation, of such determination.

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

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

(6) Following a hearing conducted in accordance with subsection (5) of this section and subsection (1) of section 46-229.04, the Chief Water Officer shall render a decision by order. A copy of the order shall be provided to the owner or owners of the appropriation and to any other person who is an owner of the land under the appropriation. The copy of the order shall be posted on the department's website and shall be served or published, as applicable, in the same manner that notices are to be given in accordance with subsection (2), (3), or (4) of section 46-229.03, as applicable, except that if publication is



required, it shall be sufficient for the Chief Water Officer to publish notice that an order has been issued. Any such published notice shall identify the land or lands involved and shall provide the address and telephone number that may be used to obtain a copy of the order.

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

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

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

section 46-229.02 and is published; and (k) if the notice is provided in accordance with subsection (5) of section 46-229.02, the date, time, and location of the hearing.

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

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

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

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

46-229.04 (1) At a hearing held pursuant to section 46-229.03, the verified field investigation report of an employee of the department, or such other report or information that is relied upon by the Chief Water Officer to reach the preliminary determination of nonuse, shall be prima facie evidence for the forfeiture and annulment of such water appropriation. If no person appears at the hearing, such water appropriation or unused part thereof shall be declared forfeited and annulled. If an interested person appears and

contests the same, the Chief Water Officer shall hear evidence, and if it appears that such water has not been put to a beneficial use or has ceased to be used for such purpose for more than five consecutive years, the same shall be declared canceled and annulled unless the Chief Water Officer finds that (a) there has been sufficient cause for such nonuse as provided for in subsection (2), (3), or (4) of this section or (b) subsection (5) or (6) of this section applies.

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

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

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

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

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

(b) The appropriation is a storage appropriation and there was an

inadequate water supply to provide the water for the storage appropriation or less than the full amount of the storage appropriation was needed to keep the reservoir full; or

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

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

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

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

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

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

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

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

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

(5) When an appropriation is held in the name of an irrigation district, a reclamation district, a public power and irrigation district, a mutual irrigation company or canal company, or the United States Bureau of Reclamation and the Chief Water Officer determines that water under that appropriation has not been used on a specific parcel of land for more than five years and that no sufficient cause for such nonuse exists, the right to use water under that appropriation on that parcel shall be terminated and notice of the termination

shall be posted on the department's website and shall be given in the manner provided in subsection (2), (3), or (4) of section 46-229.03. The district or company holding such right shall have five years after the determination, or five years after an order of cancellation issued by the Chief Water Officer following the filing of a voluntary relinquishment of the water appropriation that has been signed by the landowner and the appropriator of record, to assign the right to use that portion of the appropriation to other land within the district or the area served by the company, to file an application for a transfer in accordance with section 46-290, or to transfer the right in accordance with sections 46-2,127 to 46-2,129. The Chief Water Officer shall issue the order of cancellation within sixty days after receipt of the voluntary relinquishment unless the relinquishment is conditioned by the landowner upon an action of a governmental agency. If the relinquishment contains such a provision, the Chief Water Officer shall issue the order of cancellation within sixty days after receipt of notification that such action has been completed. The Chief Water Officer shall be notified of any such assignment within thirty days after such assignment. If the district or company does not assign the right to use that portion of the appropriation to other land, does not file an application for a transfer within the five-year period, or does not notify the Chief Water Officer within thirty days after any such assignment, that portion of the appropriation shall be canceled without further proceedings by the Chief Water Officer and the district or company involved shall be so notified by the Chief Water Officer. During the time within which assignment of a portion of an appropriation is pending, the allowable diversion rate for the appropriation involved shall be reduced, as necessary, to avoid inconsistency with the rate allowed by section 46-231 or with any greater rate previously approved for such appropriation by the Chief Water Officer in accordance with section 46-229.06.

(6) When it is determined by the Chief Water Officer that an appropriation, for which the location of use has been temporarily transferred in accordance with sections 46-290 to 46-294, has not been used at the new

location for more than five years and that no sufficient cause for such nonuse exists, the right to use that appropriation at the temporary location of use shall be terminated. Notice of that termination shall be posted on the department's website and shall be given in the manner provided in subsection (2), (3), or (4) of section 46-229.03. The right to reinitiate use of that appropriation at the location of use prior to the temporary transfer shall continue to exist for five years after the Chief Water Officer's determination, but if such use is not reinitiated at that location within such five-year period, the appropriation shall be subject to cancellation in accordance with sections 46-229 to 46-229.04.

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

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

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

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

46-229.06 When a proceeding that is conducted pursuant to sections 46-229 to 46-229.04 concerns the partial cancellation of an appropriation, the Chief Water Officer may receive evidence on the question of whether, following such partial cancellation, a reduction in the rate of diversion to the maximum rate prescribed in section 46-231 would result in an authorized diversion rate less than the rate necessary, in the interests of good husbandry, for the production of crops on the lands that remain subject to the appropriation. If the Chief Water Officer determines, based on a preponderance of the evidence, that such rate would be less than the rate necessary, in the interests of good husbandry, for the production of crops, he or she may approve a diversion rate for the remaining portion of the appropriation greater than the maximum rate authorized

by section 46-231. Such increased rate can be no greater than the rate authorized for the appropriation prior to the partial cancellation and no greater than the rate determined by the Chief Water Officer to be necessary, in the interests of good husbandry, for the production of crops on the lands that remain subject to the appropriation.

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

46-230 (1) As the adjudication of a stream progresses and as each claim is finally adjudicated, the Chief Water Officer shall make and cause to be entered of record an order determining and establishing the priorities of right to use the water of such stream, the amount of the appropriation of the persons claiming water from such stream and the character of use for which each appropriation is found to have been made, and the address of the owner of each water appropriation.

(2) Whenever requested by the Chief Water Officer, the owner of any appropriation not held by an irrigation district, reclamation district, public power and irrigation district, or mutual irrigation or canal company shall provide the Chief Water Officer with the name, address, and telephone number of each then-current owner of the appropriation and with the name, address, and telephone number of any tenant or other person who is authorized by the owner to receive opening and closing notices and other departmental communications relating to the appropriation. Each appropriation owner shall also notify the Chief Water Officer any time there is a change in any of such names, addresses, or telephone numbers. Notice of ownership changes may be provided to the Chief Water Officer in the manner provided in section 76-2,124 or in any other manner authorized by the Chief Water Officer. If notice of an ownership change is provided other than in accordance with such section, the notice shall include such evidence of ownership as the Chief Water Officer may require. Notice of all other changes may be provided in any manner authorized by the Chief Water Officer. Upon receipt of any new information, the Chief Water Officer shall update the Chief Water Officer's records. The Chief Water Officer shall not

collect a fee for the filing of any such information or for updating the Chief Water Officer's records.

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

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

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

When storage water is being used in addition to the natural flow, the person in charge of the ditch or canal shall, upon his or her request and within twenty-four hours thereof, be notified in writing by the user of such storage waters of the time of withdrawal from natural streams to be distributed according to law.

When an appropriation is for irrigation purposes and the amount is so small that a proper distribution and application is impractical, as much water as the applicant can use without waste may be allotted for a limited time so fixed by the Chief Water Officer as to give each appropriator his or her just share without violating other rights, so long as (1) the volume of water used in a twenty-four-hour period does not exceed the amount of water that would otherwise have been allowed at the approved fixed continuous rate for a twenty-four-hour period or (2) the volume of water used in a seven-day, Monday-



through-Sunday period does not exceed the amount of water that would otherwise have been allowed at the approved fixed continuous rate for a seven-day period. The Chief Water Officer shall determine schedules among appropriators to assure that other rights are not violated.

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

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

(2) The application shall be upon a form prescribed and furnished by the Chief Water Officer without cost to an applicant. Such application shall set forth (a) the name and post office address of the applicant, (b) the source from which such appropriation shall be made, (c) the amount of the appropriation desired, as nearly as it may be estimated, (d) the location of any proposed work in connection with the appropriation, (e) the estimated time required for its completion, which estimated time shall include the period required for the construction of ditches, pumps, and other features or devices, (f) the time estimated at which the application of the water for the beneficial purposes shall be made, which time shall be limited to a reasonable time following the estimated time of completion of the work when prosecuted with diligence, (g) the purpose for which water is to be applied and (i) if for induced ground water recharge by a public water supplier, a statement of the times of the year when and location along a stream where flows for induced ground water recharge are proposed and (ii) if for irrigation, a description of

the land to be irrigated by the water and the amount, and (h) such facts and supporting documentation as are required by the Chief Water Officer which shall include, but not be limited to, the depth of all wells, the extent of the underlying aquifer, the expected rate of recharge, the minimum flow or flows necessary to sustain the well field throughout the reach identified, and the period of time that a well field would continue to meet minimal essential needs of the public water supplier when there is no flow as those factors relate to and are part of an evaluation of pertinent hydrologic relationships.

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

(3) Upon receipt of an application containing the information set forth in this section, the Chief Water Officer shall (a) make a record of the receipt of the application, (b) cause the application to be recorded, and (c) make a careful examination of the application to ascertain whether it sets forth all the facts necessary to enable the Chief Water Officer to determine the nature and amount of the proposed appropriation. If such an examination shows the application in any way defective, it shall be returned to the applicant for correction, with a statement of the correction required, within ninety days after its receipt. Ninety days shall be allowed for the refiling of the application, and in default of such refiling, the application shall stand dismissed. Except as provided in subsection (4) of this section, if so filed and corrected as required within such time, the application shall, upon being accepted and allowed, take priority as of the date of the original filing, subject to compliance with the future provisions of the law and the rules and regulations thereunder. During the pendency of any application or upon its

approval, the Chief Water Officer, upon proper authorization and request of the applicant, may assign the application a later priority date.

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

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

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

(c) January 1, 1980, for water supply wells and facilities constructed and placed in service on or after January 1, 1970, and on or before December 31, 1979;

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

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

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

(6) After the Chief Water Officer has accepted the application made under subsection (2) of this section as a completed application and published notice as required under subsection (5) of this section, the Chief Water Officer shall, if he or she determines that a hearing is necessary, set a time and

place for a public hearing on the application. The hearing shall be held within reasonable proximity to the area in which the wells are or would be located. At the hearing the applicant shall present all hydrological data and other evidence supporting its application. All interested parties shall be allowed to testify and present evidence relative to the application.

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

(8) Application may be made to the Chief Water Officer for a temporary permit to appropriate water. The same standards for granting a permanent appropriation shall apply for granting such temporary permit except when the temporary permit is for road construction or other public use construction and the amount of water requested is less than ten acre-feet in total volume. For temporary permits for public-use construction, the applicant shall include on the application the location of the diversion, the location of use, a description of the project, the amount of water requested, and the person to contact. Temporary permits for public-use construction and for less than ten acre-feet in total volume may be granted without any determination of unappropriated water and shall be considered to be in the public interest. The requirement of filing a map or plans with the application for a temporary permit may be waived at the discretion of the Chief Water Officer. In granting a temporary permit, the Chief Water Officer shall specify a date on which the right to appropriate water under the permit shall expire. Under no circumstances shall such date be longer than one calendar year after the date the temporary permit was granted. Temporary permits shall be administered during times of shortage based on priority. The right to appropriate water shall automatically terminate on the date specified by the Chief Water Officer on the temporary permit without further action by the Chief Water Officer.

(9) Water may be diverted from any stream, reservoir, or canal by any fire department or emergency response services for the purpose of extinguishing a fire in progress in an emergency without obtaining a permit from the Chief

Water Officer. The installation of a dry well for this purpose is allowed without the prior permission of the Chief Water Officer, but the Chief Water Officer shall be informed of any such installation, its location, and the party responsible for its installation and maintenance within thirty days after the installation.

**Sec. 86.** Section 46-233.01, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(f) Any other factors consistent with the purposes of this section that the Chief Water Officer deems relevant to protecting the interests of the state

and its citizens.

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

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

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

**Sec. 88.** Section 46-235, Reissue Revised Statutes of Nebraska, is amended

to read:

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

(2)(a) An application for an induced ground water recharge appropriation for public water supplier wells constructed and placed in service before September 9, 1993, shall be approved by the Chief Water Officer if he or she finds that:

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

(ii) The rate and timing of the flow is the amount reasonably necessary to

maintain the well or wells for the uses for which the appropriation has been requested; and

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

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

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

(3) An application for an induced ground water recharge appropriation for public water supplier wells constructed or to be constructed on or after September 9, 1993, shall be approved by the Chief Water Officer if he or she



makes the findings required by subdivision (2)(a) of this section and further finds that:

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

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

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

(b) In determining whether an application for an appropriation for induced ground water recharge is in the public interest, the Chief Water Officer's considerations shall include, but not be limited to, the possible adverse effects on existing surface water or ground water users and the economic, social, and environmental value of such uses, including, but not limited to, irrigation, recreation, fish and wildlife, public water supply, induced ground water recharge for public water supply systems, and water quality maintenance.

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

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

46-235.01 A public water supplier which has received an appropriation for

induced ground water recharge pursuant to section 46-235 may, from time to time and within twenty-five years after the priority assigned pursuant to section 46-233, petition the Chief Water Officer for a hearing to present evidence showing that all or part of the original projection for additional water needs specified pursuant to subsection (2) of section 46-233 corresponds with the actual use. To the extent the public water supplier is making beneficial use of all or a portion of the water projected in the original application, the right to use such additional water shall vest and the priority date of such anticipated water use shall date back to the priority date assigned pursuant to section 46-233. A public water supplier may not request such a hearing at intervals of less than five years for each approved application.

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

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

(2) Just compensation shall be provided by a public water supplier to any injured junior appropriator whose appropriation was perfected prior to September 9, 1993, if and to the extent such injury resulted from regulation of junior appropriators requested by the public water supplier to provide water for any purpose other than domestic. Such compensation shall not be required to a junior appropriator if the regulation requested is to provide water for domestic purposes only. At the time any junior appropriator whose appropriation was perfected prior to September 9, 1993, is regulated at the request of a public water supplier, the Chief Water Officer shall determine for each such appropriator the extent to which the regulation is for domestic purposes and the extent to which it is for other purposes.

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

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

46-235.03 Natural resources districts shall have the authority to impose

restrictions or controls on public water suppliers as specified in the Nebraska Ground Water Management and Protection Act. Such restrictions or controls may limit the withdrawal of ground water to a greater degree or extent than is otherwise permitted or allowed by a permit issued by the Chief Water Officer.

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

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

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

**Sec. 93.** Section 46-236, Reissue Revised Statutes of Nebraska, is amended

to read:

46-236 An application for appropriation of water for water power shall meet the requirements of section 46-234 and subsection (1) of section 46-235 to be approved. Within six months after the approval of an application for water power and before placing water to any beneficial use, the applicant shall enter into a contract with the State of Nebraska, through the Chief Water Officer, for leasing the use of all water so appropriated. Such lease shall be upon forms prepared by the Chief Water Officer, and the time of such lease shall not run for a greater period than fifty years; and for the use of water for power purposes the applicant shall pay into the state treasury on or before January 1 each year fifteen dollars for each one hundred horsepower for all water so appropriated. Upon application of the lessee or its assigns, the Chief Water Officer shall renew the lease so as to continue it and the water appropriation in full force and effect for an additional period of fifty years.

Upon the failure of the applicant to comply with any of the provisions of such lease and the failure to pay any of such fees, the Chief Water Officer shall notify the lessee that the required fees have not been paid to the Chief Water Officer or that the lessee is not otherwise in compliance with the provisions of the lease. If the lessee has not come into compliance with all provisions of the lease or has not paid to the Chief Water Officer all required fees within fifteen calendar days after the date of such notice, the Chief Water Officer shall issue an order denying the applicant the right to divert or otherwise use the water appropriation for power production. The Chief Water Officer shall rescind the order denying use of the water appropriation at such time as the lessee has come into compliance with all provisions of the lease and has paid all required fees to the Chief Water Officer. If after forty-five calendar days from the date of issuance of the order the lessee is not in compliance with all provisions of the lease or required fees have not been paid to the Chief Water Officer, such lease and water appropriation shall be canceled by the Chief Water Officer.

**Sec. 94.** Section 46-237, Reissue Revised Statutes of Nebraska, is amended

to read:

46-237 (1) Within six months after approval and allowance of an application other than an application to appropriate public waters for induced ground water recharge, the applicant shall file with the Chief Water Officer a map or plat which shall conform to the rules and regulations of the department as to material, size, coloring, and scale. Such map or plat shall show the source from which the proposed appropriation is to be taken and all proposed dams, dikes, reservoirs, canals, powerhouses, and other structures for the purpose of storing, conveying, or using water for any purpose whatsoever and their true courses or positions in connection with the boundary lines and corners of lands which they occupy. The lands to be irrigated shall be identified in the manner prescribed by the department. No rights shall be deemed to have been acquired until the provisions of this section have been complied with. Except as provided in subsection (2) of this section, failure to so comply shall work a forfeiture of the appropriation and all rights thereunder.

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

(3) The Chief Water Officer may notify any appropriator subject to subsection (2) of this section of the need to file a map or plat of lands under such appropriation. Unless the Chief Water Officer grants an extension for good cause shown, the appropriator shall file the required map within three years after that notification and such map shall conform to the rules and regulations of the Chief Water Officer as to material, size, coloring, and scale. If the appropriator fails to comply, the Chief Water Officer may deny the appropriator

the right to divert or withdraw water subject to the appropriation until compliance has been achieved.

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

46-238 (1) Within twelve months after the approval of any application for water for irrigation, power, or other useful purpose by the Chief Water Officer, the person making such application shall commence the excavation or construction of the works in which it is intended to divert the water and the actual construction of any water power plant and reservoir or reservoirs for storage in connection therewith and shall vigorously, diligently, and uninterruptedly prosecute such work to completion unless temporarily interrupted by some unavoidable and natural cause. A failure to comply with this section shall work a forfeiture of the appropriation and all rights under the appropriation. The cost of promotion and engineering work shall not be considered a part of the cost of construction, and the progress of the construction work shall be such that one-tenth of the total work shall be completed within one year from the date of approval of the application. The construction of all work required in connection with the proposed project shall be prosecuted in the manner described in this section and with such a force as shall assure the average rate of constructional progress necessary to complete such work or works within the time stipulated in the approval of such application, notwithstanding the ordinary delays and casualties that must be expected and provided against. A failure to carry on the construction of either an irrigation project or a water power project as outlined in this section shall work a forfeiture of the appropriation and all rights under the appropriation, and the Chief Water Officer shall cancel such appropriation. The Chief Water Officer shall have free access to all records, books, and papers of any irrigation or water power company, shall have the right to go upon the right-of-way and land of any such company, shall inspect the work to see that it is being done according to plans and specifications approved by the Chief Water Officer, and shall also keep a record of the cost of construction work

when deemed advisable for physical valuation purposes.

(2) The Chief Water Officer may extend, for reasonable lengths of time, the time for commencing excavation or construction, completion of works, the application of water to a beneficial use, or any of the other requirements for completing or perfecting an application for flow or storage rights as fixed in the approval of an application or otherwise for the appropriation of water. Such extension may be granted upon a petition to the Chief Water Officer and the showing of reasonable cause. The Chief Water Officer shall cause a notice of each petition received to be published at the petitioner's expense in at least one newspaper of general circulation in the county or counties of the appropriation once a week for three consecutive weeks. The Chief Water Officer shall hold a hearing on the issue of extension on the Chief Water Officer's own motion or if requested by any interested person. If a hearing is held, notice shall be given by certified mail to the applicant, to any person who requested a hearing, and to any person who requests notification of the hearing. The Chief Water Officer may grant the extension in the absence of a hearing if no requests for a hearing are received. Any interested person may be made a party to such action. Any party affected by the decision on the petition may appeal directly to the Court of Appeals. Subsequent extensions may be made in the same manner.

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

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

Chief Water Officer.

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

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

(2) Any person intending to construct an on-channel reservoir with a water storage impounding capacity of less than fifteen acre-feet measured below the crest of the lowest open outlet or overflow shall be exempt from subsection (1) of this section as long as there will be (a) no diversion or withdrawal of water from the reservoir for any purpose other than for watering range livestock and (b) no release from the reservoir to provide water for a downstream diversion or withdrawal for any purpose other than for watering range livestock. This subsection does not exempt any person from the requirements of the Safety of Dams and Reservoirs Act or section 54-2425.

(3) Any person intending to construct a reservoir, holding pond, or lagoon



for the sole purpose of holding, managing, or disposing of animal or human waste shall be exempt from subsection (1) of this section. This subsection does not exempt any person from any requirements of the Safety of Dams and Reservoirs Act or section 46-233 or 54-2425.

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

(5) The owner of a storage reservoir or facility shall be liable for all damages arising from leakage or overflow of the water therefrom or from the breaking of the embankment of such reservoir. The owner or possessor of a reservoir or intentional underground water storage facility does not have the right to store water in such reservoir or facility during the time that such water is required downstream in ditches for direct irrigation or for any reservoir or facility holding a senior right. Every person who owns, controls, or operates a reservoir or intentional underground water storage facility, except political subdivisions of this state, shall be required to pass through the outlets of such reservoir or facility, whether presently existing or hereafter constructed, a portion of the measured inflows to furnish water for livestock in such amounts and at such times as directed by the Chief Water Officer to meet the requirements for such purposes as determined by the Chief Water Officer, except that a reservoir or facility owner shall not be required to release water for this purpose which has been legally stored. Any dam shall be constructed in accordance with the Safety of Dams and Reservoirs Act, and the outlet works shall be installed so that water may be released in compliance with this section. The requirement for outlet works may be waived by the Chief Water Officer upon a showing of good cause. Whenever any person diverts water from a public stream and returns it into the same stream, he or she may take out the same amount of water, less a reasonable deduction for losses in transit, to be determined by the Chief Water Officer, if no prior appropriator for beneficial use is prejudiced by such diversion.

(6) An application for storage and recovery of water intentionally stored

underground may be made only by an appropriator of record who shows, by documentary evidence, sufficient interest in the underground water storage facility to entitle the applicant to the water requested.

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

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

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

(3) The owner of a storage reservoir shall have a preferred right to make such application for a period of six months from the time limited for the completion of such reservoir. The date of the expiration of such period shall be endorsed upon the application when allowed. If an application is made by a person other than the owner of a reservoir at any time, the application shall not be approved by the Chief Water Officer until the applicant shows, by documentary evidence, sufficient interest in such storage reservoir to entitle the applicant to enough water for the purpose set forth in the application.

(4) Application may be made for a permit to appropriate water from a storage reservoir, subject to subsection (3) of this section, or an intentional underground water storage facility, subject to subsection (6) of section

46-241, for instream use of water for recreation or fish and wildlife if the appropriation will not prejudice the rights of any prior appropriator for a beneficial use.

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

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

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

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

46-252 (1) Any person may conduct, either from outside the state or from sources located in the state, quantities of water over and above those already present into or along any of the natural streams or channels of this state, for purposes of instream beneficial uses or withdrawal of some or all of such water for out-of-stream beneficial uses, at any point without regard to any prior appropriation of water from such stream, due allowance being made for losses in transit to be determined by the Chief Water Officer. The Chief Water Officer shall monitor movement of the water by measurements or other means and shall be responsible for assuring that such quantities are not subsequently diverted or withdrawn by others unless they are authorized to do so by the person conducting the water.

(2) Except as provided in subsections (3) and (4) of this section, before any person may conduct water into or along any of the natural streams or channels of the state, he or she shall first obtain a permit from the Chief

Water Officer. Application for the permit shall be made on forms provided by the Chief Water Officer. Applications shall include plans and specifications detailing the intended times, amounts, and streamreach locations and such other information as required by the Chief Water Officer. The water subject to such a permit shall be deemed appropriated for the use specified in the permit. Permitholders shall be liable for any damages resulting from the overflow of such stream or channel when water so conducted contributed to such overflow.

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

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

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

**Sec. 101.** Section 46-254, Reissue Revised Statutes of Nebraska, is amended to read:

46-254 Any person owning or in control of any ditch, reservoir, or other device for appropriating or using water who willfully opens, closes, changes, or interferes with any headgate or controlling gate, or by any method or means takes any water from any natural stream, reservoir, or other source, through any ditch or canal to any land or lands, or allows the same to be done, or uses or allows to be used any water upon any land or lands, or for any other purpose whatsoever, without authority from the Chief Water Officer, or who stores water in or releases water from a reservoir other than in compliance with orders of the Chief Water Officer, shall be guilty of a Class II misdemeanor. Each day that the water is allowed to run without authority from the Chief Water Officer shall constitute a separate offense.

**Sec. 102.** Section 46-256, Reissue Revised Statutes of Nebraska, is amended

to read:

46-256 Persons owning or controlling any ditch, canal, or reservoir for the purpose of storing or using water for any purpose shall, upon thirty days' notice by the Chief Water Officer, construct and maintain at the point of diversion a substantial headgate, of a design approved by the Chief Water Officer, so built that it may be closed, or partially closed and fastened at any stage with lock or seal. They shall also construct a device for measuring and apportioning the water appropriated, which device shall be of a design approved by the Chief Water Officer and built at the most practical point to be selected and fixed by the Chief Water Officer. If they neglect or refuse, for a period of ten days, to construct such headgate and measuring device, the Chief Water Officer shall refuse to allow any water to be delivered to or used by or through any such ditch, canal, or reservoir or any other contrivance or device for appropriating, using, or storing water, and the Chief Water Officer may construct bars, dams, or other obstructions to prevent such delivery or use.

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

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

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

46-261 (1) The Chief Water Officer may require an appropriator or his or her agent to furnish the Chief Water Officer, by April 1 in any year, a list or

map of all lands to be irrigated, the acreage of each tract, and the names of the owners, controllers, or officers for every ditch, reservoir, or other device for appropriating, diverting, carrying, or distributing water to be used as a basis for the distribution of water until April 1 of the following year, and if so ordered such a list or map shall be furnished by the appropriator or his or her agent to the Chief Water Officer.

(2) By April 1, any district or company which has transferred an appropriation pursuant to sections 46-2,127 to 46-2,129 in the previous calendar year shall provide the Chief Water Officer:

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

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

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

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

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

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

(4) For any appropriation not held by an irrigation district, a reclamation district, a public power and irrigation district, or a mutual irrigation or canal company, the Chief Water Officer may require the owner of an appropriation for irrigation purposes to provide the Chief Water Officer with any or all of the following information relative to the use of water under the appropriation during the previous irrigation season: (a) A list or map of all lands irrigated; (b) the acreage of each tract irrigated; (c) the rate at which water was diverted; (d) the amount diverted; (e) for any lands under the appropriation that were not irrigated, any sufficient cause, as described in

section 46-229.04, which the appropriator claims was the reason for such nonuse; and (f) any other information needed by the Chief Water Officer to properly monitor and administer use of water under the appropriation. If the appropriator claims sufficient cause for nonuse, he or she shall also provide the Chief Water Officer with any evidence the Chief Water Officer requires as a condition for accepting such claimed cause as sufficient cause to excuse nonuse.

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

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

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

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

46-273 The United States of America is hereby authorized, in conformity to the laws of the State of Nebraska, to appropriate, develop, and store any unappropriated flood or unused waters, in connection with any project constructed by the United States pursuant to the provisions of an Act of Congress approved June 17, 1902, being An Act providing for the reclamation of arid lands (32 Stat. L. 388), and all acts amendatory thereof and supplemental thereto. When the officers of the United States Bureau of Reclamation determine

that any water so developed or stored is in excess of the needs of the project as then completed or is flood or unused water, the United States may contract to furnish such developed, stored, flood, or unused water, under the terms and conditions imposed by Act of Congress and the rules and regulations of the United States, to any person who may have theretofore been granted a permit to appropriate a portion of the normal flow of any stream, if the water so appropriated shall, during some portion of the year, be found insufficient for the needs of the land to which it is appurtenant. The United States and every person entering into a contract as herein provided shall have the right to conduct such water into and along any of the natural streams of the state, but not so as to raise the waters thereof above the ordinary high water mark, and may take out the same again at any point desired, without regard to the prior rights of others to water from the same stream; but due allowance shall be made for losses in transit, the amount of such allowance to be determined by the Chief Water Officer. The Chief Water Officer shall supervise and enforce the distribution of such water so delivered with like authority and under the same provisions as in the case of general appropriators.

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

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

**Sec. 108.** Section 46-288, Reissue Revised Statutes of Nebraska, is amended



to read:

46-288 For purposes of this section and section 46-289, unless the context otherwise requires:

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

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

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

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

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

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

factors for consideration by the Chief Water Officer of the Department of Water, Energy, and Environment when evaluating an application made pursuant to section 46-233 which involves an interbasin transfer of water in order to determine whether denial of such application is demanded by the public interest. Those considerations shall include, but not be limited to, the following factors:

- (1) The economic, environmental, and other benefits of the proposed interbasin transfer and use;
- (2) Any adverse impacts of the proposed interbasin transfer and use;
- (3) Any current beneficial uses being made of the unappropriated water in the basin of origin;
- (4) Any reasonably foreseeable future beneficial uses of the water in the basin of origin;
- (5) The economic, environmental, and other benefits of leaving the water in the basin of origin for current or future beneficial uses;
- (6) Alternative sources of water supply available to the applicant; and
- (7) Alternative sources of water available to the basin of origin for future beneficial uses.

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

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

46-290 (1)(a) Except as provided in this section and sections 46-2,120 to 46-2,130, any person having a permit to appropriate water for beneficial purposes issued pursuant to sections 46-233 to 46-235, 46-240.01, 46-241,

46-242, or 46-637 and who desires (i) to transfer the use of such appropriation to a location other than the location specified in the permit, (ii) to change that appropriation to a different type of appropriation as provided in subsection (3) of this section, or (iii) to change the purpose for which the water is to be used under a natural-flow, storage, or storage-use appropriation to a purpose not at that time permitted under the appropriation shall apply for approval of such transfer or change to the Chief Water Officer.

(b) The application for such approval shall contain (i) the number assigned to such appropriation by the Chief Water Officer, (ii) the name and address of the present holder of the appropriation, (iii) if applicable, the name and address of the person or entity to whom the appropriation would be transferred or who will be the user of record after a change in the location of use, type of appropriation, or purpose of use under the appropriation, (iv) the legal description of the land to which the appropriation is now appurtenant, (v) the name and address of each holder of a mortgage, trust deed, or other equivalent consensual security interest against the tract or tracts of land to which the appropriation is now appurtenant, (vi) if applicable, the legal description of the land to which the appropriation is proposed to be transferred, (vii) if a transfer is proposed, whether other sources of water are available at the original location of use and whether any provisions have been made to prevent either use of a new source of water at the original location or increased use of water from any existing source at that location, (viii) if applicable, the legal descriptions of the beginning and end of the stream reach to which the appropriation is proposed to be transferred for the purpose of augmenting the flows in that stream reach, (ix) if a proposed transfer is for the purpose of increasing the quantity of water available for use pursuant to another appropriation, the number assigned to such other appropriation by the Chief Water Officer, (x) the purpose of the current use, (xi) if a change in purpose of use is proposed, the proposed purpose of use, (xii) if a change in the type of appropriation is proposed, the type of appropriation to which a change is desired, (xiii) if a proposed transfer or

change is to be temporary in nature, the duration of the proposed transfer or change, and (xiv) such other information as the Chief Water Officer by rule and regulation requires.

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

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

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

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

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

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

(e) An appropriation for the manufacturing of hydropower at a facility

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

(f) The incidental underground water storage portion, whether or not previously quantified, of a natural-flow or storage-use appropriation may be separated from the direct-use portion of the appropriation and may be changed to a natural-flow or storage-use appropriation for intentional underground water storage at the same location if the historic consumptive use of the direct-use portion of the appropriation is transferred to another location or is terminated, but such a separation and change may be approved only if, after the separation and change, (i) the total permissible diversion under the appropriation will not increase, (ii) the projected consequences of the separation and change are consistent with the provisions of any integrated management plan adopted in accordance with section 46-718 or 46-719 for the geographic area involved, and (iii) if the location of the proposed intentional underground water storage is in a river basin, subbasin, or reach designated as overappropriated in accordance with section 46-713, the integrated management plan for that river basin, subbasin, or reach has gone into effect, and that plan requires that the amount of the intentionally stored water that is consumed after the change will be no greater than the amount of the incidentally stored water that was consumed prior to the change. Approval of a separation and change pursuant to this subdivision (f) shall not exempt any

consumptive use associated with the incidental recharge right from any reduction in water use required by an integrated management plan for a river basin, subbasin, or reach designated as overappropriated in accordance with section 46-713.

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

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

(5) In addition to any other purposes for which transfers and changes may be approved, such transfers and changes may be approved if the purpose is (a) to maintain or augment the flow in a specific stream reach for any instream use that the Chief Water Officer has determined, through rules and regulations, to be a beneficial use or (b) to increase the frequency that a diversion rate or rate of flow specified in another valid appropriation is achieved.

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

(6) A quantified or unquantified appropriation for incidental underground

water storage may be transferred to a new location along with the direct-use appropriation with which it is recognized if the Chief Water Officer finds such transfer to be consistent with section 46-294 and determines that the geologic and other relevant conditions at the new location are such that incidental underground water storage will occur at the new location. The Chief Water Officer may request such information from the applicant as is needed to make such determination and may modify any such quantified appropriation for incidental underground water storage, if necessary, to reflect the geologic and other conditions at the new location.

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

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

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

46-291 (1) Upon receipt of an application filed under section 46-290 for a transfer in the location of use of an appropriation, the Chief Water Officer shall review it for compliance with this subsection. The Chief Water Officer may approve the application without notice or hearing if he or she determines that: (a) The appropriation is used and will continue to be used exclusively for irrigation purposes; (b) the only lands involved in the proposed transfer are (i) lands within the quarter section of land to which the appropriation is appurtenant, (ii) lands within such quarter section of land and one or more quarter sections of land each of which is contiguous to the quarter section of land to which the appropriation is appurtenant, or (iii) lands within the boundaries or service area of and capable of service by the same irrigation district, reclamation district, public power and irrigation district, or mutual irrigation or canal company; (c) after the transfer, the total number of acres irrigated under the appropriation will be no greater than the number of acres that could legally be irrigated under the appropriation prior to the transfer; (d) all the land involved in the transfer is under the same ownership or is within the same irrigation district, reclamation district, public power and irrigation district, or mutual irrigation or canal company; (e) the transfer will not result in a change in the point of diversion or the point of diversion will be changed but the change meets the following requirements: (i) The new point of diversion is on the same named stream, the same tributary, or the same river or creek as the approved point of diversion; (ii) the proposed point of diversion will not move above or below an existing diversion point owned by another appropriator; and (iii) the proposed point of diversion will not move above or below a tributary stream or a constructed river return or a constructed drain; and (f) the transfer will not diminish the water supply available for or otherwise adversely affect any other surface water appropriator. If transfer of an appropriation with associated incidental underground water storage is approved in accordance with this subsection, the associated incidental underground water storage also may be transferred pursuant to this subsection as long as such transfer would continue to be



consistent with the requirements of this subsection. If necessary, the boundaries of the incidental underground water storage area may be modified to reflect any change in the location of that storage consistent with such a transfer. Transfers shall not be approved pursuant to this subsection until the Chief Water Officer has adopted and promulgated rules and regulations establishing the criteria the Chief Water Officer will use to determine whether proposed transfers are consistent with subdivision (1)(f) of this section.

(2) If after reviewing an application filed under section 46-290 the Chief Water Officer determines that it cannot be approved pursuant to subsection (1) of this section, he or she shall cause a notice of such application to be posted on the website of the Department of Water, Energy, and Environment, to be sent by certified mail to each holder of a mortgage, trust deed, or other equivalent consensual security interest that is identified by the applicant pursuant to subdivision (1)(b)(v) of section 46-290 and to any entity owning facilities currently used or proposed to be used for purposes of diversion or delivery of water under the appropriation, and to be published at the applicant's expense at least once each week for three consecutive weeks in at least one newspaper of general circulation in each county containing lands to which the appropriation is appurtenant and, if applicable, in at least one newspaper of general circulation in each county containing lands to which the appropriation is proposed to be transferred.

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

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

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

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

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

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

46-293 (1) The Chief Water Officer of the Department of Water, Energy, and Environment shall independently review each application subject to subsection (2) of section 46-291 to determine whether the requirements of section 46-294 will be met if the transfer or change is approved. The requirement of this subsection is not altered when there are objectors who have become parties to the proposed transfer or change, but if a hearing is called by the Chief Water Officer on the Chief Water Officer's own motion or as the result of a request

therefor filed in accordance with subsection (4) of section 46-291, any evidence considered by the Chief Water Officer in making such determinations shall be made a part of the record of the hearing as provided in section 84-914.

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

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

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

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

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

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

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

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

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

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

(h) If the proposed transfer or change is of a storage-use appropriation

and if the owner of that appropriation is different from the owner of the associated storage appropriation, the owner of the storage appropriation has approved the transfer or change;

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

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

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

(1) The proposed transfer or change is in the public interest. The Chief Water Officer's considerations relative to the public interest shall include, but not be limited to, (i) the economic, social, and environmental impacts of the proposed transfer or change and (ii) whether and under what conditions other sources of water are available for the uses to be made of the appropriation after the proposed transfer or change. The Chief Water Officer shall adopt and promulgate rules and regulations to govern the Chief Water Officer's determination of whether a proposed transfer or change is in the public interest.

(2) The applicant has the burden of proving that the proposed transfer or change will comply with subdivisions (1)(a) through (1) of this section, except that (a) the burden is on a riparian user to demonstrate his or her riparian status and to demonstrate a significant adverse effect on his or her use in order to prevent approval of an application and (b) if both the current use and

the proposed use after a transfer are for irrigation, the number of acres to be irrigated will not increase after the transfer, and the location of the diversion from the stream will not change, there is a rebuttable presumption that the transfer will be consistent with subdivision (1)(d) of this section.

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

(4) In approving an application for a transfer, the Chief Water Officer may also authorize the overlying of water appropriations on the same lands, except that if any such overlying of appropriations would result in either the authorized diversion rate or the authorized aggregate annual quantity that could be diverted to be greater than is otherwise permitted by section 46-231, the Chief Water Officer shall limit the total diversion rate or aggregate annual quantity for the appropriations overlain to the rate or quantity that he or she determines is necessary, in the exercise of good husbandry, for the production of crops on the land involved. The Chief Water Officer may also authorize a greater number of acres to be irrigated if the amount and rate of water approved under the original appropriation is not increased by the change

of location. An increase in the number of acres to be irrigated shall be approved only if (a) such an increase will not diminish the supply of water available to or otherwise adversely affect another water appropriator or (b) the transfer would not adversely affect the water supply for any river basin, subbasin, or reach that has been designated as overappropriated pursuant to section 46-713 or determined to be fully appropriated pursuant to section 46-714 and (i) the number of acres authorized under the appropriation when originally approved has not been increased previously, (ii) the increase in the number of acres irrigated will not exceed five percent of the number of acres being irrigated under the permit before the proposed transfer or a total of ten acres, whichever acreage is less, and (iii) all the use will be either on the quarter section to which the appropriation was appurtenant before the transfer or on an adjacent quarter section.

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

46-294.01 Whenever a temporary transfer is approved in accordance with sections 46-290 to 46-294, the applicant shall, within sixty days after the order of approval of the Chief Water Officer, cause copies of the following to be filed with the county clerk or register of deeds of the county in which the land subject to the appropriation prior to the transfer is located: (1) The permit by which the appropriation was established; (2) the agreement by which the temporary transfer is to be effected; and (3) the order of the Chief Water Officer approving the temporary transfer. Whenever renewal of a temporary transfer is approved pursuant to section 46-294.02, the applicant shall, within sixty days after such approval, cause a copy of the order of the Chief Water Officer approving such renewal to be filed with the county clerk or register of deeds of such county. Such documents shall be indexed to the land subject to the appropriation prior to the transfer. The applicant shall file with the Chief Water Officer, within ninety days after the Chief Water Officer's order of approval, proof of filing with the county clerk or register of deeds. Failure to file such proof of filing within such ninety-day time period shall

be grounds for the Chief Water Officer to negate any prior approval of the transfer or renewal.

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

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

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

46-294.05 The Chief Water Officer of the Department of Water, Energy, and Environment may adopt and promulgate rules and regulations to carry out sections 46-290 to 46-294.04.

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

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

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

(2) Department means the Department of Water, Energy, and Environment;

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

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



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

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

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

46-297 Any person who has an approved, unperfected appropriation pursuant to Chapter 46, article 2, may apply to the Chief Water Officer for a modification of such permit to include intentional underground water storage associated with the appropriation. The application shall be made on a form prescribed and furnished by the Chief Water Officer without cost to the applicant. Upon receipt of such an application, the Chief Water Officer shall proceed in accordance with rules and regulations adopted and promulgated by the Chief Water Officer, subject to section 46-226.02.

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

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

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

- (a) The source of the water stored or to be stored underground;
- (b) The underground water storage method;
- (c) The relative amounts of water stored or to be stored underground and

naturally occurring ground water;

(d) The data or reference studies used by the applicant to determine the underground water storage;

(e) A description of the areas served or to be served by the water stored underground;

(f) The amount of surface water, if any, for which the applicant has an appropriation; and

(g) The manner, use, and location of any such surface water appropriation.

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

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

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

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

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

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

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

**Sec. 123.** Section 46-2,108, Reissue Revised Statutes of Nebraska, is

amended to read:

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

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

(b) Department means the Department of Water, Energy, and Environment; and

(c) Instream appropriation means the undiverted application of the waters of a natural stream within or bordering upon the state for recreation or fish and wildlife purposes.

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

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

46-2,109 Each natural resources district and the Game and Parks Commission shall conduct studies to identify specific stream segments which the district or commission considers to have a critical need for instream flows. Such studies shall quantify the instream flow needs in the identified stream segments. Any district or the Game and Parks Commission may request the assistance of the Conservation and Survey Division of the University of Nebraska, the Game and Parks Commission, or any other state agency or the Chief Water Officer in order to comply with this section.

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

46-2,110 Following notice and a public hearing, any natural resources district or the Game and Parks Commission may file with the Chief Water Officer an application for a permit to appropriate water for instream flows in each stream segment identified pursuant to section 46-2,109. The application shall include the locations on the stream at which the need for instream flows begins and ends and the time of year when instream flows are most critical. The

application shall also provide a detailed description of the amount of water necessary to provide adequate instream flows.

**Sec. 126.** Section 46-2,111, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,111 (1) The Legislature finds that instream appropriations for recreation, fish, and wildlife should consider preferences among different uses and that all appropriations should consider the possible legal relationship between surface water and ground water.

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

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

46-2,112 A permit to appropriate water for instream flows shall be subject to review every fifteen years after it is granted. Notice of a pending review shall be published in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks, the last publication to be not later than fourteen years and ten months after the permit was granted or after the date of the Chief Water Officer's action following the last such review, whichever is later, and such notice shall be mailed to the appropriator of record and posted on the department's website. The notice shall state that any interested person may file comments relating to the review of the instream appropriation or may request a hearing to present evidence relevant to such review. Any such comments or request for hearing shall be filed with the Chief Water Officer within six weeks after the date of final publication of the notice. The appropriator of record shall, within the six-week period, file written documentation of the continued use of the appropriation. If no requests for hearing are received and if the Chief Water

Officer is satisfied with the information provided by the appropriator of record that the appropriation continues to be beneficially used and is in the public interest, the Chief Water Officer shall issue an order stating such findings. If requested by any interested person, or on his or her own motion based on the comments and information filed, the Chief Water Officer shall schedule a hearing. If a hearing is held, the purpose of the hearing shall be to receive evidence regarding whether the water appropriated under the permit still provides the beneficial uses for which the permit was granted and whether the permit is still in the public interest. The hearing shall proceed under the rebuttable presumption that the appropriation continues to provide the beneficial uses for which the permit was granted and that the appropriation is in the public interest. After the hearing, the Chief Water Officer may by order modify or cancel, in whole or in part, the instream appropriation.

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

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

- (1) Applications for induced recharge to public water supply wells;
- (2) Applications for storage rights necessary for flood and sediment control projects which are dry or will not result in a net consumption of water exceeding two hundred acre-feet on an average annual basis;
- (3) Applications for transfer permits associated with natural flow, storage use, power generation, or hydropower;
- (4) Applications for de minimis uses; or
- (5) Applications for industrial or manufacturing de minimis consumptive uses.

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

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

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

46-2,115 An application for an instream appropriation shall be approved by the Chief Water Officer if he or she finds that:

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

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

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

(4) The rate and timing of the flow is the minimum necessary to maintain the existing recreational uses or needs of existing fish and wildlife species; and

(5) The application is in the public interest.

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

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

46-2,116 In determining whether an application for an instream

appropriation is in the public interest, the Chief Water Officer shall consider the following factors:

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

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

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

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

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

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

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

46-2,117 The Chief Water Officer shall not conduct a contested case hearing on an instream appropriation application filed after January 1, 1997, other than a hearing to address procedural matters, until such time as the

parties have completed mediation or nonbinding arbitration. Mediation or nonbinding arbitration shall be deemed completed when the person retained to conduct the mediation or nonbinding arbitration has concluded further efforts would probably not result in resolution of major issues. The costs of mediation or nonbinding arbitration shall be shared by the parties.

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

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

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

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

46-2,119 Instream appropriations shall be administered in the same manner as prescribed by Chapter 46, article 2, for other appropriations. Reservoirs shall not be required by the Chief Water Officer to release, for the benefit of an instream appropriation, water previously impounded in accordance with section 46-241 or 46-243. Reservoirs with storage rights senior to an instream appropriation shall not be required to pass, for the benefit of that instream appropriation, inflows that could be stored by such reservoir if the instream appropriation were not in effect. Notwithstanding subsection (5) of section 46-241, a reservoir with storage rights senior to an instream appropriation also shall not be required to pass inflows for downstream direct irrigation if the appropriation for direct irrigation is junior to and would be denied water because of that instream appropriation. Instream appropriations may be canceled as provided in sections 46-229.02 to 46-229.05.

**Sec. 137.** Section 46-2,120, Reissue Revised Statutes of Nebraska, is



amended to read:

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

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

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

(b) Department means the Department of Water, Energy, and Environment.

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

46-2,122 (1) Any irrigation district, reclamation district, public power and irrigation district, rural water district, or mutual irrigation or canal company may file an application for transfer and a map with the Chief Water Officer identifying all tracts of lands that have received water delivered by the district or company and beneficially applied to the tract in at least one of the preceding ten consecutive years. The application for transfer and map shall be prepared and filed in accordance with the rules and regulations of the Chief Water Officer.

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

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

(b) The water allotment on the receiving tract of land will not exceed the amount that can be beneficially used for the purposes for which the

appropriation was made and will not exceed the least amount of water that experience may indicate is necessary, in the exercise of good husbandry, for the production of crops;

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

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

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

46-2,123 The Chief Water Officer may hold a hearing on the application for transfer and map under section 46-2,122 if the Chief Water Officer determines that a hearing is necessary to determine whether the application for transfer and map are in compliance with such section. The Chief Water Officer shall hold a hearing on the application if requested by any owner of land within the district or served by the company. The hearing shall be conducted in accordance with section 61-206 and the rules and regulations of the Chief Water Officer.

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

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

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

46-2,125 After an investigation and hearing, if applicable, the Chief Water Officer shall issue an order granting or denying the application for transfer and map under section 46-2,122. The Chief Water Officer shall deny the

application if the conditions in subsection (2) of such section are not met. An order granting or denying an application for transfer and map shall be in writing and shall specify the following:

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

An appeal may be taken from the decision of the Chief Water Officer on the application for transfer and map as provided in section 61-207.

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

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

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

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

46-2,130 Nothing in sections 46-2,120 to 46-2,129 shall be construed to limit or restrict the powers of the Chief Water Officer with respect to

adjudication of water rights.

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

46-2,139 The Storm Water Management Plan Program is created. The purpose of the program is to facilitate and fund the duties of cities and counties under the federal Clean Water Act, 33 U.S.C. 1251 et seq., as such act existed on January 1, 2006, regarding storm water runoff under the National Pollutant Discharge Elimination System requirements. The Storm Water Management Plan Program shall function as a grant program administered by the Department of Water, Energy, and Environment, using funds appropriated for the program. The department shall deduct from funds appropriated amounts sufficient to reimburse itself for its costs of administration of the grant program. Any city or county when applying for a grant under the program shall have a storm water management plan approved by the department which meets the requirements of the National Pollutant Discharge Elimination System. Grant applications shall be made to the department on forms prescribed by the department. Grant funds shall be distributed by the department as follows:

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

(2) Not more than twenty percent of the funds available for grants under this section shall be provided to cities and counties outside of urbanized

areas, as identified in 77 Federal Register 18652-18669, with populations greater than ten thousand inhabitants as determined by the most recent federal census update or recount certified by the United States Department of Commerce, Bureau of the Census, that apply for grants and meet the requirements of this section. Grants under this subdivision shall be distributed proportionately based on the population of applicants within this category as determined by the most recent federal census update or recount certified by the United States Department of Commerce, Bureau of the Census. For the purpose of distributing grant funds to a county pursuant to this subdivision, the proportion shall be based on the county population, less the population of city applicants within that county. Any funds available for grants pursuant to this subdivision which have not been awarded at the end of each calendar year shall be available for awarding grants pursuant to subdivision (1) of this section.

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

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

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

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

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

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

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

46-304 Upon receipt by the Chief Water Officer of the plans, reports, and statements provided for in section 46-302 or of the petition provided for in section 46-303, the Chief Water Officer shall examine the proposed plan and project, make an estimate of the probable cost thereof, and make such further

examination and investigation concerning the same as the Chief Water Officer shall deem necessary or advisable. If the Chief Water Officer deems the proposed plan and project feasible and practicable, either as originally submitted or as changed and amended by the Chief Water Officer, the Chief Water Officer shall then file with the board of directors of the irrigation district concerned its report in the matter, which report shall include a complete explanation of the proposed project, the plans and maps showing location of the project, the estimated cost of the project, and the probable receipts from the sale of electric energy, and the certificate of the Chief Water Officer that the project has been examined and deemed feasible and practicable by the Chief Water Officer.

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

46-305 Upon the filing of the data and certificates with the board of directors of the district, the board of directors and the other proper officers of the district shall submit the proposed plan and project to the qualified electors of the district for their approval or rejection, at a general election or at a special election called for that purpose, the submission of proposition and all matters pertaining to such election to conform, including notice of election, as nearly as may be, and except as otherwise expressly provided in sections 46-301 to 46-315, to the provisions of law governing elections upon propositions for the issuance of bonds of the district. The report of the Chief Water Officer and all other data and information on file with the board of directors or the officers of the district shall be subject to inspection at all reasonable business hours by any elector of the district, or other interested persons, for the entire period during which notice of the election shall be published. Such question and proposition shall be thus submitted by ballots upon which shall appear, in a clear, fair, and concise manner, a statement of the nature and description of the proposed project, and, if such proposition includes the issuance of bonds of the district, there shall also appear upon the ballots a general description of such bonds, including principal amount,

rate of interest and when payable, date of issuance, and date of maturity. At the bottom of the ballots substantially the following form shall appear:

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

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

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

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

46-312 If at any time after the initial acquisition or establishment by any irrigation district of an electric light and power plant, lines, or systems the Chief Water Officer deems it to be practicable and expedient that additional plants, lines, or systems, or extensions or improvements of the existing electric light and power plant, lines, or systems, should be made by the district, and if the cost of such additions and extensions cannot be made or provided for by the application of unused funds derived from the operation of the existing electric light and power plant, lines, or systems or by the pledge or assignment of future net revenue as in sections 46-301 to 46-315, then the board of directors may, and on the petition of not less than twenty-five percent of the qualified electors of the district shall, submit to the electors of the district at any general election or at any special election called for the purpose, the question and proposition of making such improvements, additions, or extensions and the issuance of bonds of the district to pay the cost thereof. A statement of the Chief Water Officer with



reference to the expediency and feasibility of such proposed extension and addition shall be made by the Chief Water Officer to the irrigation district whenever requested by the board of directors of such district. Such election shall be held and the result thereof determined and declared in conformity with the provisions of law governing elections upon the proposition of the issuance of bonds of the district. Complete plans and a description of the proposed additions, improvements, changes, or extensions shall be prepared and kept on file in the main office of the district or of the board of the district, subject to inspection by any elector or other interested person, at all reasonable business hours during the period of publication of notice of such election. The ballots at such election shall conform, as nearly as practicable, with the requirements of section 46-305.

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

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

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

46-514 For purposes of the Reclamation Act, Chief Water Officer means the Chief Water Officer of the Department of Water, Energy, and Environment.

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

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

**Sec. 153.** Section 46-516, Reissue Revised Statutes of Nebraska, is amended

to read:

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

(1) The proposed name of the district;

(2) That property within the proposed district will be benefited by the accomplishment of the purposes enumerated in section 46-515;

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

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

(5) A general description of the divisions of the district, the number of directors of the district proposed for each subdivision, and the names and addresses of the proposed members of the board of directors of the district. There shall be not less than five nor more than twenty-one directors named therein who shall serve until their successors are elected and qualified. In the petition the directors named shall be divided as nearly as possible into

three equal groups, the members of the first group to hold office until their successors have been elected at the first general state election thereafter and have qualified, the members of the second group to hold office until their successors have been elected at the second general state election thereafter and have qualified, and the members of the third group until the members elected at the third general state election thereafter have qualified. After the name of each director, it shall be stated to which of the three groups he or she belongs; and

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

No petition with the requisite signatures shall be declared null and void on account of alleged defects, but the Chief Water Officer may at any time permit the petition to be amended to conform to the facts, to correct any errors in the description of the territory, or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All such petitions filed prior to the hearing on the first petition filed shall be considered by the Chief Water Officer the same as though filed with the first petition placed on file. In determining whether the requisite number of landowners have signed the petition, the Chief Water Officer shall be governed by the names as they appear upon the tax roll which shall be prima facie evidence of such ownership.

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

46-517 At the time of filing the petition or at any time subsequent thereto, and prior to the time of hearing on the petition, a bond shall be filed in the amount of two thousand dollars, with security approved by the Chief Water Officer to pay all expenses connected with the proceedings in case the organization of the district be not effected. If at any time during the proceeding the Chief Water Officer shall be satisfied that the bond first executed is insufficient in amount, the Chief Water Officer may require the execution of an additional bond within a time to be fixed at not less than ten

days distant. Upon a failure of the petitioner to execute the same, the petition shall be dismissed.

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

46-518 Immediately after the filing of such petition, the Chief Water Officer shall (1) by order fix a place and time, not less than ninety days nor more than one hundred and twenty days after the petition is filed, for hearing thereon, (2) cause notice by publication to be made of the pendency of the petition and of the time and place of hearing thereon, and (3) forthwith cause a copy of such notice to be mailed by either registered or certified mail to the county boards of each of the several counties having territory within the proposed district.

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

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

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

46-521 Upon the day set for the hearing upon the original petition, if it shall appear to the Chief Water Officer from such evidence as may be adduced by any party in interest, that the protesting petition is not signed by the requisite number of owners of lands, the Chief Water Officer shall thereupon dismiss the protesting petition and shall proceed with the original hearing as

provided in section 46-525.

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

46-522 If the Chief Water Officer shall find from the evidence that the protesting petition is signed by the requisite number of owners of lands, the Chief Water Officer shall forthwith dismiss the original petition praying for the creation of the district. The finding of the Chief Water Officer upon the question of the genuineness of the signatures, and all matters of law and fact incident to such determination, shall be final and conclusive on all parties in interest whether appearing or not.

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

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

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

46-525 Upon the hearing, if it shall appear that a petition for the organization of a reclamation district has been signed and presented, as provided in section 46-516, in conformity with the Reclamation Act, and that the allegations of the petition are true, and that no protesting petition has been filed, or if filed has been dismissed as provided in section 46-521, the Chief Water Officer shall, by order duly entered of record, adjudicate all questions of jurisdiction, declare the district organized, and give it a corporate name, by which it shall thereafter be known in all proceedings. Thereupon the district shall be a political subdivision of the State of Nebraska and a body corporate with all the powers of a public or municipal corporation.

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

46-526 In such decree the Chief Water Officer shall designate the place,

prayed for in the petition, where the office or principal place of business of the district shall be located, which shall be within the corporate limits of the district. It may be changed by order of the Chief Water Officer from time to time, upon the application of the board of directors of the district. The regular meetings of the board shall be held at such office or place of business, but for cause may be adjourned to any convenient place. The official records and files of the district shall be kept at the office so established.

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

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

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

46-528 If an order is entered establishing the district, such order shall be deemed final. Any person, firm, or corporation owning real property within any reclamation district, created or established by virtue of the Reclamation Act, feeling himself or herself aggrieved by the establishment of such district, the determination of its boundaries, or the enclosure therein of any of his or her property may appeal the final order of the Chief Water Officer adjudging such district to be duly incorporated. The appeal shall be in accordance with the Administrative Procedure Act, except that the appeal shall be to the district court of the county wherein the principal office of the reclamation district is located. If no appeal is taken within the time

prescribed in the Administrative Procedure Act, the entry of such final order by the Chief Water Officer shall finally and conclusively establish the regular organization of the district against all persons, except the State of Nebraska in an action in the nature of a writ of quo warranto commenced by the Attorney General within three months after the decree declaring such district organized as herein provided and not otherwise. The organization of such districts shall not be directly or collaterally questioned in any suit, action, or proceeding, except as herein expressly authorized.

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

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

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

46-530 Within thirty days after entering the final order establishing the district, the Chief Water Officer shall enter an order appointing the board of directors named in the petition in accordance with subsection (5) of section 46-516. After the selection of the original board of directors of a district as provided for in subsection (5) of section 46-516, their successors shall be elected as provided in section 32-516. Elections shall be conducted as provided in the Election Act and shall take office on the first Thursday after the first

Tuesday in January next succeeding their election. Qualified electors of the municipality or municipalities within the territory which composes the territory of a district shall be qualified electors of such district. A qualified elector of a subdivision may only cast his or her ballot for a director to be elected from such subdivision.

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

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

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

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

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

Shall the district be continued for an additional fifteen years?

.... Yes

.... No

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

In the event a majority of the qualified voters voting in such election vote yes, then such district shall be continued for an additional fifteen years. For all districts organized after January 1, 1950, and not having entered into a bona fide construction of their works before January 1, 1961,



the directors shall, within fifteen years following January 1, 1961, cause to be submitted the same question to the qualified electors of the district. All districts organized after November 1, 1953, which have not entered into a bona fide construction of their works within fifteen years after the first day of July of the year of assessment of the taxable property of the district shall submit to the qualified electors of the district the question of whether the district shall be continued for an additional fifteen years. If a district has pending before the Congress of the United States a bill for the authorization or reauthorization of its project at the expiration of any one of such fifteen-year periods, the district shall be continued until such authorization or reauthorization is granted by the Congress of the United States and appropriations made for the actual construction of its work, which additional period shall not exceed ten years from the expiration of the fifteen-year period.

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

In the event of a failure to receive a majority affirmative vote of the voters voting in such election, the district shall be dissolved and the district shall submit to the Chief Water Officer a full and complete audit by a public accountant showing the assets possessed by the district. Thereupon the Chief Water Officer shall enter an order providing that within sixty days the assets of such district shall be liquidated, all rights granted by the Chief Water Officer shall be canceled, and any assets on hand shall be divided as follows:

- (a) All bills payable and all expenses of dissolution shall be deducted

from the assets and paid; and

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

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

(3) To have and to exercise the power of eminent domain in addition to any other rights and powers conferred in this section upon any district organized under the Reclamation Act, for the purposes and after the manner provided for in sections 76-704 to 76-724, except that when any reclamation district exercises the power of eminent domain as to water being used for power purposes, it shall not include any other properties of any irrigation district, public power district, or public power and irrigation district organized and existing under the laws of the State of Nebraska;

(4) To construct and maintain works and establish and maintain facilities

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

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

(6) To list in separate ownership the lands within the district which are susceptible of irrigation from the district sources, to enter into contracts to furnish water service to all such lands, and to levy assessments as hereinafter provided against the lands within the district to which water service is furnished on the basis of the value per acre-foot of water service furnished to the lands within the district. The board may divide the district into units and fix a different value per acre-foot of water in the respective units and in such case shall assess the lands within each unit upon the same basis of value per acre-foot of water service furnished to lands within such unit;

(7) To fix rates at which water service, not otherwise provided for in this section, may be furnished. Rates shall be equitable although not

necessarily equal or uniform for like classes of service throughout the district;

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

(9) To appropriate and otherwise acquire water rights within or without the state; to develop, store, and transport water; to provide, contract for, and furnish water service for municipal and domestic purposes, irrigation, power, milling, manufacturing, mining, metallurgical use, and any and all other beneficial uses and to derive revenue and benefits therefrom; to fix the terms and rates therefor; to make and adopt plans for and to acquire, construct, operate, and maintain dams, reservoirs, canals, conduits, pipelines, tunnels, power plants, transmission lines, and any and all works, facilities, improvements, and property necessary or convenient therefor; and in the doing of all of such things to obligate itself and execute and perform such obligations according to the tenor thereof. The contracts for furnishing of water service for irrigation and domestic purposes shall only be made for use within the district. The board may transfer water appropriations within the district pursuant to sections 46-2,127 to 46-2,129;

(10) To invest any surplus money in the district treasury, including such money as may be in any sinking fund established for the purpose of providing for the payment of the principal or interest of any contract, bond, or other indebtedness or for any other purpose, not required for the immediate necessities of the district, in its own bonds or in treasury notes or bonds of the United States. The investment may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the

same or by the subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held may, from time to time, be sold and the proceeds reinvested in bonds or treasury notes as provided in this subdivision. Sales of any bonds or treasury notes thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money with which the bonds or treasury notes were originally purchased was placed in the treasury of the district. The functions and duties authorized by this subdivision shall be performed under such rules and regulations as shall be prescribed by the board;

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

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

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

(14) To enter into agreements for water service with agencies of the federal government or the Game and Parks Commission through which water will be made available, at rates determined as provided in subdivision (7) of this section, for hunting, fishing, and recreational development. The water service shall not exceed the amount of water which may be appropriated for such purposes by order of the Chief Water Officer, and such amounts shall be included in the total appropriative right of the district or districts involved.

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

46-583 At the hearing, if the board of directors of such district deems it not for the best interest of such district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, the board of directors of such district shall order that the petition be rejected. But if the board of directors of such district deems it for the best interest of such

district that the boundaries of such district be changed and if it appears that the petition for the annexation and incorporation of the tract or tracts of land has been signed and presented as provided in section 46-574, that the allegations of the petition are true, and that no protesting petition has been filed, or if filed has been dismissed as provided by sections 46-574 to 46-584, the board of directors of such district may enter a tentative order annexing and including all lands described in the petition, or some part thereof. The order shall not become final until the proposition of levying taxes as provided for in section 46-543 has been complied with and until the proposition of levying taxes has been submitted by a resolution of the board of directors of such district to the qualified electors residing within the tract or tracts of land described in the tentative order at an election held for that purpose in the same manner as provided for submission of incurring bonded indebtedness in sections 46-564 to 46-566, and when the proposition has been approved by a majority of the qualified electors residing within the tract or tracts of land voting on the proposition at such election, then the board of directors shall enter a final order annexing and including all lands described in the tentative order. If at such election a majority of the qualified electors vote against the proposition, then the board of directors of such district shall set aside the tentative order, shall order that the petition be denied, and shall proceed no further in that matter. If the proposition is approved by a majority of the qualified electors of the tract or tracts voting on the proposition at such election in the manner provided for in section 46-543, the board of directors of such district shall certify to the county board of the county in which the tract or tracts of land are situated the rate of tax to be levied. The final order entered by the board of directors of such district shall describe the entire boundaries of the district, and for that purpose the board of directors may cause a survey of such portions thereof to be made as the board of directors deems necessary. A copy of the final order of the board of directors ordering such annexation, certified by the president and secretary of the board of directors of such district, shall be filed with the Chief Water Officer, and

thereupon the district shall be and remain a reclamation district as fully and to every intent and purpose as if the lands which are included in the district by the annexation thereof and the change of boundaries had been included therein at the original organization of the district. Such tract or tracts of land so annexed to such district shall enjoy all the rights and privileges, of whatever kind and nature, and be subject to all the contract, obligation, lien, or charge for or upon which the original district was or might become liable or chargeable.

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

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

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

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

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

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

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

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

(c) Water well does not include (i) any excavation made for obtaining or prospecting for oil or natural gas or for inserting media to repressure oil or

natural gas bearing formations regulated by the Nebraska Oil and Gas Conservation Commission or (ii) any structure requiring a permit by the Chief Water Officer used to exercise surface water appropriation.

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

46-602 (1) Each water well completed in this state on or after July 1, 2001, excluding test holes and dewatering wells to be used for less than ninety days, shall be registered with the department as provided in this section within sixty days after completion of construction of the water well. The licensed water well contractor as defined in section 46-1213 constructing the water well, or the owner of the water well if the owner constructed the water well, shall file the registration on a form made available by the department and shall also file with the department the information from the well log required pursuant to section 46-1241. The department shall, by January 1, 2002, provide licensed water well contractors with the option of filing such registration forms electronically. No signature shall be required on forms filed electronically. The fee required by subsection (3) of section 46-1224 shall be the source of funds for any required fee to a contractor which provides the online services for such registration. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to section 46-1224.

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



(b) For purposes of this section, replacement water well means a water well which is constructed to provide water for the same purpose as the original water well and is operating in accordance with any applicable permit from the department or the Chief Water Officer and any applicable rules and regulations of the natural resources district and, if the purpose is for irrigation, the replacement water well delivers water to the same tract of land served by the original water well and (i) replaces a decommissioned water well within one hundred eighty days after the decommissioning of the original water well, (ii) replaces a water well that has not been decommissioned but will not be used after construction of the new water well and the original water well will be decommissioned within one hundred eighty days after such construction, except that in the case of a municipal water well, the original municipal water well may be used after construction of the new water well but shall be decommissioned within one year after completion of the replacement water well, or (iii) the original water well will continue to be used but will be modified and equipped within one hundred eighty days after such construction of the replacement water well to pump fifty gallons per minute or less and will be used only for livestock, monitoring, observation, or any other nonconsumptive or de minimis use approved by the applicable natural resources district.

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

(iii) the owner if the owner decommissions a driven sandpoint well which is on land owned by him or her for farming, ranching, or agricultural purposes or as his or her place of abode. The department shall, by rule and regulation, determine which contractor or owner shall be responsible for such notice in situations in which more than one contractor or owner may be required to provide notice under this subsection.

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

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

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

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

(7) The licensed water well contractor or licensed pump installation

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

(8) Whenever a water well becomes an illegal water well as defined in section 46-706, the owner of the water well shall either correct the deficiency that causes the well to be an illegal water well or shall cause the proper decommissioning of the water well in accordance with rules and regulations adopted pursuant to the Water Well Standards and Contractors' Practice Act. The licensed water well contractor who decommissions the water well, the licensed pump installation contractor who decommissions the water well, or the owner if the owner decommissions a driven sandpoint well which is on land owned by him or her for farming, ranching, or agricultural purposes or as his or her place of abode, shall provide a properly completed notice of decommissioning to the department within sixty days. The department shall, by rule and regulation, determine which contractor or owner shall be responsible for such notice in situations in which more than one contractor or owner may be required to provide notice under this subsection. The department shall not collect a fee for the filing of the notice.

(9) Except for water wells which are used solely for domestic purposes and were constructed before September 9, 1993, and for test holes and dewatering wells used for less than ninety days, each water well which was completed in

this state before July 1, 2001, and which is not registered on that date shall be an illegal water well until it is registered with the department. Such registration shall be completed by a licensed water well contractor or by the current owner of the water well, shall be on forms provided by the department, and shall provide as much of the information required by subsections (1) through (5) of this section for registration of a new water well as is possible at the time of registration.

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

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

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

46-604 The department shall retain the registration form required by section 46-602 and shall make a copy available to the natural resources district within which the water well is located, to the owner of the water well, and to the licensed water well contractor as defined in section 46-1213.

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

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

(2) For water wells permitted pursuant to the Industrial Ground Water Regulatory Act, the department shall collect in advance a registration fee of

forty dollars and the fee required by subsection (3) of section 46-1224 for each of the first ten such water wells registered under section 46-602, and for each group of ten or fewer such water wells registered thereafter, the department shall collect in advance a registration fee of forty dollars and the fee required by subsection (3) of section 46-1224.

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

(4) For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground, the department shall collect in advance a registration fee of forty dollars and the fee required by subsection (3) of section 46-1224 for each of the first five such water wells registered under section 46-602, and for each group of five or fewer such water wells registered thereafter, the department shall collect in advance a registration fee of forty dollars and the fee required by subsection (3) of section 46-1224. However, if such water wells are a part of remedial action approved by the department pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected as if only one water well was being registered and the fee required by subsection (3) of section 46-1224 shall be collected.

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

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

(6) The department shall remit the fees collected to the State Treasurer for credit to the appropriate fund. From the registration fees required by

subsections (1) through (5) of this section, the State Treasurer shall credit to the Department of Water, Energy, and Environment Cash Fund the amount determined by the department to be necessary to pay for the costs of processing notices filed pursuant to section 46-230, the costs of water resources update notices required by section 76-2,124, and the costs for making corrections to water well registration data authorized by subsections (6) and (7) of section 46-602 and shall credit the remainder of the registration fees required by subsections (1) through (5) of this section to the Water Well Decommissioning Fund. The State Treasurer shall credit the fees required by subsection (3) of section 46-1224 to the Water Well Standards and Contractors' Licensing Fund.

**Sec. 173.** Section 46-609, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(3) No person shall use a water well for purposes other than its registered purpose until the water well registration has been changed to the intended new use, except that a person may use a water well registered for purposes other than its intended purpose for use for livestock, monitoring, observation, or any other nonconsumptive or de minimis use approved by the applicable natural resources district. The change to a new use shall be made by

filing a water well registration modification with the department and shall be approved only if the water well is in conformity with subsection (1) of this section and with section 46-651.

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

46-610 (1) Any person may apply to the Chief Water Officer for a special permit to drill an irrigation water well without regard to the spacing requirements of section 46-609 and shall pay a fee to the Chief Water Officer of twelve dollars and fifty cents, which fee shall be remitted to the State Treasurer for credit to the General Fund. Such application shall be in such form as the Chief Water Officer directs and shall contain a statement of the proposed location of the irrigation water well, the reason for seeking such special permit, the legal description of the land to be irrigated by the irrigation water well, the number of acres to be irrigated, the proposed size of the irrigation water well, the estimated capacity of the irrigation water well, expressed in gallons per minute, to the extent that capacity is susceptible of advance determination, and the name of the person who is actually going to construct the irrigation water well.

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

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

46-613.01 The Legislature recognizes and declares that the maintenance of an adequate source of ground water within this state is essential to the social stability of the state and the health, safety, and welfare of its citizens and that reasonable restrictions on the transportation of ground water from this state are a proper exercise of the police powers of the state. The need for such restrictions, which protect the health, safety, and general welfare of the citizens of this state, is hereby declared a matter of legislative determination.

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

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

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

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

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

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

(6) The cumulative effect of the proposed withdrawal and transfer relative



to the matters listed in subdivisions (3) through (7) of this section when considered in conjunction with all other transfers subject to this section; and

(7) Any other factors consistent with the purposes of this section that the Chief Water Officer deems relevant to protect the health, safety, and welfare of the state and its citizens.

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

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

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

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

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

46-637 The use of water described in section 46-636 may only be made after securing a permit from the Chief Water Officer for such use. In approving or disapproving applications for such permits, the Chief Water Officer shall take into account the effect that such pumping may have on the amount of water in the stream and its ability to meet the requirements of appropriators from the stream. This section does not apply to (1) water wells located within fifty feet of the bank of a channel of any natural stream which were in existence on

July 1, 2000, and (2) replacement water wells as defined in section 46-602 that are located within fifty feet of the banks of a channel of a stream if the water wells being replaced were originally constructed prior to July 1, 2000, and were located within fifty feet of the bank of a channel of any natural stream.

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

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

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

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

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

shall be based on the amounts of water requested on a daily average basis.

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

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

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

46-641 The Chief Water Officer may hold a hearing on an application filed under section 46-639 on the Chief Water Officer's own motion and shall hold a hearing on such an application if requested by any person pursuant to section 46-640.

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

46-642 (1) If the Chief Water Officer finds that the withdrawal and transportation of ground water requested by the applicant are reasonable, are not contrary to the conservation and beneficial use of ground water, and are not otherwise detrimental to the public welfare, he or she shall grant a permit to the applicant to withdraw and transport water in the amount applied for or in a lesser amount. The permit so granted shall have a priority date as of the time when the application is filed with the Chief Water Officer.

(2) In determining whether to grant or deny a permit under subsection (1)

of this section, the Chief Water Officer shall consider the factors set forth in subdivisions (1) through (7) of section 46-613.01.

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

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

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

46-645 The Chief Water Officer may grant to any public water supplier permits to store excess, unused, and unappropriated water for recharging ground water reservoirs. The procedure to be followed in granting permits to utilize excess, unused, and unappropriated water for recharging ground water reservoirs shall, so far as applicable, be the same as that required for granting permits for the use of ground water as provided in the Municipal and Rural Domestic Ground Water Transfers Permit Act.

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

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

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

46-649 The Chief Water Officer may adopt and promulgate all rules and regulations necessary or desirable to secure compliance with the Municipal and Rural Domestic Ground Water Transfers Permit Act.

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

46-653 Any person may apply to the Chief Water Officer for a special permit to drill or to change the intended use of a water well without regard to the spacing requirements of section 46-651. Such application shall be on a form prescribed and furnished by the Chief Water Officer and shall contain a statement of the precise location of the water well or proposed water well, facts justifying the request for such special permit, the size or proposed size of such water well, expressed in gallons per minute, to the extent that capacity is susceptible of advance determination, and, if applicable, the name of the person who is actually going to drill the water well. A separate application shall be submitted for each water well for which a special permit is sought, and each application shall be accompanied by a fee of twelve dollars and fifty cents which shall be remitted to the State Treasurer for credit to the General Fund. When considering the approval or rejection of any such application, the Chief Water Officer shall consider the facts offered as justification of the need for the special permit, the known ground water supply, and such other pertinent information as may be available. Such application may be approved or disapproved in whole or in part and the special permit issued or refused accordingly.

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

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

(2) If in its application for a permit pursuant to such act a public water supplier requests the protection of the spacing requirements of section 46-651

for test holes and water wells under construction and if the permit is granted, the Chief Water Officer shall identify in the permit the area to which the spacing protection will apply and the spacing protection of section 46-651 shall then apply to such area for a period of one year from the date the permit is granted. The Chief Water Officer shall notify, by certified or registered mail, owners and occupiers of land affected by the granting of such spacing protection, according to information supplied by the applicant. Costs of providing such notice shall be borne by the applicant. Owners or occupiers of land not receiving the notice required by this subsection shall not be bound by the spacing requirements until the applicant's water wells are completed. Such protection may be extended by the Chief Water Officer, by a similar procedure, upon application by the public water supplier and good cause shown, for additional one-year periods.

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

46-655.01 (1) A public water supplier as defined in section 46-638 may obtain protection for a public water supply wellfield from encroachment from other water wells by filing with the Chief Water Officer a notice of intent to consider a wellfield. The notice of intent shall include:

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

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

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

(3) A notice of intent filed under this section shall expire one year after the date of filing and may be renewed for one additional year by filing with the Chief Water Officer a notice of renewal of the original notice of

intent filed under this section before expiration of the original notice of intent.

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

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

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

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

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

(i) One thousand feet; or

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

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

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

(6) Within thirty days after the public water supplier reaches a determination that the land described in a particular notice of intent is not

suitable for a public water supply wellfield, the public water supplier shall notify the Chief Water Officer, all affected natural resources districts, the owner of the land described in the notice of intent, and the owners of all land falling within the spacing protection provided by subdivision (5)(a) of this section pursuant to the notice of intent of such determination. Upon receipt by the Chief Water Officer of the notice of such determination, the notice of intent that contains the description of such tract of land shall terminate immediately, notwithstanding any other provision of this section.

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

46-676 For purposes of the Industrial Ground Water Regulatory Act, the definitions found in section 46-706 are used.

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

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

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

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

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

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

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



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

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

(c) A hydrologic evaluation of the impact of the proposed use on the surrounding area and on existing users;

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

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

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

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

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

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

46-680 (1) After the Chief Water Officer has accepted the application made under section 46-677 as a completed application, the Chief Water Officer shall cause a notice of such application to be published at the applicant's expense at least once a week for three consecutive weeks in a legal newspaper published or of general circulation in each county containing land on which one or more water wells are proposed to be located. The notice shall include (a) the amount of ground water the applicant proposes to use, (b) a description of the proposed use and location of that use, (c) the number of water wells proposed at each location of withdrawal, and (d) any other information deemed necessary by the Chief Water Officer to provide adequate notice of the application to

interested persons. The notice shall state that any interested person may object to and request a hearing on the application by filing written objections stating the grounds for each objection within two weeks after the date of final publication of the notice. Such objections shall be filed with the Chief Water Officer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46-683.01 If during construction or operation a permitholder determines (1) that an additional amount of water is or will be required for the proposed use set forth in a permit issued pursuant to section 46-683 or (2) that there is a need to amend any condition set forth in the permit, the permitholder may file an application to amend the permit. Following a hearing conducted in the manner prescribed by section 46-680, the Chief Water Officer shall issue a written order containing specific findings of fact either granting or denying the proposed amendment in accordance with the public interest considerations enumerated in section 46-683. An application to amend a permit shall not be approved if the amendment would increase the daily peak withdrawal or the annual volume by more than twenty-five percent from the amounts approved in the

original permit, except for an amendment to increase the maximum daily volumetric flow rate or annual volume to levels authorized under a permit issued by the department pursuant to section 81-1504 and subsection (9) of section 81-1505.

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

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

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

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

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

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

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

If the permitholder fails to take action pursuant to subdivision (2)(a), (2)(b), or (2)(c) of this section, the Chief Water Officer may issue an order requiring compliance with the permit and seek, if appropriate, a court injunction prohibiting further violations of the permit.

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

permit.

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

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

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

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

46-686 Any owner of an estate or interest in or concerning land or water, except a person who has signed an agreement filed with the Chief Water Officer pursuant to section 46-682, may bring an action for damages or injunctive or other relief for any injury done to his or her land or water rights by the holder of a permit issued pursuant to section 46-683. Nothing in the Industrial Ground Water Regulatory Act shall be construed as limiting the right to resort to other means of review, redress, or relief provided by law.

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

46-686.01 The Chief Water Officer shall have jurisdiction over any ground water withdrawal and transfer made under section 46-678.01. Any person using ground water at the time a notice to transfer is filed under such section whose wells thereafter suffer an unanticipated decline in ground water levels may petition the Chief Water Officer for a hearing. Such petition shall specifically set forth the cause and extent of the ground water decline as well as the nature and extent of any injury resulting from that decline. If at such

hearing the injured party presents evidence showing that the ground water levels declined as a result of such transfer and shows the nature and extent of any resulting injury, the Chief Water Officer may issue an order terminating or conditioning the transfer to eliminate any further injury. If the injured party prevails and an order is issued pursuant to this section, the order shall provide that the person filing the notice of transfer shall pay the costs of the Chief Water Officer and department staff and of the injured party, including reasonable attorney's fees. The injured party may maintain a civil action against the person filing the notice of transfer to recover the costs of a hydrologic evaluation. The order of the Chief Water Officer may be appealed to the Court of Appeals.

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

46-688 The Chief Water Officer may adopt and promulgate all rules and regulations necessary or desirable to secure compliance with the Industrial Ground Water Regulatory Act. The Chief Water Officer shall by regulation specify the contents and scope of the hydrologic evaluation required by section 46-678, taking into account the current state of hydrologic knowledge and techniques, and the factors for permit approval listed in section 46-683.

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

46-691 (1) Any person who withdraws ground water for agricultural purposes, or for any purpose pursuant to a ground water remediation plan as required under the Environmental Protection Act, including the providing of water for domestic purposes, from aquifers located within the State of Nebraska may transfer the use of the ground water off the overlying land if the ground water is put to a reasonable and beneficial use within the State of Nebraska and is used for an agricultural purpose, or for any purpose pursuant to a ground water remediation plan as required under the Environmental Protection Act, including the providing of water for domestic purposes, after transfer, and if such withdrawal, transfer, and use (a) will not significantly adversely

affect any other water user, (b) is consistent with all applicable statutes and rules and regulations, and (c) is in the public interest. The determination made by a natural resources district under subsection (2) of this section or the Chief Water Officers under subsection (3) of this section shall include consideration of the factors set forth in subdivisions (1) through (7) of section 46-613.01. For purposes of this section, domestic has the same meaning as in section 46-613.

(2) Any affected party may object to the transfer of ground water by filing written objections, specifically stating the grounds for such objection, in the office of the natural resources district containing the land from which the ground water is withdrawn. Upon the filing of such objections or on its own initiative, the natural resources district shall conduct a preliminary investigation to determine if the withdrawal, transfer, and use of ground water is consistent with the requirements of subsection (1) of this section. Following the preliminary investigation, if the district has reason to believe that the withdrawal, transfer, or use may not comply with any rule or regulation of the district, it may utilize its authority under the Nebraska Ground Water Management and Protection Act to prohibit such withdrawal, transfer, or use. If the district has reason to believe that the withdrawal, transfer, and use is consistent with all rules and regulations of the district but may not comply with one or more other requirements of subsection (1) of this section, the district shall request that the Chief Water Officer hold a hearing on such transfer.

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

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

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

46-703 The Legislature further finds:

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

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

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

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

(5) The Chief Water Officer is responsible for regulation of surface water resources and local surface water project sponsors are responsible for much of the structured irrigation utilizing surface water supplies, and the Chief Water



Officer and the local surface water project sponsors should be responsible for regulation of surface water related activities which contribute to conflicts between ground water users and surface water appropriators or to water supply shortages in fully appropriated or overappropriated river basins, subbasins, or reaches;

(6) All involved natural resources districts, the Chief Water Officer, and surface water project sponsors should cooperate and collaborate on the identification and implementation of management solutions to conflicts between ground water users and surface water appropriators or to water supply shortages in fully appropriated or overappropriated river basins, subbasins, and reaches; and

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

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

46-704 The Legislature also finds that:

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

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

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

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

(5) The department is authorized to regulate sources of contamination when

necessary to prevent serious deterioration of ground water quality;

(6) The powers given to districts and the department should be used to stabilize, reduce, and prevent the increase or spread of ground water contamination; and

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

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

46-705 Nothing in the Nebraska Ground Water Management and Protection Act shall be construed to limit the powers of the department provided in the Nebraska Safe Drinking Water Act.

Nothing in the Nebraska Ground Water Management and Protection Act relating to the contamination of ground water is intended to limit the powers of the department provided in Chapter 81, article 15.

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

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

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

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

(3) Contamination or contamination of ground water means nitrate nitrogen or other material which enters the ground water due to action of any person and causes degradation of the quality of ground water sufficient to make such

ground water unsuitable for present or reasonably foreseeable beneficial uses;

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

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

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

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

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

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

(10) Management plan means a ground water management plan developed by a district and submitted to the Chief Water Officer for review pursuant to section 46-711;

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

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

(13) Acre-inch means the amount of water necessary to cover an acre of

land one inch deep;

(14) Subirrigation or subirrigated land means the natural occurrence of a ground water table within the root zone of agricultural vegetation, not exceeding ten feet below the surface of the ground;

(15) Best management practices means schedules of activities, maintenance procedures, and other management practices utilized for purposes of irrigation efficiency, to conserve or effect a savings of ground water, or to prevent or reduce present and future contamination of ground water. Best management practices relating to contamination of ground water may include, but not be limited to, irrigation scheduling, proper rate and timing of fertilizer application, and other fertilizer and pesticide management programs. In determining the rate of fertilizer application, the district shall consult with the University of Nebraska or a certified crop advisor certified by the American Society of Agronomy;

(16) Point source means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel, other floating craft, or other conveyance, over which the department has regulatory authority and from which a substance which can cause or contribute to contamination of ground water is or may be discharged;

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

(18) Rotation means a recurring series of use and nonuse of irrigation wells on an hourly, daily, weekly, monthly, or yearly basis;

(19) Water well has the same meaning as in section 46-601.01;

(20) Surface water project sponsor means an irrigation district created pursuant to Chapter 46, article 1, a reclamation district created pursuant to Chapter 46, article 5, or a public power and irrigation district created pursuant to Chapter 70, article 6;

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

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

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

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

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

(26) Historic consumptive use means the amount of water that has previously been consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use was lawfully made;

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

(28) Order, except as otherwise specifically provided, includes any order required by the Nebraska Ground Water Management and Protection Act, by rule or regulation, or by a decision adopted by a district by vote of the board of

directors of the district taken at any regularly scheduled or specially scheduled meeting of the board;

(29) Overall difference between the current and fully appropriated levels of development means the extent to which existing uses of hydrologically connected surface water and ground water and conservation activities result in the water supply available for purposes identified in subsection (3) of section 46-713 to be less than the water supply available if the river basin, subbasin, or reach had been determined to be fully appropriated in accordance with section 46-714;

(30) Test hole means a hole designed solely for the purposes of obtaining information on hydrologic or geologic conditions;

(31) Variance means (a) an approval to deviate from a restriction imposed under subsection (1), (2), (8), or (9) of section 46-714 or (b) the approval to act in a manner contrary to existing rules or regulations from a governing body whose rule or regulation is otherwise applicable;

(32) Certified irrigated acres means the number of acres or portion of an acre that a natural resources district has approved for irrigation from ground water in accordance with law and with rules adopted by the district; and

(33) Certified water uses means beneficial uses of ground water for purposes other than irrigation identified by a district pursuant to rules adopted by the district.

**Sec. 208.** Section 46-707, Reissue Revised Statutes of Nebraska, is amended to read:

46-707 (1) Regardless of whether or not any portion of a district has been designated as a management area, in order to administer and enforce the Nebraska Ground Water Management and Protection Act and to effectuate the policy of the state to conserve ground water resources, a district may:

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

(b) Require such reports from ground water users as may be necessary;

(c) Require the reporting of water uses and irrigated acres by landowners

and others with control over the water uses and irrigated acres for the purpose of certification by the district;

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

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

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

(g) Report to and consult with the department on all matters concerning the entry of contamination or contaminating materials into ground water supplies; and

(h) Issue cease and desist orders, following three days' notice to the person affected stating the contemplated action and in general the grounds for the action and following reasonable opportunity to be heard, to enforce any of the provisions of the act or of orders or permits issued pursuant to the act, to initiate suits to enforce the provisions of orders issued pursuant to the act, and to restrain the construction of illegal water wells or the withdrawal or use of water from illegal water wells.

Before any rule or regulation is adopted pursuant to this subsection, a public hearing shall be held within the district. Notice of the hearing shall be given as provided in section 46-743.

(2) In addition to the powers enumerated in subsection (1) of this section, a district may impose an immediate temporary stay for a period of one hundred eighty days on the construction of any new water well and on any increase in the number of acres historically irrigated, without prior notice or hearing, upon adoption of a resolution by the board finding that such temporary immediate stay is necessary. The district shall hold at least one public hearing on the matter within the district during such one hundred eighty days,

with the notice of the hearing given as provided in section 46-743, prior to making a determination as to imposing a permanent stay or conditions in accordance with subsections (1) and (6) of section 46-739. Within forty-five days after a hearing pursuant to this subsection, the district shall decide whether to exempt from the immediate temporary stay the construction of water wells for which permits were issued prior to the date of the resolution commencing the stay but for which construction had not begun prior to such date. If construction of such water wells is allowed, all permits that were valid when the stay went into effect shall be extended by a time period equal to the length of the stay and such water wells shall otherwise be completed in accordance with section 46-738. Water wells listed in subsection (3) of section 46-714 and water wells of public water suppliers are exempt from this subsection.

(3) In addition to the powers enumerated in subsections (1) and (2) of this section, a district may assess a fee against a person requesting a variance to cover the administrative cost of consideration of the variance, including, but not limited to, costs of copying records and the cost of publishing a notice in a legal newspaper of general circulation in the county or counties of the district, radio announcements, or other means of communication deemed necessary in the area where the property is located.

**Sec. 209.** Section 46-709, Reissue Revised Statutes of Nebraska, is amended to read:

46-709 Each district shall maintain a ground water management plan based upon the best available information and shall submit amendments to such plan to the Chief Water Officer for review and approval.

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

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

(2) Local recharge characteristics and rates from any sources, if



available;

- (3) Average annual precipitation and the variations within the district;
- (4) Crop water needs within the district;
- (5) Current ground water data-collection programs;
- (6) Past, present, and potential ground water use within the district;
- (7) Ground water quality concerns within the district;
- (8) Proposed water conservation and supply augmentation programs for the district;
- (9) The availability of supplemental water supplies, including the opportunity for ground water recharge;
- (10) The opportunity to integrate and coordinate the use of water from different sources of supply;
- (11) Ground water management objectives, including a proposed ground water reservoir life goal for the district. For management plans adopted or revised after July 19, 1996, the ground water management objectives may include any proposed integrated management objectives for hydrologically connected ground water and surface water supplies but a management plan does not have to be revised prior to the adoption or implementation of an integrated management plan pursuant to section 46-718 or 46-719;
- (12) Existing subirrigation uses within the district;
- (13) The relative economic value of different uses of ground water proposed or existing within the district; and
- (14) The geographic and stratigraphic boundaries of any proposed management area.

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

Each district's ground water management plan shall also identify, to the extent possible, the levels and sources of ground water contamination within the district, ground water quality goals, long-term solutions necessary to

prevent the levels of ground water contaminants from becoming too high and to reduce high levels sufficiently to eliminate health hazards, and practices recommended to stabilize, reduce, and prevent the occurrence, increase, or spread of ground water contamination.

**Sec. 210.** Section 46-711, Reissue Revised Statutes of Nebraska, is amended to read:

46-711 (1) The Chief Water Officer shall review any ground water management plan or plan modification submitted by a district to ensure that the best available studies, data, and information, whether previously existing or newly initiated, were utilized and considered and that such plan is supported by and is a reasonable application of such information. The Chief Water Officer shall consult with the Conservation and Survey Division of the University of Nebraska and such other state or federal agencies the Chief Water Officer shall deem necessary when reviewing plans. Within ninety days after receipt of a plan, the Chief Water Officer shall transmit his or her specific findings, conclusions, and reasons for approval or disapproval to the district submitting the plan.

(2) If the Chief Water Officer disapproves a ground water management plan, the district which submitted the plan shall, in order to establish a management area, submit to the Chief Water Officer either the original or a revised plan with an explanation of how the original or revised plan addresses the issues raised by the Chief Water Officer in his or her reasons for disapproval. Once a district has submitted an explanation pursuant to this section, such district may proceed to schedule a hearing pursuant to section 46-712.

**Sec. 211.** Section 46-712, Reissue Revised Statutes of Nebraska, is amended to read:

46-712 (1) A natural resources district may establish a ground water management area in accordance with this section to accomplish any one or more of the following objectives: (a) Protection of ground water quantity; (b) protection of ground water quality; or (c) prevention or resolution of conflicts between users of ground water and appropriators of surface water,

which ground water and surface water are hydrologically connected.

(2) Prior to establishment by a district of a management area other than a management area being established in accordance with section 46-718, the district's management plan shall have been approved by the Chief Water Officer or the district shall have completed the requirements of subsection (2) of section 46-711. If necessary to determine whether a management area should be designated, the district may initiate new studies and data-collection efforts and develop computer models. In order to establish a management area, the district shall fix a time and place for a public hearing to consider the management plan information supplied by the Chief Water Officer and to hear any other evidence. The hearing shall be located within or in reasonable proximity to the area proposed for designation as a management area. Notice of the hearing shall be published as provided in section 46-743, and the hearing shall be conducted in accordance with such section.

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

(b) If the district determines that a management area shall be established, the district shall by order designate the area as a management area and shall adopt one or more controls authorized by section 46-739 to be utilized within the area in order to achieve the ground water management objectives specified in the plan. Such an order shall include a geographic and stratigraphic definition of the area. The boundaries and controls shall take into account any considerations brought forth at the hearing and administrative factors directly affecting the ability of the district to implement and carry out local ground water management.

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

(4) Modification of the boundaries of a district-designated management area or dissolution of such an area shall be in accordance with the procedures established in this section. Hearings for such modifications or for dissolution may not be initiated more often than once a year. Hearings for modification of controls may be initiated as often as deemed necessary by the district, and such modifications may be accomplished using the procedure in this section.

(5) A district shall, prior to adopting or amending any rules or regulations for a management area, consult with any holders of permits for intentional or incidental underground water storage and recovery issued pursuant to section 46-226.02, 46-233, 46-240, 46-241, 46-242, or 46-297.

(6) If a ground water management area has been adopted by a district under this section that includes one or more controls authorized by subdivision (1)(f) or (1)(m) of section 46-739, the district may request that the Chief Water Officer conduct an evaluation to determine if an immediate stay should be placed on the issuance of new surface water natural-flow appropriations in the area, river basin, subbasin, or reach of the management area, and the Chief Water Officer may determine that the stay is in the public interest. The stay may include provisions for exceptions to be granted for beneficial uses as described in subsection (3) of section 46-714 or for a project that provides hydrological benefit to the area of the stay and may include provisions that the stay may be rescinded based on new or additional information that may become available.

**Sec. 212.** Section 46-713, Reissue Revised Statutes of Nebraska, is amended to read:

46-713 (1)(a) By January 1 of each year beginning in 2006 and except as otherwise provided in this section and section 46-720, the Chief Water Officer shall complete an evaluation of the expected long-term availability of hydrologically connected water supplies for both existing and new surface water uses and existing and new ground water uses in each of the state's river basins and shall issue a report that describes the results of the evaluation. For purposes of the evaluation and the report, a river basin may be divided into

two or more subbasins or reaches. A river basin, subbasin, or reach for which an integrated management plan has been or is being developed pursuant to sections 46-715 to 46-717 or pursuant to section 46-719 shall not be evaluated unless it is being reevaluated as provided in subsection (2) of this section. For each river basin, subbasin, or reach evaluated, the report shall describe (i) the nature and extent of use of both surface water and ground water in each river basin, subbasin, or reach, (ii) the geographic area within which the Chief Water Officer preliminarily considers surface water and ground water to be hydrologically connected and the criteria used for that determination, and (iii) the extent to which the then-current uses affect available near-term and long-term water supplies. River basins, subbasins, and reaches designated as overappropriated in accordance with subsection (4) of this section shall not be evaluated by the Chief Water Officer. The Chief Water Officer is not required to perform an annual evaluation for a river basin, subbasin, or reach during the four years following a status change in such river basin, subbasin, or reach under subsection (12) of section 46-714.

(b) Based on the information reviewed in the evaluation process, the Chief Water Officer shall arrive at a preliminary conclusion for each river basin, subbasin, and reach evaluated as to whether such river basin, subbasin, or reach presently is fully appropriated without the initiation of additional uses. The Chief Water Officer shall also determine if and how such preliminary conclusion would change if no additional legal constraints were imposed on future development of hydrologically connected surface water and ground water and reasonable projections are made about the extent and location of future development in such river basin, subbasin, or reach.

(c) In addition to the conclusion about whether a river basin, subbasin, or reach is fully appropriated, the Chief Water Officer shall include in the report, for informational purposes only, a summary of relevant data provided by any interested party concerning the social, economic, and environmental impacts of additional hydrologically connected surface water and ground water uses on resources that are dependent on streamflow or ground water levels but are not

protected by appropriations or regulations.

(d) In preparing the report, the Chief Water Officer shall rely on the best scientific data, information, and methodologies readily available to ensure that the conclusions and results contained in the report are reliable. In the report, the Chief Water Officer shall provide sufficient documentation to allow these data, information, methodologies, and conclusions to be independently replicated and assessed. Upon request by the Chief Water Officer, state agencies, natural resources districts, irrigation districts, reclamation districts, public power and irrigation districts, mutual irrigation companies, canal companies, municipalities, and other water users and stakeholders shall provide relevant data and information in their possession. The Chief Water Officer shall specify by rule and regulation the types of scientific data and other information that will be considered for making the preliminary determinations required by this section.

(2)(a) The Chief Water Officer shall complete a reevaluation of a river basin, subbasin, or reach for which an integrated management plan has been or is being prepared if the Chief Water Officer has reason to believe that a reevaluation might lead to a different determination about whether such river basin, subbasin, or reach is fully appropriated or overappropriated. A decision to reevaluate may be reached by the Chief Water Officer on his or her own or in response to a petition filed with the Chief Water Officer by any interested person. To be considered sufficient to justify a reevaluation, a petition shall be accompanied by supporting information showing that (i) new scientific data or other information relevant to the determination of whether the river basin, subbasin, or reach is fully appropriated or overappropriated has become available since the last evaluation of such river basin, subbasin, or reach, (ii) the Chief Water Officer relied on incorrect or incomplete information when the river basin, subbasin, or reach was last evaluated, or (iii) the Chief Water Officer erred in the interpretation or application of the information available when the river basin, subbasin, or reach was last evaluated. If a petition determined by the Chief Water Officer to be sufficient is filed before

July 1 of any year, the reevaluation of the river basin, subbasin, or reach involved shall be included in the next annual report prepared in accordance with subsection (1) of this section. If any such petition is filed on or after July 1 of any year, the Chief Water Officer may defer the reevaluation of the river basin, subbasin, or reach involved until the second annual report after such filing.

(b) If the reevaluation results in a different determination by the Chief Water Officer, then (i) the Chief Water Officer shall notify, by certified mail, the affected natural resources districts and any irrigation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that relies on water from the affected river basin, subbasin, or reach of the preliminary change in the determination and (ii) the Chief Water Officer shall hold one or more public hearings not more than ninety days after the publication of the notice required in subdivision (b)(i) of this subsection. Notice of the hearings shall be provided in the same manner as the notice required in subsection (1) of section 46-714. Any interested person may appear at the hearing and present written or oral testimony and evidence concerning the appropriation status of the river basin, subbasin, or reach.

(c) Within thirty days after the final hearing under subdivision (b) of this subsection, the Chief Water Officer shall notify the appropriate natural resources districts of the Chief Water Officer's final determination with respect to the appropriation status of the river basin, subbasin, or reach.

(3) A river basin, subbasin, or reach shall be deemed fully appropriated if the Chief Water Officer determines based upon the evaluation conducted pursuant to subsection (1) of this section and information presented at the hearing pursuant to subsection (4) of section 46-714 that then-current uses of hydrologically connected surface water and ground water in the river basin, subbasin, or reach cause or will in the reasonably foreseeable future cause (a) the surface water supply to be insufficient to sustain over the long term the beneficial or useful purposes for which existing natural-flow or storage appropriations were granted and the beneficial or useful purposes for which, at

the time of approval, any existing instream appropriation was granted, (b) the streamflow to be insufficient to sustain over the long term the beneficial uses from wells constructed in aquifers dependent on recharge from the river or stream involved, or (c) reduction in the flow of a river or stream sufficient to cause noncompliance by Nebraska with an interstate compact or decree, other formal state contract or agreement, or applicable state or federal laws.

(4)(a) A river basin, subbasin, or reach shall be deemed overappropriated if, on July 16, 2004, the river basin, subbasin, or reach is subject to an interstate cooperative agreement among three or more states and if, prior to such date, the Chief Water Officer has declared a moratorium on the issuance of new surface water appropriations in such river basin, subbasin, or reach and has requested each natural resources district with jurisdiction in the affected area in such river basin, subbasin, or reach either (i) to close or to continue in effect a previously adopted closure of all or part of such river basin, subbasin, or reach to the issuance of additional water well permits in accordance with subdivision (1)(k) of section 46-656.25 as such section existed prior to July 16, 2004, or (ii) to temporarily suspend or to continue in effect a temporary suspension, previously adopted pursuant to section 46-656.28 as such section existed prior to July 16, 2004, on the drilling of new water wells in all or part of such river basin, subbasin, or reach.

(b) Within sixty days after July 16, 2004, the Chief Water Officer shall designate which river basins, subbasins, or reaches are overappropriated. The designation shall include a description of the geographic area within which the Chief Water Officer has determined that surface water and ground water are hydrologically connected and the criteria used to make such determination.

**Sec. 213.** Section 46-714, Reissue Revised Statutes of Nebraska, is amended to read:

46-714 (1) Whenever the Chief Water Officer makes a preliminary determination that a river basin, subbasin, or reach not previously designated as overappropriated and not previously determined to be fully appropriated has become fully appropriated, the Chief Water Officer shall place an immediate



stay on the issuance of any new natural-flow, storage, or storage-use appropriations in such river basin, subbasin, or reach. The Chief Water Officer shall also provide prompt notice of such preliminary determination to all licensed water well contractors in the state and to each natural resources district that encompasses any of the geographic area involved. Such notice to natural resources districts shall be by certified mail. The notice shall be addressed to the manager of the natural resources district or his or her designee and shall include the signature of the Chief Water Officer. Immediately upon receipt of such notice by the natural resources district, there shall be a stay on issuance of water well construction permits in the geographic area preliminarily determined by the Chief Water Officer to include hydrologically connected surface water and ground water in such river basin, subbasin, or reach. The Chief Water Officer shall also notify the public of the preliminary determination that the river basin, subbasin, or reach is fully appropriated and of the affected geographic area. Such notice shall be provided by publication once each week for three consecutive weeks in at least one newspaper of statewide circulation and in such other newspaper or newspapers as are deemed appropriate by the Chief Water Officer to provide general circulation in the river basin, subbasin, or reach.

(2) If the Chief Water Officer preliminarily determines a river basin, subbasin, or reach to be fully appropriated and has identified the existence of hydrologically connected surface water and ground water in such river basin, subbasin, or reach, stays shall also be imposed:

(a) On the construction of any new water well in the area covered by the determination unless a permit with conditions imposed by the natural resources district has been issued prior to the determination. Such conditions shall meet the objectives of subsection (4) of section 46-715 and may include, but are not limited to, conditions in accordance with subsection (6) of section 46-739. Any well constructed pursuant to such permit shall be completed in accordance with section 46-738; and

(b) On the use of an existing water well or an existing surface water

appropriation in the affected area to increase the number of acres historically irrigated.

Such additional stays shall begin ten days after the first publication, in a newspaper of statewide circulation, of the notice of the preliminary determination that the river basin, subbasin, or reach is fully appropriated.

(3) Exceptions to the stays imposed pursuant to subsection (1), (2), (8), or (9) of this section shall exist for (a) test holes, (b) dewatering wells with an intended use of one year or less, (c) monitoring wells, (d) wells constructed pursuant to a ground water remediation plan under the Environmental Protection Act, (e) water wells designed and constructed to pump fifty gallons per minute or less, except that no two or more water wells that each pump fifty gallons per minute or less may be connected or otherwise combined to serve a single project such that the collective pumping would exceed fifty gallons per minute, (f) water wells for range livestock, (g) new surface water uses or water wells that are necessary to alleviate an emergency situation involving the provision of water for human consumption or public health and safety, (h) water wells defined by the applicable natural resources district as replacement water wells, but the consumptive use of any such replacement water well can be no greater than the historic consumptive use of the water well it is to replace or, if applicable, the historic consumptive use of the surface water use it is to replace, (i) new surface water uses and water wells to which a right or permit is transferred in accordance with state law, but the consumptive use of any such new use can be no greater than the historic consumptive use of the surface water use or water well from which the right or permit is being transferred, (j) water wells and increases in ground water irrigated acres for which a variance is granted by the applicable natural resources district for good cause shown, (k) subject to any conditions imposed by the applicable natural resources district, to the extent permitted by the applicable natural resources district, increases in ground water irrigated acres that result from the use of water wells that were permitted prior to the effective date of the determination made in subsection (1) of this section and completed in

accordance with section 46-738 but were not used for irrigation prior to that effective date, (l) to the extent permitted by the applicable natural resources district, increases in ground water irrigated acres that result from the use of water wells that are constructed after the effective date of the stay in accordance with a permit granted by that natural resources district prior to the effective date of the stay, (m) surface water uses for which temporary public-use construction permits are issued pursuant to subsection (8) of section 46-233, (n) surface water uses and increases in surface water irrigated acres for which a variance is granted by the Chief Water Officer for good cause shown, and (o) water wells for which permits have been approved by the Chief Water Officer pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act prior to the effective date of the stay.

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

appropriation status of the river basin, subbasin, or reach, the Chief Water Officer's preliminary conclusions about the extent of the area within which the surface water and ground water supplies for the river basin, subbasin, or reach are determined to be hydrologically connected, and whether the stays on new uses should be terminated.

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

(6) Within ninety days after a final determination by the Chief Water Officer that a river basin, subbasin, or reach is fully appropriated, an affected natural resources district may hold one or more public hearings on the question of whether the stays on the issuance of new water well permits, on the construction of new water wells, or on increases in ground water irrigated acres should be terminated. Notice of the hearings shall be published as provided in section 46-743.

(7) Within forty-five days after a natural resources district's final hearing pursuant to subsection (6) of this section, the natural resources district shall decide (a) whether to terminate the stay on new water wells in all or part of the natural resources district subject to the stay and (b) whether to terminate the stay on increases in ground water irrigated acres. If

the natural resources district decides not to terminate the stay on new water wells in any geographic area, it shall also decide whether to exempt from such stay the construction of water wells for which permits were issued prior to the issuance of the stay but for which construction had not begun prior to issuance of the stay. If construction of water wells for which permits were issued prior to the stay is allowed, all permits that were valid when the stay went into effect shall be extended by a time period equal to the length of the stay.

(8) Whenever the Chief Water Officer designates a river basin, subbasin, or reach as overappropriated, each previously declared moratorium on the issuance of new surface water appropriations in the river basin, subbasin, or reach shall continue in effect. The Chief Water Officer shall also provide prompt notice of such designation to all licensed water well contractors in the state and to each natural resources district that encompasses any of the geographic area involved. Immediately upon receipt of such notice by a natural resources district, there shall be a stay on the issuance of new water well construction permits in any portion of such natural resources district that is within the hydrologically connected area designated by the Chief Water Officer. The Chief Water Officer shall also notify the public of the Chief Water Officer's designation of such river basin, subbasin, or reach as overappropriated and of the geographic area involved in such designation. Such notice shall be published once each week for three consecutive weeks in at least one newspaper of statewide circulation and in such other newspapers as are deemed appropriate by the Chief Water Officer to provide general notice in the river basin, subbasin, or reach.

(9) Beginning ten days after the first publication of notice under subsection (8) of this section in a newspaper of statewide circulation, there shall also be stays (a) on the construction of any new water well in the hydrologically connected area if such construction has not commenced prior to such date and if no permit for construction of the water well has been issued previously by either the Chief Water Officer or the natural resources district, (b) on the use of an existing water well in the hydrologically connected area

to increase the number of acres historically irrigated, and (c) on the use of an existing surface water appropriation to increase the number of acres historically irrigated in the affected area.

(10) Within ninety days after a designation by the Chief Water Officer of a river basin, subbasin, or reach as overappropriated, a natural resources district that encompasses any of the hydrologically connected area designated by the Chief Water Officer may hold one or more public hearings on the question of whether to terminate the stays on (a) the construction of new water wells within all or part of its portion of the hydrologically connected area, (b) the issuance of new water well construction permits in such area, or (c) the increase in ground water irrigated acres in such area. Notice of any hearing for such purpose shall be provided pursuant to section 46-743. Prior to the scheduling of a natural resources district hearing on the question of whether to terminate any such stay, the Chief Water Officer and the affected natural resources district shall consult with any irrigation district, reclamation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that relies on water from the affected river basin, subbasin, or reach and with other water users and stakeholders as deemed appropriate by the Chief Water Officer or the natural resources district.

(11) Any stay issued pursuant to this section shall remain in effect until (a) the stay has been terminated pursuant to subsection (5), (7), or (10) of this section, (b) an integrated management plan for the affected river basin, subbasin, or reach has been adopted by the Chief Water Officer and the affected natural resources districts and has taken effect, (c) an integrated management plan for the affected river basin, subbasin, or reach has been adopted by the Interrelated Water Review Board and has taken effect, (d) the Chief Water Officer has completed a reevaluation pursuant to subsection (2) of section 46-713 and has determined that the affected river basin, subbasin, or reach is not fully appropriated or overappropriated, or (e) the stay expires pursuant to this subsection. Such stay may be imposed initially for not more than three years following the Chief Water Officer's designation of the river basin,

subbasin, or reach as overappropriated or the Chief Water Officer's final determination that a river basin, subbasin, or reach is fully appropriated and may be extended thereafter on an annual basis by agreement of the Chief Water Officer and the affected natural resources district for not more than two additional years if necessary to allow the development, adoption, and implementation of an integrated management plan pursuant to sections 46-715 to 46-719.

(12)(a) For purposes of this subsection, (i) a status change occurs when a preliminary or final determination that a river basin, subbasin, or reach is fully appropriated is reversed by the Chief Water Officer or by judicial determination and such river basin, subbasin, or reach is determined not to be fully appropriated and (ii) the hydrologically connected area means the geographic area within which the Chief Water Officer considers surface water and ground water in such river basin, subbasin, or reach to be hydrologically connected.

(b) If a status change occurs, any stays previously in force by the Chief Water Officer or affected natural resources districts shall remain in force until the stays imposed under this subsection are in place and the Chief Water Officer shall place an immediate stay on the issuance of any new natural-flow, storage, or storage-use appropriations in the river basin, subbasin, or reach. The Chief Water Officer shall also provide prompt notice of the status change in accordance with subsection (1) of this section. Immediately upon receipt of the notice by the affected natural resources district, there shall be stays imposed as set forth in subsections (1) and (2) of this section, subject to the exceptions set forth in subsection (3) of this section. The stays imposed pursuant to this subsection shall remain in effect within each affected natural resources district until such district adopts rules and regulations in accordance with subdivision (c), (d), or (e) of this subsection.

(c) Upon receipt of notice of a status change, each affected natural resources district shall adopt rules and regulations within one hundred twenty days after receipt of such notice for the prioritization and granting of water

well permits within the hydrologically connected area for the four-year period following the status change. Nothing in this subsection shall be construed to supersede the authority provided to natural resources districts under subsection (2) of section 46-707 and subdivisions (1)(f) and (1)(m) of section 46-739.

(d) The rules and regulations adopted by each affected natural resources district in accordance with subdivision (c) of this subsection shall (i) allow a limited number of total new ground water irrigated acres annually, (ii) be created with the purpose of maintaining the status of not fully appropriated based on the most recent basin determination, (iii) be for a term of not less than four years, and (iv) limit the number of new permits so that total new ground water irrigated acres do not exceed the number set in the rules and regulations. The Chief Water Officer shall approve the proposed new number of ground water irrigated acres within sixty days after approval by the natural resources district if such district meets the conditions set forth in subdivision (d)(ii) of this subsection, based on the most recent basin determination.

(e) If the proposed new number of acres is not approved by the Chief Water Officer within the applicable time period as provided in subdivision (d) of this subsection, the affected natural resources districts shall adopt rules and regulations that allow water well permits to be issued that will result in no more than two thousand five hundred irrigated acres or that will result in an increase of not more than twenty percent of all historically irrigated acres within the hydrologically connected area of each natural resources district within the affected river basin, subbasin, or reach, whichever is less, for each calendar year of the four-year period following the date of the determination described in this subsection. Each affected natural resources district may, after the initial four-year period has expired, annually determine whether water well permit limitations should continue and may enforce such limitations.

(f) During the four-year period following the status change, the Chief



Water Officer shall ensure that any new appropriation granted will not cause the basin, subbasin, or reach to be fully appropriated based on the most recent basin determination. The Chief Water Officer, pursuant to rules and regulations adopted and promulgated under the Nebraska Ground Water Management and Protection Act, shall not issue new natural flow surface water appropriations for irrigation, within the river basin, subbasin, or reach affected by the status change, that will result in a net increase of more than eight hundred thirty-four irrigated acres in each natural resources district during each calendar year of the four-year period following the date of the determination described in this subsection.

**Sec. 214.** Section 46-715, Reissue Revised Statutes of Nebraska, is amended to read:

46-715 (1)(a) Whenever the Chief Water Officer has designated a river basin, subbasin, or reach as overappropriated or has made a final determination that a river basin, subbasin, or reach is fully appropriated, the natural resources districts encompassing such river basin, subbasin, or reach and the Chief Water Officer shall jointly develop an integrated management plan for such river basin, subbasin, or reach. The plan shall be completed, adopted, and take effect within three years after such designation or final determination unless the Chief Water Officer and the natural resources districts jointly agree to an extension of not more than two additional years.

(b) A natural resources district encompassing a river basin, subbasin, or reach that has not been designated as overappropriated or has not been finally determined to be fully appropriated may, jointly with the Chief Water Officer, develop an integrated management plan for such river basin, subbasin, or reach located within the district. The district shall notify the Chief Water Officer of its intention to develop an integrated management plan which shall be developed and adopted according to sections 46-715 to 46-717 and subsections (1) and (2) of section 46-718. The objective of an integrated management plan under this subdivision is to manage such river basin, subbasin, or reach to achieve and sustain a balance between water uses and water supplies for the

long term. If a district develops an integrated management plan under this subdivision and the Chief Water Officer subsequently determines the affected river basin, subbasin, or reach to be fully appropriated, the Chief Water Officer and the affected natural resources district may amend the integrated management plan.

(2) In developing an integrated management plan, the effects of existing and potential new water uses on existing surface water appropriators and ground water users shall be considered. An integrated management plan shall include the following: (a) Clear goals and objectives with a purpose of sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety, and welfare of the river basin, subbasin, or reach can be achieved and maintained for both the near term and the long term; (b) a map clearly delineating the geographic area subject to the integrated management plan; (c) one or more of the ground water controls authorized for adoption by natural resources districts pursuant to section 46-739; (d) one or more of the surface water controls authorized for adoption by the Chief Water Officer pursuant to section 46-716; and (e) a plan to gather and evaluate data, information, and methodologies that could be used to implement sections 46-715 to 46-717, increase understanding of the surface water and hydrologically connected ground water system, and test the validity of the conclusions and information upon which the integrated management plan is based. The plan may also provide for utilization of any applicable incentive programs authorized by law. Nothing in the integrated management plan for a fully appropriated river basin, subbasin, or reach shall require a natural resources district to regulate ground water uses in place at the time of the Chief Water Officer's preliminary determination that the river basin, subbasin, or reach is fully appropriated, unless such regulation is necessary to carry out the goals and objectives of a basin-wide plan pursuant to section 46-755, but a natural resources district may voluntarily adopt such regulations. The applicable natural resources district may decide to include all water users within the district boundary in an integrated management plan.

(3) In order to provide a process for economic development opportunities and economic sustainability within a river basin, subbasin, or reach, the integrated management plan shall include clear and transparent procedures to track depletions and gains to streamflows resulting from new, retired, or other changes to uses within the river basin, subbasin, or reach. The procedures shall:

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

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

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

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

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

(f) Develop, to the extent feasible, an outline of plans after consultation with and an opportunity to provide input from irrigation districts, public power and irrigation districts, reclamation districts, municipalities, other political subdivisions, and other water users to make water available for offset to enhance and encourage economic development opportunities and economic sustainability in the river basin, subbasin, or reach; and

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

Nothing in this subsection shall require revision or amendment of an

integrated management plan approved on or before August 30, 2009.

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

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

(b) In any river basin, subbasin, or reach designated as overappropriated and subject to this subsection, the Chief Water Officer and each natural resources district encompassing such river basin, subbasin, or reach shall jointly develop an integrated management plan for such river basin, subbasin,

or reach pursuant to subsections (1) through (4) of this section. Each integrated management plan for a river basin, subbasin, or reach subject to this subsection shall be consistent with any basin-wide plan developed pursuant to subdivision (a) of this subsection. Such integrated management plan shall be developed after consultation and collaboration with irrigation districts, reclamation districts, public power and irrigation districts, mutual irrigation companies, canal companies, and municipalities that rely on water from within the affected area and that, after being notified of the commencement of the plan development process, indicate in writing their desire to participate in such process. In addition, the Chief Water Officer or the affected natural resources districts may include designated representatives of other stakeholders. If agreement is reached by all parties involved in such consultation and collaboration process, the Chief Water Officer and each natural resources district shall adopt the agreed-upon integrated management plan. If agreement cannot be reached by all parties involved, the integrated management plan shall be developed and adopted by the Chief Water Officer and the affected natural resources district pursuant to sections 46-715 to 46-718 or by the Interrelated Water Review Board pursuant to section 46-719.

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

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

(i) The first incremental goals shall be to address the impact of

streamflow depletions to (A) surface water appropriations and (B) water wells constructed in aquifers dependent upon recharge from streamflow, to the extent those depletions are due to water use initiated after July 1, 1997, and, unless an interstate cooperative agreement for such river basin, subbasin, or reach is no longer in effect, to prevent streamflow depletions that would cause noncompliance by Nebraska with such interstate cooperative agreement. During the first increment, the Chief Water Officer and the affected natural resources districts shall also pursue voluntary efforts, subject to the availability of funds, to offset any increase in streamflow depletive effects that occur after July 1, 1997, but are caused by ground water uses initiated prior to such date. The Chief Water Officer and the affected natural resources districts may also use other appropriate and authorized measures for such purpose;

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

(iii) During the ten years following adoption of an integrated management plan developed under this subsection (5) or during the ten years after the adoption of any subsequent increment of the integrated management plan pursuant to subdivision (d)(iv) of this subsection, the Chief Water Officer and the affected natural resources district shall conduct a technical analysis of the actions taken in such increment to determine the progress towards meeting the goals and objectives adopted pursuant to subsection (2) of this section. The analysis shall include an examination of (A) available supplies and changes in long-term availability, (B) the effects of conservation practices and natural causes, including, but not limited to, drought, and (C) the effects of the plan on reducing the overall difference between the current and fully appropriated levels of development identified in subdivision (5)(c) of this section. The analysis shall determine whether a subsequent increment is necessary in the integrated management plan to meet the goals and objectives adopted pursuant to subsection (2) of this section and reduce the overall difference between the

current and fully appropriated levels of development identified in subdivision (5)(c) of this section;

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

(v) If necessary, the steps described in subdivisions (d)(ii) through (iv) of this subsection shall be repeated until the Chief Water Officer and the affected natural resources districts agree that the goals and objectives identified pursuant to subsection (2) of this section have been met and the overall difference between the current and fully appropriated levels of development identified in subdivision (5)(c) of this section has been addressed so that the river basin, subbasin, or reach has returned to a fully appropriated condition.

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

**Sec. 215.** Section 46-716, Reissue Revised Statutes of Nebraska, is amended to read:

46-716 (1) The surface water controls that may be included in an integrated management plan and may be adopted by the Chief Water Officer are:  
(a) Increased monitoring and enforcement of surface water diversion rates and

amounts diverted annually; (b) the prohibition or limitation of additional surface water appropriations; (c) requirements for surface water appropriators to apply or utilize reasonable conservation measures consistent with good husbandry and other requirements of section 46-231 and consistent with reasonable reliance by other surface water or ground water users on return flows or on seepage to the aquifer; and (d) other reasonable restrictions on surface water use which are consistent with the intent of section 46-715 and the requirements of section 46-231.

(2) If during the development of the integrated management plan the Chief Water Officer determines that surface water appropriators should be required to apply or utilize conservation measures or that other reasonable restrictions on surface water use need to be imposed, the Chief Water Officer's portion of the integrated management plan shall allow the affected surface water appropriators and surface water project sponsors a reasonable amount of time, not to exceed one hundred eighty days unless extended by the Chief Water Officer, to identify the conservation measures to be applied or utilized, to develop a schedule for such application and utilization, and to comment on any other proposed restrictions.

**Sec. 216.** Section 46-717, Reissue Revised Statutes of Nebraska, is amended to read:

46-717 (1) In developing an integrated management plan, the Chief Water Officer and the affected natural resources districts shall utilize the best scientific data and other information available and shall review and consider any rules and regulations in effect in any existing ground water management area that encompasses all or part of the geographic area to be encompassed by the plan. Consideration shall be given to the applicable scientific data and other information relied upon by the Chief Water Officer in preparing the annual report required by section 46-713 and to other types of data and information that may be deemed appropriate by the Chief Water Officer. The Chief Water Officer, after seeking input from the affected natural resources districts, shall specify by rule and regulation the types of scientific data



and other information that will be considered in developing an integrated management plan. The natural resources districts shall adopt similar rules and regulations specifying the types of scientific data and other information necessary for purposes of this section. Existing research, data, studies, or any other relevant information which has been compiled by or is in possession of other state or federal agencies, other natural resources districts, and other political subdivisions within the State of Nebraska shall be utilized. State agencies and political subdivisions shall furnish information or data upon request of the Chief Water Officer or any affected natural resources district. Neither the Chief Water Officer nor the natural resources districts shall be required to conduct new research or to develop new computer models to prepare an integrated management plan, but such new research may be conducted or new computer models developed within the limits of available funding if the additional information is desired by the Chief Water Officer or the affected natural resources districts.

(2) During preparation of an integrated management plan for a fully appropriated river basin, subbasin, or reach or of an integrated management plan under subdivision (1)(b) of section 46-715, the Chief Water Officer and the affected natural resources districts shall consult with any irrigation district, reclamation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that relies on water from the affected river basin, subbasin, or reach and with other water users and stakeholders as deemed appropriate by the Chief Water Officer or by the affected natural resources districts. They shall also actively solicit public comments and opinions through public meetings and other means.

**Sec. 217.** Section 46-718, Reissue Revised Statutes of Nebraska, is amended to read:

46-718 (1) If the Chief Water Officer and the affected natural resources districts preparing an integrated management plan reach agreement on (a) the proposed goals and objectives of the plan for the affected river basin, subbasin, or reach, (b) the proposed geographic area to be subject to controls,

and (c) the surface water and ground water controls and any incentive programs that are proposed for adoption and implementation in the river basin, subbasin, or reach, they shall schedule one or more public hearings to take testimony on the proposed integrated management plan and the proposed controls. Such hearings shall be held within forty-five days after reaching agreement and within or in reasonable proximity to the area to be affected by implementation of the integrated management plan. Notice of such hearings shall be published as provided in section 46-743. The costs of publishing the notice shall be shared between the Chief Water Officer and the affected natural resources districts. All interested persons may appear at the hearings and present testimony or provide other evidence relevant to the issues being considered.

(2) Within sixty days after the final hearing under this section, the Chief Water Officer and the affected natural resources districts shall jointly decide whether to implement the plan proposed, with or without modifications, and whether to adopt and implement the surface water and ground water controls and incentive programs proposed in the plan. If the Chief Water Officer and the natural resources districts agree to implement the plan and to adopt and implement the proposed controls, the natural resources districts shall by order designate a ground water management area for integrated management or, if the geographic area subject to the integrated management plan is already in a ground water management area, the order shall designate an integrated management subarea for that area. The order shall include a geographic and stratigraphic definition of the ground water management area or integrated management subarea and shall adopt the controls in the integrated management plan that are authorized for adoption by the natural resources district pursuant to section 46-739. The Chief Water Officer shall by order adopt the controls in the integrated management plan that are authorized for adoption by the Chief Water Officer pursuant to section 46-716. Neither the controls adopted by the district nor those adopted by the Chief Water Officer shall include controls substantially different from those set forth in the notice of hearing. The area designated as a ground water management area or an integrated

management subarea by the natural resources district shall not include any area that was not identified in the notice of the hearing as within the area proposed to be subject to the controls in the plan. The Chief Water Officer and the natural resources district shall each cause a copy of their respective orders to be published in the manner provided in section 46-744.

(3) If at any time during the development of a basin-wide plan or an integrated management plan either the Chief Water Officer or the affected natural resources districts conclude that the parties will be unable to reach a timely agreement on the basin-wide plan or on (a) the goals and objectives of the integrated management plan for the affected river basin, subbasin, or reach, (b) the geographic area to be subject to controls, or (c) the surface water or ground water controls or any incentive programs to be proposed for adoption and implementation in the affected river basin, subbasin, or reach, the Governor shall be notified and the dispute shall be submitted to the Interrelated Water Review Board as provided in subsection (2) of section 46-719.

**Sec. 218.** Section 46-719, Reissue Revised Statutes of Nebraska, is amended to read:

46-719 (1)(a) The Interrelated Water Review Board is created for the purposes stated in subsections (2) through (5) of this section. The board shall consist of five members. The board, when appointed and convened, shall continue in existence only until it has resolved a dispute referred to it pursuant to such subsections. The Governor shall appoint and convene the board within forty-five days of being notified of the need to resolve a dispute. The board shall be chaired by the Governor or his or her designee, which designee shall be knowledgeable concerning surface water and ground water issues. The Governor shall appoint one additional member of his or her choosing and shall appoint the other three members of the board from a list of no fewer than six nominees provided by the Nebraska Natural Resources Commission within twenty days after request by the Governor for a list of nominees.

(b) Not more than two members of the board shall reside in the geographic

area involved in the dispute. A person is not eligible for membership on the board if the decisions to be made by the board would or could cause financial benefit or detriment to the person, a member of his or her immediate family, or a business with which the person is associated, unless such benefit or detriment is indistinguishable from the effects of such action on the public generally or a broad segment of the public. The board shall be subject to the Open Meetings Act.

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

(2)(a) If the Chief Water Officer and the affected natural resources districts cannot resolve disputes over the content of a basin-wide plan or an integrated management plan by utilizing the process described in sections 46-715 to 46-718, the Governor shall be notified and the dispute submitted to the Interrelated Water Review Board. When the board has been appointed and convened to resolve disputes over a basin-wide plan, the Chief Water Officer and each affected district shall present their proposed basin-wide plans to the board. When the board has been convened to resolve disputes over an integrated management plan, the Chief Water Officer and each affected natural resources district shall present their (i) proposed goals and objectives for the integrated management plan, (ii) proposed geographic area to be subject to controls, and (iii) proposed surface water and ground water controls and any proposed incentive program for adoption and implementation in the river basin, subbasin, or reach involved. The Chief Water Officer and each affected natural resources district shall also be given adequate opportunity to comment on the proposals made by the other parties to the dispute.

(b) When the Interrelated Water Review Board concludes that the issues in dispute have been fully presented and commented upon by the parties to the dispute, which conclusion shall be made not more than forty-five days after the board is convened, the board shall select the proposals or portions of

proposals that the board will consider for adoption and shall schedule one or more public hearings to take testimony on the selected proposals. The hearings shall be held within forty-five days after the board's selection of proposals to consider for adoption and shall be within or in reasonable proximity to the area that would be affected by implementation of any of the proposals to be considered at the hearings. Notice of the hearings shall be published as provided in section 46-743. The cost of publishing the notice shall be shared by the Chief Water Officer and the affected natural resources districts. All interested persons may appear at the hearings and present testimony or provide other evidence relevant to the issues being considered.

(c) Within forty-five days after the final hearing pursuant to subdivision (b) of this subsection, the Interrelated Water Review Board shall by order, as applicable, adopt a basin-wide plan or an integrated management plan for the affected river basin, subbasin, or reach and, in the case of an integrated management plan, shall designate a ground water management area for integrated management or an integrated management subarea for such river basin, subbasin, or reach. An integrated management plan shall be consistent with subsection (2) of section 46-715, and the surface water and ground water controls and any applicable incentive programs adopted as part of that plan shall be consistent with subsection (4) of section 46-715. The controls adopted by the board shall not be substantially different from those described in the notice of hearing. The area designated as a ground water management area or an integrated management subarea shall not include any area that was not identified in the notice of the hearing as within the area proposed to be subject to the controls in the plan.

(d) The order adopted under this subsection shall be published in the manner prescribed in section 46-744.

(e) Surface water controls adopted by the Interrelated Water Review Board shall be implemented and enforced by the Chief Water Officer. Ground water controls adopted by the Interrelated Water Review Board shall be implemented and enforced by the affected natural resources districts.

(3) Whether an integrated management plan is adopted pursuant to section 46-718 or by the Interrelated Water Review Board pursuant to subsection (2) of this section, the Chief Water Officer or a natural resources district responsible in part for implementation and enforcement of an integrated management plan may propose modification of the goals or objectives of that plan, of the area subject to the plan, or of the surface water controls, ground water controls, or incentive programs adopted to implement the plan. The Chief Water Officer and the affected natural resources districts shall utilize the procedures in sections 46-715 to 46-718 in an attempt to reach agreement on and to adopt and implement proposed modifications. If agreement on such modifications cannot be achieved utilizing those procedures, either the Chief Water Officer or an affected natural resources district may notify the Governor of the dispute. The Interrelated Water Review Board shall be appointed and convened in accordance with subsection (1) of this section to resolve the dispute and, if applicable, to adopt any modifications utilizing the procedures in subsection (2) of this section.

(4) The Chief Water Officer and the affected natural resources districts may also raise objections concerning the implementation or enforcement of previously adopted surface water or ground water controls. The Chief Water Officer and the affected natural resources districts shall utilize the procedures in sections 46-715 to 46-718 in an attempt to reach agreement on such implementation or enforcement issues. If agreement on such issues cannot be achieved utilizing such procedures, either the Chief Water Officer or an affected natural resources district may notify the Governor of the dispute. The Interrelated Water Review Board shall be appointed and convened in accordance with subsection (1) of this section. After permitting each party to fully express the reasons for the position taken by each party on the disputed issues, the board may either take no action or conclude (a) that one or more parties needs to modify the party's approach to implementation or enforcement and direct that such modifications take place or (b) that one or more parties either has not made a good faith effort to implement or enforce the portion of

the plan or controls for which the party is responsible or is unable to fully implement and enforce such portion and that such party's jurisdiction with respect to implementation and enforcement of the plan and controls shall be terminated and reassigned to one or more of the other parties responsible for implementation and enforcement. A decision by the Interrelated Water Review Board to terminate and reassign jurisdiction of any portion of the plan or controls shall take effect immediately upon that decision. Notice of such reassignment shall be published at least once in one or more newspapers as necessary to provide general circulation in the area affected by such reassignment.

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

**Sec. 219.** Section 46-720, Reissue Revised Statutes of Nebraska, is amended to read:

46-720 (1) The Legislature finds that, prior to July 16, 2004, actions were taken by the Department of Natural Resources as it existed prior to July 1, 2025, and by one or more natural resources districts pursuant to section 46-656.28, as such section existed immediately prior to July 16, 2004, for the purpose of addressing circumstances that are, after July 16, 2004, to be addressed in accordance with sections 46-713 to 46-719. It is the intent of the Legislature that actions taken pursuant to section 46-656.28, as such section existed immediately prior to July 16, 2004, should not be negated and that transition from the authorities and responsibilities granted by such section to

those granted by sections 46-713 to 46-719 should occur in as efficient a manner as possible. Such transition shall be therefor governed by subsections (2) through (5) of this section, and all references in such subsections to section 46-656.28 shall be construed to mean section 46-656.28 as such section existed immediately prior to July 16, 2004.

(2) If, prior to July 16, 2004, (a) a natural resources district requested pursuant to subsection (1) of section 46-656.28 that affected appropriators, affected surface water project sponsors, and the department consult and that studies and a hearing be held but (b) the Director of Natural Resources, as such position existed, had not made a preliminary determination relative to that request pursuant to subsection (2) of section 46-656.28, no further action on the district's request shall be required of the department. If under the same circumstances a temporary suspension in the drilling of certain water wells has been imposed by the district pursuant to subsection (16) of section 46-656.28 and remains in effect immediately prior to July 16, 2004, such temporary suspension shall remain in effect for thirty days after the department issues its first annual report under section 46-713, except that (i) such temporary suspension shall not apply to water wells for which a permit has been obtained pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act and (ii) to the extent any such temporary suspension is in effect for all or part of a hydrologically connected area for a river basin, subbasin, or reach designated as overappropriated by the department, such temporary suspension shall remain in effect only until it is superseded by the stays imposed pursuant to subsections (8) and (9) of section 46-714. To the extent that any such temporary suspension applies to a geographic area preliminarily considered by the department to have ground water hydrologically connected to the surface water of a fully appropriated river basin, subbasin, or reach, such temporary suspension shall be superseded by the stays imposed pursuant to subsections (1) and (2) of section 46-714.

(3)(a) If prior to July 16, 2004, (i) the director has made a preliminary determination pursuant to subsection (2) of section 46-656.28 that there is



reason to believe that the use of hydrologically connected ground water and surface water in a specific geographic area is contributing to or is in the reasonably foreseeable future likely to contribute to any conflict, dispute, or difficulty listed in such subsection, (ii) the director has not made a determination pursuant to subsection (4) of section 46-656.28 that a joint action plan should not be prepared, and (iii) preparation of a joint action plan pursuant to subsections (5) through (9) of such section has not been completed, the geographic area involved shall become subject to sections 46-713 to 46-719 on July 16, 2004, and the department need not evaluate such geographic area in its first annual report issued pursuant to section 46-713.

(b) For purposes of this subsection and section 46-714 and except as otherwise provided in this section, (i) July 16, 2004, shall result in the imposition in any geographic area subject to this subsection of the stays required by subsections (1) and (2) of section 46-714, (ii) such stays shall be imposed in the manner required by such section, and (iii) July 16, 2004, shall be treated as if it were the date of a departmental preliminary determination pursuant to section 46-713 that such area is a geographic area within which ground water and surface water of a fully appropriated river basin, subbasin, or reach are hydrologically connected. Notwithstanding the other provisions of this subsection, if a temporary suspension in the drilling of certain new water wells has previously been imposed by the affected natural resources district, (A) the stays on construction of new water wells and on the increase in ground water irrigated acres shall be limited in geographic extent to only that part of the affected area within which the temporary suspension was in effect unless the director determines that inclusion of additional area is necessary because ground water and surface water are hydrologically connected in such additional area and (B) the stays on construction of certain new water wells shall not apply to a water well constructed in accordance with the terms of a water well construction permit approved by the district prior to July 16, 2004, unless such well was subject to the district's temporary suspension. If, prior to July 16, 2004, the director has held a hearing on a report issued pursuant to

subsection (3) of section 46-656.28 but has not yet determined whether a joint action plan should be prepared, no departmental hearing shall be required pursuant to subsection (4) of section 46-714 before a final determination is made about whether the river basin, subbasin, or reach involved is fully appropriated. If, prior to July 16, 2004, the director has determined pursuant to subsection (4) of section 46-656.28 that a joint action plan should be prepared, such determination shall have the same effect as a final departmental determination pursuant to subsection (5) of section 46-714 that the affected river basin, subbasin, or reach is fully appropriated and no separate determination to that effect shall be required. If, after July 16, 2004, the department determines that all or part of the area subject to this subsection is in an overappropriated river basin, subbasin, or reach, that portion of the area shall thereafter be subject to the provisions of the Nebraska Ground Water Management and Protection Act applicable to an overappropriated river basin, subbasin, or reach and stays that have previously taken effect in accordance with this subsection shall continue in effect as stays for an overappropriated river basin, subbasin, or reach without additional action or publication of notice by the department. Any temporary suspension in the drilling of certain water wells that has been imposed in the geographic area involved by a natural resources district pursuant to subsection (16) of section 46-656.28 prior to July 16, 2004, shall remain in effect until superseded by the stays imposed pursuant to subsections (1) and (2) of section 46-714.

(4) If, prior to July 16, 2004, preparation of a joint action plan has been completed pursuant to subsections (5) through (9) of section 46-656.28 but the plan has not yet been adopted pursuant to subsection (11) of such section, the department need not evaluate the affected geographic area in its first annual report issued pursuant to section 46-713. The department and the affected natural resources district shall review the completed joint action plan for its compliance with sections 46-715 to 46-717. If the joint action plan is determined to be in compliance with sections 46-715 to 46-717 or if agreement is reached on the revisions necessary to bring it into such

compliance, the department and the district shall adopt the plan and implement the controls as provided in section 46-718. If the joint action plan is determined not to be in compliance with sections 46-715 to 46-717 and agreement on the proposed plan or the proposed controls cannot be reached pursuant to section 46-718, section 46-719 shall apply. Except to the extent that any portion of the affected area is designated as all or part of an overappropriated river basin, subbasin, or reach, any temporary suspension in the drilling of certain water wells imposed in the affected geographic area by a natural resources district pursuant to subsection (16) of section 46-656.28 shall remain in effect until (a) the department and the affected district have jointly decided to implement the plan, with or without modifications, and controls have been adopted and taken effect or (b) the Interrelated Water Review Board, pursuant to section 46-719, has adopted an integrated management plan for the affected river basin, subbasin, or reach and the controls adopted by the board have taken effect. To the extent that any portion of the affected area is designated as all or part of an overappropriated river basin, subbasin, or reach, any temporary suspension in the drilling of water wells shall be superseded by the stays imposed pursuant to subsections (8) and (9) of section 46-714.

(5) If, before July 16, 2004, a joint action plan has been adopted and implemented pursuant to subsections (10) through (12) of section 46-656.28 and is in effect immediately prior to such date, the department need not evaluate the geographic area subject to the plan in the department's first annual report issued pursuant to section 46-713. For purposes of the Nebraska Ground Water Management and Protection Act, (a) the plan adopted shall be considered an integrated management plan adopted pursuant to section 46-718, (b) the management area designated shall be considered an integrated management area or subarea designated pursuant to section 46-718, and (c) the controls adopted shall be considered controls adopted pursuant to section 46-718 and shall remain in effect until amended or repealed pursuant to section 46-718 or 46-719.

**Sec. 220.** Section 46-721, Reissue Revised Statutes of Nebraska, is amended to read:

46-721 Each state agency and political subdivision shall promptly report to the department any information which indicates that contamination is occurring.

**Sec. 221.** Section 46-722, Reissue Revised Statutes of Nebraska, is amended to read:

46-722 If, as a result of information provided pursuant to section 46-721 or studies conducted by or otherwise available to the department and following preliminary investigation, the Director of Water, Energy, and Environment makes a preliminary determination (1) that there is reason to believe that contamination of ground water is occurring or likely to occur in an area of the state in the reasonably foreseeable future and (2) that the natural resources district or districts in which the area is located have not designated a management area or have not implemented adequate controls to prevent such contamination from occurring, the department shall, in cooperation with any appropriate state agency and district, conduct a study to determine the source or sources of the contamination and the area affected by such contamination and shall issue a written report within one year of the initiation of the study. During the study, the department shall consider the relevant water quality portions of the management plan developed by each district pursuant to sections 46-709 to 46-711, whether the district has designated a management area encompassing the area studied, and whether the district has adopted any controls for the area.

**Sec. 222.** Section 46-723, Reissue Revised Statutes of Nebraska, is amended to read:

46-723 If the Director of Water, Energy, and Environment determines from the study conducted pursuant to section 46-722 that one or more sources of contamination are point sources, he or she shall expeditiously use the procedures authorized in the Environmental Protection Act to stabilize or reduce the level and prevent the increase or spread of such contamination.

**Sec. 223.** Section 46-724, Reissue Revised Statutes of Nebraska, is amended to read:

46-724 If the Director of Water, Energy, and Environment determines from the study conducted pursuant to section 46-722 that one or more sources of contamination are not point sources and if a management area, a purpose of which is protection of water quality, has been established which includes the affected area, the director shall consider whether to require the district which established the management area to adopt an action plan as provided in sections 46-725 to 46-729.

If the director determines that one or more of the sources are not point sources and if such a management area has not been established or does not include all the affected area, he or she shall, within thirty days after completion of the report required by section 46-722, consult with the district within whose boundaries the area affected by such contamination is located and fix a time and place for a public hearing to consider the report, hear any other evidence, and secure testimony on whether a management area should be designated or whether an existing area should be modified. The hearing shall be held within one hundred twenty days after completion of the report. Notice of the hearing shall be given as provided in section 46-743, and the hearing shall be conducted in accordance with such section.

At the hearing, all interested persons shall be allowed to appear and present testimony. The Conservation and Survey Division of the University of Nebraska, the Department of Health and Human Services, and the appropriate district may offer as evidence any information in their possession which they deem relevant to the purpose of the hearing. After the hearing and after any studies or investigations conducted by or on behalf of the director as he or she deems necessary, the director shall determine whether a management area shall be designated.

**Sec. 224.** Section 46-725, Reissue Revised Statutes of Nebraska, is amended to read:

46-725 (1) When determining whether to designate or modify the boundaries

of a management area or to require a district which has established a management area, a purpose of which is protection of water quality, to adopt an action plan for the affected area, the Director of Water, Energy, and Environment shall consider:

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

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

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

(d) Whether, if a management area has been established which includes the affected area, the controls adopted by the district pursuant to section 46-739 as administered and enforced by the district are sufficient to address the ground water quality issues in the management area; and

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

(2) If the director determines that no such area should be established, he or she shall issue an order declaring that no management area shall be designated.

(3) If the director determines that a management area shall be established, that the boundaries of an existing management area shall be modified, or that the district shall be required to adopt an action plan, he or she shall consult with relevant state agencies and with the district or districts affected and determine the boundaries of the area, taking into account the effect on political subdivisions and the socioeconomic and administrative factors directly affecting the ability to implement and carry out local ground water management, control, and protection. The report by the director shall include the specific reasons for the creation of the management

area or the requirement of such an action plan and a full disclosure of the possible causes.

(4) When the boundaries of an area have been determined or modified, the director shall issue an order designating the area as a management area, specifying the modified boundaries of the management area, or requiring such an action plan. Such an order shall include a geographic and stratigraphic definition of the area. Such order shall be published in the manner provided in section 46-744.

**Sec. 225.** Section 46-726, Reissue Revised Statutes of Nebraska, is amended to read:

46-726 (1) Within one hundred eighty days after the designation of a management area or the requiring of an action plan for a management area, a purpose of which is protection of water quality, the district or districts within whose boundaries the area is located shall prepare an action plan designed to stabilize or reduce the level and prevent the increase or spread of ground water contamination. Whenever a management area or the affected area of such a management area encompasses portions of two or more districts, the responsibilities and authorities delegated in this section shall be exercised jointly and uniformly by agreement of the respective boards of all districts so affected.

(2) Within thirty days after an action plan has been prepared, a public hearing on such plan shall be held by the district. Notice of the hearing shall be given as provided in section 46-743, and the hearing shall be conducted in accordance with such section.

(3) Within thirty days after the hearing, the district shall adopt and submit an action plan to the department. Notice of the district's order adopting an action plan shall be published as required by section 46-744.

**Sec. 226.** Section 46-728, Reissue Revised Statutes of Nebraska, is amended to read:

46-728 (1) In adopting or amending an action plan authorized by subsection (2) of this section, the district's considerations shall include, but not be

limited to, whether it reasonably appears that such action will mitigate or eliminate the condition which led to designation of the management area or the requirement of an action plan for a management area or will improve the administration of the area.

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

(3) If the director denies approval of an action plan by the district, the order shall list the reason the action plan was not approved. A district may submit a revised action plan within sixty days after denial of its original action plan to the director for approval subject to section 46-731.

**Sec. 227.** Section 46-729, Reissue Revised Statutes of Nebraska, is amended to read:

46-729 Following approval of the action plan by the Director of Water, Energy, and Environment, the district shall cause a copy of the order adopted pursuant to section 46-728 to be published in the manner provided in section 46-744.

**Sec. 228.** Section 46-730, Reissue Revised Statutes of Nebraska, is amended to read:

46-730 Each district in which a management area has been designated or an action plan for a management area has been required pursuant to section 46-725 shall, in cooperation with the department, establish a program to monitor the quality of the ground water in the area and shall if appropriate provide each landowner or operator of an irrigation system with current information available with respect to fertilizer and chemical usage for the specific soil types present and cropping patterns used.



**Sec. 229.** Section 46-731, Reissue Revised Statutes of Nebraska, is amended to read:

46-731 (1) The power to specify controls authorized by section 46-739 shall vest in the Director of Water, Energy, and Environment if (a) at the end of one hundred eighty days following the designation of a management area or the requiring of an action plan for a management area pursuant to section 46-725, a district encompassed in whole or in part by the management area has not completed and adopted an action plan, (b) a district does not submit a revised action plan within sixty days after denial of its original action plan, or (c) the district submits a revised action plan which is not approved by the director.

(2) If the power to specify controls in such a management area is vested in the director, he or she shall within ninety days adopt and promulgate by rule and regulation such measures as he or she deems necessary for carrying out the intent of the Nebraska Ground Water Management and Protection Act. He or she shall conduct one or more public hearings prior to the adoption of controls. Notice of any such additional hearings shall be given in the manner provided in section 46-743. The enforcement of controls adopted pursuant to this section shall be the responsibility of the department.

**Sec. 230.** Section 46-732, Reissue Revised Statutes of Nebraska, is amended to read:

46-732 The controls in the action plan approved by the Director of Water, Energy, and Environment pursuant to section 46-728 shall be exercised by the district for the period of time necessary to stabilize or reduce the level of contamination and prevent the increase or spread of ground water contamination. An action plan may be amended by the same method utilized in the adoption of the action plan.

**Sec. 231.** Section 46-733, Reissue Revised Statutes of Nebraska, is amended to read:

46-733 A district may petition the Director of Water, Energy, and Environment to remove the director's designation of the area as a management

area or the requirement of an action plan for a management area or to modify the boundaries of a management area designated pursuant to section 46-725. If the director determines that the level of contamination in a management area has stabilized at or been reduced to a level which is not detrimental to beneficial uses of ground water, he or she may remove the designation or action plan requirement or modify the boundaries of the management area.

**Sec. 232.** Section 46-736, Reissue Revised Statutes of Nebraska, is amended to read:

46-736 An application for a permit or late permit for a water well in a management area shall be denied only if the district in which the water well is to be located finds (1) that the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the district, (2) that the proposed use would not be a beneficial use of water, or (3) in the case of a late permit only, that the applicant did not act in good faith in failing to obtain a timely permit.

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

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

**Sec. 233.** Section 46-737, Reissue Revised Statutes of Nebraska, is amended to read:

46-737 The issuance by the district of a permit pursuant to section 46-736 or registration of a water well by the department pursuant to section 46-602 shall not vest in any person the right to violate any district rule, regulation, or control in effect on the date of issuance of the permit or the

registration of the water well or to violate any rule, regulation, or control properly adopted after such date.

**Sec. 234.** Section 46-739, Reissue Revised Statutes of Nebraska, is amended to read:

46-739 (1) A district in which a management area has been designated shall by order adopt one or more of the following controls for the management area:

(a) It may allocate the amount of ground water that may be withdrawn by ground water users;

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

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

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

(e) It may adopt a system which requires reduction of irrigated acres pursuant to subsection (2) of section 46-740;

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

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

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

(i) It may impose mandatory educational requirements designed to protect water quality or to stabilize or reduce the incidence of ground water depletion, conflicts between ground water users and surface water appropriators, disputes over interstate compacts or decrees, or difficulties fulfilling the provisions of other formal state contracts or agreements;

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

(k) It may require district approval of (i) transfers of ground water off the land where the water is withdrawn, (ii) transfers of rights to use ground water that result from district allocations imposed pursuant to subdivision (1)

(a) of this section or from other restrictions on use that are imposed by the district in accordance with this section, (iii) transfers of certified water uses or certified irrigated acres between landowners or other persons, or (iv) transfers of certified water uses or certified irrigated acres between parcels or tracts under the control of a common landowner or other person. Such approval may be required whether the transfer is within the management area, from inside to outside the management area, or from outside to inside the management area, except that transfers for which permits have been obtained from the Department of Natural Resources, as it existed, prior to July 16, 2004, or pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act shall not be subject to district approval pursuant to this subdivision. If the district adopts rules and regulations pursuant to this subdivision, such regulations shall require that the district deny or condition the approval of any such transfer when and to the extent such action is necessary to (A) ensure the consistency of the transfer with the purpose or purposes for which the management area was designated, (B) prevent adverse effects on other ground water users or on surface water appropriators, (C) prevent adverse effects on the state's ability to comply with an interstate compact or decree or to fulfill the provisions of any other formal state contract or agreement, and (D) otherwise protect the public interest and prevent detriment to the public welfare. Approval of any transfer of certified water uses or certified irrigated acres under subdivision (1)(k)(iii) or (iv) of this section shall further be subject to the district having complied with the requirements of section 46-739.01;

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

(m) It may close all or a portion of the management area to the issuance of additional permits or may condition the issuance of additional permits on compliance with other rules and regulations adopted and promulgated by the

district to achieve the purpose or purposes for which the management area was designated; and

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

(2) In adopting, amending, or repealing any control authorized by subsection (1) of this section or sections 46-740 and 46-741, the district's considerations shall include, but not be limited to, whether it reasonably appears that such action will mitigate or eliminate the condition which led to designation of the management area or will improve the administration of the area.

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

(4) If because of varying ground water uses, varying surface water uses, different irrigation distribution systems, or varying climatic, hydrologic, geologic, or soil conditions existing within a management area the uniform application throughout such area of one or more controls would fail to carry out the intent of the Nebraska Ground Water Management and Protection Act in a reasonably effective and equitable manner, the controls adopted by the district pursuant to this section may contain different provisions for different categories of ground water use or portions of the management area which differ from each other because of varying climatic, hydrologic, geologic, or soil

conditions. Any differences in such provisions shall recognize and be directed toward such varying ground water uses or varying conditions. Except as otherwise provided in this section, if the district adopts different controls for different categories of ground water use, those controls shall be consistent with section 46-613 and shall, for each such category, be uniform for all portions of the area which have substantially similar climatic, hydrologic, geologic, and soil conditions.

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

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

(b) For management areas a purpose of which is the integrated management of hydrologically connected ground water and surface water, the district may establish different provisions for water wells either permitted or constructed before the designation of a management area for integrated management of hydrologically connected ground water and surface water and for water wells either permitted or constructed on or after the designation date or any other later date or dates established by the district. Permits for construction of new wells not completed by the date of the determination of fully appropriated shall be subject to any conditions imposed by the applicable natural resources district.

(c) For a management area in a river basin or part of a river basin that is or was the subject of litigation over an interstate water compact or decree in which the State of Nebraska is a named defendant, the district may establish different provisions for restriction of water wells constructed after January 1, 2001, if such litigation was commenced before or on May 22, 2001. If such litigation is commenced after May 22, 2001, the district may establish different provisions for restriction of water wells constructed after the date on which such litigation is commenced in federal court. An appeal from a decision of the district under this subdivision shall be in accordance with the hearing procedures established in the Nebraska Ground Water Management and

Protection Act.

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

(7) If the district has included controls delineated in subdivision (1)(m) of this section in its management plan, but has not implemented such controls within two years after the initial public hearing on the controls, the district shall hold a public hearing, as provided in section 46-712, regarding the controls before implementing them.

(8) In addition to the controls listed in subsection (1) of this section, a district in which a management area has been designated may also adopt and implement one or more of the following measures if it determines that any such measures would help the district and water users achieve the goals and objectives of the management area: (a) It may sponsor nonmandatory educational programs; and (b) it may establish and implement financial or other incentive programs. As a condition for participation in an incentive program, the district may require water users or landowners to enter into and perform such agreements or covenants concerning the use of land or water as are necessary to produce the benefits for which the incentive program is established and shall further condition participation upon satisfaction of the requirements of section 46-739.01.

**Sec. 235.** Section 46-740, Reissue Revised Statutes of Nebraska, is amended to read:

46-740 (1) If allocation is adopted for use of ground water for irrigation purposes in a management area, the permissible withdrawal of ground water shall be allocated equally per irrigated acre except as permitted by subsections (4) through (6) of section 46-739. Such allocation shall specify the total number of acre-inches that are allocated per irrigated acre per year, except that the district may allow a ground water user to average his or her allocation over any reasonable period of time. A ground water user may use his or her

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

(2) Except as permitted pursuant to subsections (4) through (6) of section 46-739, if annual rotation or reduction of irrigated acres is adopted for use of ground water for irrigation purposes in a management area, the nonuse of irrigated acres shall be a uniform percentage reduction of each landowner's irrigated acres within the management area or a subarea of the management area. Such uniform reduction may be adjusted for each landowner based upon crops grown on his or her land to reflect the varying consumptive requirements between crops.

(3) Unless an integrated management plan, a rule, or an order is established, adopted, or issued prior to November 1, 2005, no integrated management plan, rule, or order shall limit the use of ground water by a municipality, within an area determined by the Chief Water Officer to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713, until January 1, 2026, except that:

(a) Any allocations to a municipality that have been made as of November 1, 2005, shall remain in full force and effect unless changed by the appropriate natural resources district;

(b)(i) For any municipality that has not received an allocation as of November 1, 2005, the minimum annual allocation may be the greater of either the amount of ground water authorized by a permit issued pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act or the governmental, commercial, and industrial uses of the municipality plus a per capita allowance. Water for commercial and industrial uses may be limited as specified in subdivision (b)(iii) of this subsection.

(ii) The per capita allowance shall be based on the location of the municipality, increasing in equal increments from east to west, and shall not be less than two hundred gallons per person per day at 95 degrees, 19 minutes, 00 seconds longitude and not less than two hundred fifty gallons per person per day at 104 degrees, 04 minutes, 00 seconds longitude. Persons served by a



municipality outside of its corporate limits shall be considered part of the municipality's population if such service begins prior to January 1, 2026.

(iii) Prior to January 1, 2026, any new or expanded single commercial or single industrial development served by any municipality within the fully appropriated or overappropriated area which, after July 14, 2006, commences water use resulting in the consumptive use of water in amounts greater than twenty-five million gallons annually may be subject to controls adopted pursuant to section 46-715;

(c) Prior to January 1, 2026, increases in the consumptive use of water by a municipality that result in a decrease in streamflow shall be addressed by the integrated management plan pursuant to controls or incentive programs adopted pursuant to section 46-715 and shall not affect the municipal allocations outlined in subdivisions (3)(a) and (b) of this section. Any permanent reduction in consumptive use of water associated with municipal growth, including governmental, industrial, and commercial growth, during the period between July 14, 2006, and January 1, 2026, shall accrue to the benefit of the natural resources district within which such municipality is located; and

(d) To qualify for the exemption specified in subsection (3) of this section, any city of the metropolitan class, city of the primary class, city of the first class, or city of the second class shall file a conservation plan with the natural resources district, if required by the integrated management plan. Villages and other municipalities smaller than a city of the second class shall not be required to submit a conservation plan to qualify for such exemption.

(4) On and after January 1, 2026, the base amount for an annual allocation to a municipality shall be determined as the greater of either (a) the amount of water authorized by a permit issued pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act or (b) the greatest annual use prior to January 1, 2026, for uses specified in subdivision (3)(b) of this section plus the per capita allowance described in subdivision (3)(b)(ii) of this

section. On and after January 1, 2026, increases in the consumptive use of water by a municipality that result in a decrease in streamflow shall be addressed by the integrated management plan pursuant to controls or incentive programs adopted pursuant to section 46-715. Each municipality may be subject to controls adopted pursuant to such section for amounts in excess of the allocations.

(5) Unless an integrated management plan, rule, or order is established, adopted, or issued prior to November 1, 2005, no integrated management plan, rule, or order shall limit the use of ground water by a nonmunicipal commercial or industrial water user within an area determined by the Department of Natural Resources as it existed prior to July 1, 2025, or the Chief Water Officer to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713, until January 1, 2026, except that:

(a) Prior to January 1, 2026, the minimum annual allocation for a nonmunicipal commercial or industrial user shall be the greater of either (i) the amount specified in a permit issued pursuant to the Industrial Ground Water Regulatory Act or (ii) the amount necessary to achieve the commercial or industrial use, including all new or expanded uses that consume less than twenty-five million gallons annually. Any increases in the consumptive use of water by a nonmunicipal commercial or industrial water user that result in a decrease in streamflow shall be addressed by the integrated management plan pursuant to controls or incentive programs adopted pursuant to section 46-715;

(b) Prior to January 1, 2026, any new or expanded single commercial or industrial development served by a nonmunicipal well within an area determined by the Department of Natural Resources as it existed prior to July 1, 2025, or the Chief Water Officer to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 which, after July 14, 2006, commences water use resulting in the consumptive use of water in amounts greater than twenty-five million gallons annually may be subject to controls adopted pursuant to section 46-715. This subdivision does not apply to a water user described in this subdivision that is regulated by the Industrial Ground

Water Regulatory Act and the United States Nuclear Regulatory Commission;

(c) On and after January 1, 2026, the base amount for an annual allocation to a nonmunicipal commercial or industrial user within an area determined by the Chief Water Officer to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 shall be the amount specified in subdivision (5)(a) or (b) of this section;

(d) On and after January 1, 2026, increases in the consumptive use of water by a nonmunicipal commercial or industrial water user that result in a decrease in streamflow shall be addressed by the integrated management plan pursuant to controls or incentive programs adopted pursuant to section 46-715; and

(e) Any reduction in consumptive use associated with new nonmunicipal industrial or commercial uses of less than twenty-five million gallons, during the period between July 14, 2006, and January 1, 2026, shall accrue to the benefit of the natural resources district within which such nonmunicipal industrial or commercial user is located.

**Sec. 236.** Section 46-742, Reissue Revised Statutes of Nebraska, is amended to read:

46-742 (1) Whenever the drilling of new wells has been stayed pursuant to section 46-714, ground water withdrawn outside the affected area shall not be transported for use inside such area unless (a) such withdrawal and transport began before the stay took effect, (b) the water is used solely for domestic purposes, or (c) such withdrawal and transport is approved in advance by the district in which the stay is in effect and, if the water is withdrawn in another natural resources district, by the other district.

(2) Whenever a natural resources district pursuant to subdivision (1)(m) of section 46-739 has closed all or part of the district to the issuance of additional well permits, ground water withdrawn outside the affected area shall not be transported for use inside such area unless (a) such withdrawal and transport began before the affected area was closed to the issuance of additional well permits, (b) the water is used solely for domestic purposes, or

(c) such withdrawal and transport is approved in advance by the district that closed the affected area to additional well permits and, if the water is withdrawn in another natural resources district, by the other district.

(3) If a proposed withdrawal and transport of water under subsection (1) or (2) of this section is intended for municipal purposes, the natural resources district shall approve the withdrawal and transport of ground water into the affected area when a public water supplier providing water for municipal purposes receives a permit from the Chief Water Officer pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act.

**Sec. 237.** Section 46-743, Reissue Revised Statutes of Nebraska, is amended to read:

46-743 Any public hearing required under the Nebraska Ground Water Management and Protection Act shall comply with the following requirements:

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

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

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

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

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

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

(7) The hearing shall include testimony of a representative of the department and shall include the results of any relevant water quality studies or investigations conducted by the district.

**Sec. 238.** Section 46-744, Reissue Revised Statutes of Nebraska, is amended to read:

46-744 Any order adopted pursuant to section 46-712, 46-718, 46-719, 46-725, or 46-726 shall be published once each week for three consecutive weeks in a local newspaper published or of general circulation in the area involved, the last publication of which shall be not less than seven days prior to the date set for the effective date of the order. The publication shall provide a general description of the text of all controls adopted or amended and shall identify all locations where a copy of the full text of the proposed controls may be obtained. The full text of all controls adopted shall be available to the public upon request at least thirty days prior to the effective date of the controls.

Such order shall become effective on the date specified by the adopting district, Chief Water Officer, department, or board, as applicable.

**Sec. 239.** Section 46-745, Reissue Revised Statutes of Nebraska, is amended to read:

46-745 (1) Any person who violates a cease and desist order issued by a district pursuant to section 46-707 shall be subject to a civil penalty of not less than one thousand dollars and not more than five thousand dollars for each day an intentional violation occurs. In assessing the amount of the civil penalty, the court shall consider the degree and extent of the violation, the size of the operation, whether the violator has been previously convicted or subjected to a civil penalty under this section, and any economic benefit

derived from noncompliance. Any civil penalty assessed and unpaid shall constitute a debt to the state which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The court shall remit the civil penalty to the State Treasurer, within thirty days after receipt, for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

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

(b) Any determination as to whether a water well is properly registered under sections 46-602 to 46-604 shall be made by the department. Any determination as to whether a water well is properly permitted under the Municipal and Rural Domestic Ground Water Transfers Permit Act shall be made by the Chief Water Officer.

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

(4) The Department of Justice Natural Resources Enforcement Fund is created. The fund shall consist of money credited pursuant to subsection (3) of this section. Money in the fund shall be used to reimburse the office of the

Attorney General for the costs incurred in enforcing this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Sec. 240.** Section 46-746, Reissue Revised Statutes of Nebraska, is amended to read:

46-746 (1) Any person who violates any cease and desist order issued by a district pursuant to section 46-707 or any controls, rules, or regulations adopted by a natural resources district relating to a management area shall be subject to the imposition of penalties imposed through the controls adopted by the district, including, but not limited to, having any allocation of water granted or irrigated acres certified by the district reduced in whole or in part. Before a district takes any action, notice and hearing shall be provided to such person.

(2) Any person who violates any of the provisions of sections 46-721 to 46-733 for which a penalty is not otherwise provided, other than the requirements imposed on a district, the Chief Water Officer of the Department of Water, Energy, and Environment, the Director of Water, Energy, and Environment, or the department, shall be subject to a civil penalty of not more than five hundred dollars. Each day of continued violation shall constitute a separate offense.

**Sec. 241.** Section 46-748, Reissue Revised Statutes of Nebraska, is amended to read:

46-748 The Chief Water Officer shall adopt and promulgate, in accordance with the Administrative Procedure Act, such rules and regulations as are necessary to the discharge of duties assigned to the Chief Water Officer by the Nebraska Ground Water Management and Protection Act.

**Sec. 242.** Section 46-749, Reissue Revised Statutes of Nebraska, is amended to read:

46-749 In the administration of the Nebraska Ground Water Management and Protection Act, all actions of the Director of Water, Energy, and Environment,

the Chief Water Officer, and the districts shall be consistent with the provisions of section 46-613.

**Sec. 243.** Section 46-750, Reissue Revised Statutes of Nebraska, is amended to read:

46-750 Any person aggrieved by any order of the district, the Chief Water Officer, or the Director of Water, Energy, and Environment issued pursuant to the Nebraska Ground Water Management and Protection Act may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

**Sec. 244.** Section 46-751, Reissue Revised Statutes of Nebraska, is amended to read:

46-751 All fees paid to the Chief Water Officer pursuant to the Nebraska Ground Water Management and Protection Act shall be remitted to the State Treasurer for credit to the Ground Water Management Fund which is hereby created and which shall be administered by the Chief Water Officer. Any money credited to the fund may be utilized by the Chief Water Officer for payments of expenses incurred in the administration of the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Sec. 245.** Section 46-753, Reissue Revised Statutes of Nebraska, is amended to read:

46-753 (1) The Water Resources Trust Fund is created. The State Treasurer shall credit to the fund such money as is specifically appropriated thereto by the Legislature, transfers authorized by the Legislature, and such funds, fees, donations, gifts, or bequests received by the department from any federal, state, public, or private source for expenditure for the purposes described in the Nebraska Ground Water Management and Protection Act. Money in the fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any fiscal year or biennium. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds



Investment Act.

(2) The fund shall be administered by the Chief Water Officer. The Chief Water Officer may adopt and promulgate rules and regulations regarding the allocation and expenditure of money from the fund.

(3) Money in the fund may be expended by the Chief Water Officer for costs incurred by the Chief Water Officer, by natural resources districts, or by other political subdivisions in (a) determining whether river basins, subbasins, or reaches are fully appropriated in accordance with section 46-713, (b) developing or implementing integrated management plans for such fully appropriated river basins, subbasins, or reaches or for river basins, subbasins, or reaches designated as overappropriated in accordance with section 46-713, (c) developing or implementing integrated management plans in river basins, subbasins, or reaches which have not yet become either fully appropriated or overappropriated, or (d) attaining state compliance with an interstate water compact or decree or other formal state contract or agreement.

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

**Sec. 246.** Section 46-754, Reissue Revised Statutes of Nebraska, is amended to read:

46-754 The Interrelated Water Management Plan Program is created for the purpose of facilitating and funding the duties of districts arising under the Nebraska Ground Water Management and Protection Act. The program shall function as a grant program administered by the Nebraska Natural Resources Commission and the Chief Water Officer upon recommendations of the commission using funds

appropriated for the program. The commission shall develop guidelines and limitations for grant requests for funding such district's duties, including studies required to carry out those duties. Grant requests shall be made to the commission for review in a manner and form prescribed by the commission. The amounts requested and approved shall be supported by a minimum local revenue match comprising twenty percent of the total project cost. The Chief Water Officer shall expend funds to implement the commission's recommendations for fiscal support under the program only upon the commission's approval.

**Sec. 247.** Section 46-755, Reissue Revised Statutes of Nebraska, is amended to read:

46-755 This section shall apply notwithstanding any other provision of the Nebraska Ground Water Management and Protection Act.

(1) If a river basin as described in subdivision (2)(a) of section 2-1504 includes three or more natural resources districts that, pursuant to subdivision (1)(a) of section 46-715, have been or are required to develop an integrated management plan for all or substantially all (eighty-five percent) of the district, such natural resources districts shall, jointly with the Chief Water Officer and the natural resources districts within the same basin, develop and adopt a basin-wide plan for the areas of a basin, subbasin, or reach determined by the department to have hydrologically connected water supplies, except that any natural resources district that has developed and implemented a basin-wide plan pursuant to subsection (5) of section 46-715 shall not be affected by this section. If deemed appropriate by the Chief Water Officer and the affected natural resources districts, the basin-wide plan may combine two or more river basins.

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

(3) A basin-wide plan shall be completed, adopted, and take effect within three years after April 17, 2014, unless the Chief Water Officer and the natural resources districts jointly agree to an extension of not more than an additional two years.

(4) A basin-wide plan shall (a) have clear goals and objectives with a purpose of sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety, and welfare of the river basin, subbasin, or reach can be achieved and maintained for both the near term and the long term, (b) ensure that compliance with any interstate compact or decree or other formal state contract or agreement or applicable state or federal law is maintained, and (c) set forth a timeline to meet the goals and objectives as required under this subdivision, but in no case shall a timeline exceed thirty years after April 17, 2014.

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

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

established end date.

(c) A basin-wide plan shall be developed using a consultation and collaboration process involving representatives from irrigation districts, reclamation districts, public power and irrigation districts, mutual irrigation companies, canal companies, ground water users, range livestock owners, the Game and Parks Commission, and municipalities that rely on water from within the affected area and that, after being notified of the commencement of the plan development process, indicate in writing their desire to become an official participant in such process. The Chief Water Officer and affected natural resources districts shall involve official participants in formulating, evaluating, and recommending plans and management actions and work to reach an agreement among all official participants involved in a basin-wide plan. In addition, the Chief Water Officer or the affected natural resources districts may include designated representatives of other stakeholders. If agreement is reached by all parties involved in such consultation and collaboration process, the Chief Water Officer and the affected natural resources districts shall adopt the agreed-upon basin-wide plan. If agreement cannot be reached by all parties involved, the basin-wide plan shall be developed and adopted by the Chief Water Officer and the affected natural resources districts or by the Interrelated Water Review Board pursuant to section 46-719.

(d) Within five years after the adoption of the basin-wide plan, and every five years thereafter, the Chief Water Officer and affected natural resources districts shall conduct a technical analysis of the actions taken in a river basin to determine the progress towards meeting the goals and objectives of the plan. The analysis shall include an examination of (i) available supplies, current uses, and changes in long-term water availability, (ii) the effects of conservation practices and natural causes, including, but not limited to, drought, and (iii) the effects of the plan in meeting the goal of sustaining a balance between water uses and water supplies. The analysis shall determine if changes or modifications to the basin-wide plan are needed to meet the goals and objectives pursuant to subdivision (4)(a) of this section. The Chief Water

Officer and affected natural resources districts shall present the results of the analysis and any recommended modifications to the plan at a public meeting and shall provide for at least a thirty-day public comment period before holding a public hearing on the recommended modifications. The Chief Water Officer shall submit a report to the Legislature of the results of this analysis and the progress made under the basin-wide plan. The report shall be submitted electronically. Any official participant or stakeholder may submit comments to the Chief Water Officer and affected natural resources districts on the final basin-wide plan adopted by the Chief Water Officer and affected natural resources districts, which shall be made a part of the report to the Legislature.

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

(f) The Chief Water Officer and the affected natural resources districts may utilize, when necessary, the Interrelated Water Review Board process provided in section 46-719 for disputes arising from developing, implementing, and enforcing a basin-wide plan developed under this section.

**Sec. 248.** Section 46-801, Reissue Revised Statutes of Nebraska, is amended to read:

46-801 No person shall drain, lower, or in any manner reduce or divert the water supply of any natural or perennial lake, if the area exceeds twenty acres at low water stage or if the lake is of such depth and character as to have more economic importance for aquaculture, hunting, or other purpose than the bed of such lake would have for agricultural purposes. Any person intending to

drain, lower, divert, or in any way reduce the waters or water supply of any natural or perennial lake shall, before commencing the construction of any such work for drainage or diversion, make application to the Chief Water Officer of the Department of Water, Energy, and Environment for a permit to do so.

**Sec. 249.** Section 46-802, Reissue Revised Statutes of Nebraska, is amended to read:

46-802 On the receipt of such application in the form prescribed by the Chief Water Officer, the Chief Water Officer shall cause the same to be recorded in the Chief Water Officer's office. The Chief Water Officer shall make a careful examination to ascertain whether it sets forth all the facts necessary to enable the Chief Water Officer to determine the nature and extent of the proposed work of drainage and diversion. If such an examination shows the application to be in any way defective, the Chief Water Officer shall return the same to the applicant for correction.

**Sec. 250.** Section 46-803, Reissue Revised Statutes of Nebraska, is amended to read:

46-803 If the proposed work of drainage or diversion will not result in injury or damage to any person and will not be otherwise detrimental to the public welfare but will result in economic benefit to the state, the Chief Water Officer shall approve the same by endorsement thereon. The Chief Water Officer shall make a record of such endorsement thereon in some proper manner in the Chief Water Officer's office. The Chief Water Officer shall also return the same so endorsed to the applicant. Such applicant shall, upon receipt thereof, be authorized to proceed with the work and to take such measures as may be necessary to its completion.

**Sec. 251.** Section 46-804, Reissue Revised Statutes of Nebraska, is amended to read:

46-804 If it appears to the Chief Water Officer that the proposed works of drainage or diversion will result in injury or damage to any person or will be detrimental to the public welfare and not result in economic benefit to the state, the Chief Water Officer shall refuse to approve the application. The

party making such application shall not prosecute such work so long as such refusal shall continue in force.

**Sec. 252.** Section 46-1001, Reissue Revised Statutes of Nebraska, is amended to read:

46-1001 As used in sections 46-1001 to 46-1020, unless the context otherwise requires:

(1) District means a rural water district organized pursuant to sections 46-1001 to 46-1020;

(2) Board means the governing body of a district;

(3) The terms county board and county clerk mean, respectively, the county board and county clerk of the county in which the greatest portion of the territory of any existing or proposed rural water district is located;

(4) Participating member means an individual, firm, partnership, limited liability company, association, or corporation which owns land located within a district and which has subscribed to one or more benefit units of such district; and

(5) Chief Water Officer means the Chief Water Officer of the Department of Water, Energy, and Environment.

**Sec. 253.** Section 46-1004, Reissue Revised Statutes of Nebraska, is amended to read:

46-1004 Whenever a petition as provided in section 46-1003 is filed with the county clerk, the county clerk shall thereupon give notice to the county board of the filing and pendency of such petition and the county board shall forthwith fix a time and place within thirty days after the date of filing of the petition for a hearing of the same, and the county clerk shall, at least seven days before the date fixed for such hearing, give or send by registered or certified mail written notice thereof to each of the petitioners and shall transmit to the Chief Water Officer one copy of the petition and notice of the time and place the same is set for consideration. The county clerk shall also, at least seven days before the date fixed for such hearing, cause to be published in a newspaper of general circulation in the county a notice of the

hearing. The published notice shall (1) define the boundaries of the proposed district; (2) state the time and place of hearing; (3) state that all owners of land within such boundaries may appear and be heard; and (4) state that a rural water district, if incorporated, shall have no power or authority to levy any taxes whatsoever.

**Sec. 254.** Section 46-1005, Reissue Revised Statutes of Nebraska, is amended to read:

46-1005 At the time and place set for the hearing and consideration of the petition, it shall be the duty of the county board to ascertain (1) whether proper notice of the hearing has been given to the signers of the petition, the Chief Water Officer, and the landowners in the district as required by section 46-1004; (2) whether lands within the area defined in the petition are without an adequate water supply; (3) whether the construction and maintenance of ponds, reservoirs, pipelines, wells, check dams, pumping installations, or any other facility for the storage, transportation, or utilization of water or the construction and maintenance of any combination of such proposed projects are necessary for the improvement of the area. The county board shall make no affirmative finding that any proposed project is necessary if the construction and maintenance of such project would encourage the cultivation of lands which are submarginal and which should be devoted to other uses in the public interest. The county board shall make no affirmative finding that any proposed project is necessary unless the Chief Water Officer has approved such project; (4) whether such improvement or works will be conducive to and will tend to promote the public health, convenience, and welfare; and (5) whether the boundaries of the proposed district lie within five miles of any incorporated city or village and whether approval for incorporation of the district has been given by the governing body of such city or village. If upon such consideration it is found that such petition is in conformity with the requirements of sections 46-1001 to 46-1020, the county board shall thereupon immediately declare the district within the boundaries defined in the petition to constitute a public corporation and to be incorporated as a rural water



district under the name of Rural Water District No. ...., ..... County, Nebraska (inserting number in order of incorporation and name of county) and thereupon shall enter upon its records full minutes of such hearing, together with a declaration that thenceforth such district shall constitute a body politic and corporate under such corporate name for the purposes of sections 46-1001 to 46-1020.

**Sec. 255.** Section 46-1011, Reissue Revised Statutes of Nebraska, is amended to read:

46-1011 Plans and specifications for any proposed improvement authorized by sections 46-1001 to 46-1020 shall be filed with the Chief Water Officer, the Department of Water, Energy, and Environment, and the secretary of the district. No construction of any such improvement shall begin until the plans and specifications for such improvement have been approved by the Chief Water Officer, except that if the improvement involves a public water system as defined in section 71-5301, only the department shall be required to review the plans and specifications for such improvement and approve the same if in compliance with the Nebraska Safe Drinking Water Act and departmental regulations adopted thereunder.

The total benefits of any such improvement shall be divided into a suitable number of benefit units. Each landowner within the district shall subscribe to a number of such units in proportion to the extent he or she desires to participate in the benefits of the improvements. As long as the capacity of the district's facilities permits, participating members of the district may subscribe to additional units upon payment of a unit fee for each such unit. Owners of land located within the district who are not participating members may subscribe to such units as the board in its discretion may grant, and upon payment of the unit fee for each such unit shall be entitled to the same rights as original participating members. If the capacity of the district's facilities permits, the district may sell water to persons engaged in hauling water and to any political subdivision organized under the laws of the State of Nebraska.

**Sec. 256.** Section 46-1023, Reissue Revised Statutes of Nebraska, is amended to read:

46-1023 Whenever a petition as provided in section 46-1022 is filed with the county clerk, the county clerk shall thereupon give notice to the county board of the filing and pendency of such petition and the county board shall forthwith fix a time and place within thirty days after the date of filing of the petition for a hearing of the same, and the county clerk shall, at least seven days before the date fixed for such hearing, give or send by registered or certified mail written notice thereof to the chairperson of each district seeking consolidation and shall transmit to the Chief Water Officer one copy of the petition and notice of the time and place the same is set for hearing. The county clerk shall also, at least seven days before the date fixed for such hearing, cause a notice of the hearing to be published in a newspaper of general circulation in the county. The published notice shall (1) identify by name the districts seeking consolidation; (2) state the time and place of the hearing; (3) state that all interested persons may appear and be heard; and (4) state that a consolidated water district shall have no power or authority to levy any taxes whatsoever.

**Sec. 257.** Section 46-1102, Reissue Revised Statutes of Nebraska, is amended to read:

46-1102 The Legislature finds that the use of chemigation throughout the state is increasing and that, although chemigation provides a viable alternative to other means of chemical application, if an irrigation distribution system is not properly equipped or if a chemical is not used with proper precautions, there exists a potential to contaminate the water.

The Legislature also finds that complete information as to the occurrences and use of chemigation in this state is essential to the development of a sound state water management policy.

For these reasons, the Legislature deems it necessary to provide the natural resources districts and the Department of Water, Energy, and Environment with the authority to document, monitor, regulate, and enforce

chemigation practices in Nebraska.

**Sec. 258.** Section 46-1108, Reissue Revised Statutes of Nebraska, is amended to read:

46-1108 Department shall mean the Department of Water, Energy, and Environment.

**Sec. 259.** Section 46-1109, Reissue Revised Statutes of Nebraska, is amended to read:

46-1109 Director shall mean the Director of Water, Energy, and Environment.

**Sec. 260.** Section 46-1204.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1204.01 Abandoned water well means any water well (1) the use of which has been accomplished or permanently discontinued, (2) which has been decommissioned as described in the rules and regulations of the department, and (3) for which the notice of abandonment required by subsection (2) of section 46-602 has been filed with the department by the licensed water well contractor or licensed pump installation contractor who decommissioned the water well or by the water well owner if the owner decommissioned the water well.

**Sec. 261.** Section 46-1207, Reissue Revised Statutes of Nebraska, is amended to read:

46-1207 Department means the Department of Water, Energy, and Environment.

**Sec. 262.** Section 46-1217, Reissue Revised Statutes of Nebraska, is amended to read:

46-1217 (1) There is hereby created a Water Well Standards and Contractors' Licensing Board. The board shall be composed of ten members, six of whom shall be appointed by the Governor as follows: (a) A licensed water well contractor representing irrigation water well contractors, (b) a licensed water well contractor representing domestic water well contractors, (c) a licensed water well contractor representing municipal and industrial water well contractors, (d) a licensed pump installation contractor, (e) a manufacturer or supplier of water well or pumping equipment, and (f) a holder of a license

issued under the Water Well Standards and Contractors' Practice Act employed by a natural resources district. The chief executive officer of the Department of Health and Human Services or his or her designated representative, the Director of Water, Energy, and Environment or his or her designated representative, and the director of the Conservation and Survey Division of the University of Nebraska or his or her designated representative shall also serve as members of the board.

(2) Each member shall be a resident of the state. Each industry representative shall have had at least five years of experience in the business of his or her category prior to appointment and shall be actively engaged in such business at the time of appointment and while serving on the board. Each member representing a category subject to licensing under the Water Well Standards and Contractors' Practice Act shall be licensed by the department pursuant to such act. In making appointments, the Governor may consider recommendations made by the trade associations of each category.

**Sec. 263.** Section 46-1222, Reissue Revised Statutes of Nebraska, is amended to read:

46-1222 No board member shall take any action or make any decision in the discharge of the duties of a member of the board that may constitute a conflict of interest. As soon as a member is aware of a potential conflict or should reasonably be aware of such potential conflict, whichever is sooner, the member shall submit a written statement to the Director of Water, Energy, and Environment describing the matter requiring action or decision and the nature of the potential conflict. The member shall take such action as the director shall advise or prescribe to remove the member from influence over the action or decision on the matter. For purposes of this section, conflict of interest includes financial, professional, or personal obligations that may compromise or present the appearance of compromising the judgment of a member in the performance of the duties of a member of the board. The director may establish a definition of conflicts of interest for members of the board and may establish procedures in case such a conflict arises.

**Sec. 264.** Section 46-1224, Reissue Revised Statutes of Nebraska, is amended to read:

46-1224 (1) Except as otherwise provided in subsections (3) and (4) of this section, the board shall set reasonable fees in an amount calculated to recover the costs incurred by the department and the board in administering and carrying out the purposes of the Water Well Standards and Contractors' Practice Act. Such fees shall be paid to the department and remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund, which fund is hereby created. Such fund shall be used by the department and the board for the purpose of administering the Water Well Standards and Contractors' Practice Act. Additionally, such fund shall be used to pay any required fee to a contractor which provides the online services for registration of water wells. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The board shall set fees for licensing individuals under the Water Well Standards and Contractors' Practice Act for application for, issuance of, and renewal of licenses. The fees shall be waived for initial licenses for low-income individuals, military families, and young workers as those terms are defined in the Uniform Credentialing Act.

(3) The board shall set a fee of not less than twenty-five dollars and not more than forty dollars for each water well which is required to be registered and which is designed and constructed to pump fifty gallons per minute or less and each monitoring and observation well and a fee of not less than forty dollars and not more than eighty dollars for each water well which is required to be registered and which is designed and constructed to pump more than fifty gallons per minute. For water wells permitted pursuant to the Industrial Ground

Water Regulatory Act, the fee set pursuant to this subsection shall be collected for each of the first ten such water wells registered, and for each group of ten or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. For a series of two or more water wells completed and pumped into a common carrier, as defined in section 46-601.01, as part of a single site plan for irrigation purposes, the fee set pursuant to this subsection shall be collected for each of the first two such water wells registered. For a series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground, the fee set pursuant to this subsection shall be collected as if only one water well was being registered. For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground and for water wells constructed as part of remedial action approved by the department pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected for each of the first five such water wells registered, and for each group of five or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. The fees shall be remitted to the department with the registration form required by section 46-602 and shall be in addition to the fee in section 46-606. The department shall remit the fee to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

(4) The board shall set an application fee for a declaratory ruling or variance of not less than fifty dollars and not more than one hundred dollars. The fee shall be remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

**Sec. 265.** Section 46-1235, Reissue Revised Statutes of Nebraska, is amended to read:

46-1235 In cases other than those relating to failure to meet the requirements for an initial license, the Director of Water, Energy, and

Environment may deny, refuse renewal of, suspend, or revoke licenses or may take other disciplinary action following notice and an opportunity for a hearing for any of the following acts or offenses:

(1) Violation of the Water Well Standards and Contractors' Practice Act or any standards, rules, or regulations adopted and promulgated pursuant to such act;

(2) Fraud or deception by the applicant or licensee;

(3) Failure to exercise reasonable care in the practice of the trade;

(4) Inability to properly perform the practice of the trade;

(5) Failure to comply with continuing education requirements for licensure under the act;

(6) Conduct or practices detrimental to the health or safety of persons hiring the services of the licensee or of members of the general public;

(7) Practice of the trade while the license to do so is suspended or practice of the trade in contravention of any limitation placed upon the license;

(8) Failing to file a water well registration required by subsection (1), (2), (3), (4), or (5) of section 46-602 or failing to file a notice required by subsection (7) of such section; or

(9) Failing to file a properly completed notice of abandonment of a water well required by subsection (8) of section 46-602.

**Sec. 266.** Section 46-1301, Reissue Revised Statutes of Nebraska, is amended to read:

46-1301 The Legislature finds that (1) existing monitoring of ground water quality performed by natural resources districts is excellent and deserves recognition, (2) substantial efforts have been undertaken by the Department of Water, Energy, and Environment to monitor surface water quality, and (3) it is within the state's capacity to develop a comprehensive, integrated statewide water quality monitoring system.

**Sec. 267.** Section 46-1304, Reissue Revised Statutes of Nebraska, is amended to read:

46-1304 The Department of Water, Energy, and Environment shall prepare a report outlining the extent of ground water quality monitoring conducted by natural resources districts during the preceding calendar year. The department shall analyze the data collected for the purpose of determining whether or not ground water quality is degrading or improving and shall present the results electronically to the Natural Resources Committee of the Legislature beginning December 1, 2001, and each year thereafter. The districts shall submit in a timely manner all ground water quality monitoring data collected to the department or its designee. The department shall use the data submitted by the districts in conjunction with all other readily available and compatible data for the purposes of the annual ground water quality trend analysis.

**Sec. 268.** Section 46-1403, Reissue Revised Statutes of Nebraska, is amended to read:

46-1403 There is hereby created the Water Well Decommissioning Fund. The State Treasurer shall credit to the fund for the uses and purposes of sections 46-1401 to 46-1405 such money as is specifically appropriated and such funds, fees, donations, gifts, services, or devises or bequests of real or personal property received by the Department of Water, Energy, and Environment from any source, federal, state, public, or private, to be used by the department for the purpose of accelerating the decommissioning of illegal water wells. The department shall allocate money from the fund for purposes of sections 46-1401 to 46-1405. The fund shall be exempt from provisions relating to lapsing of appropriations. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Water Well Decommissioning Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Sec. 269.** Section 46-1404, Reissue Revised Statutes of Nebraska, is amended to read:

46-1404 The Water Well Decommissioning Fund shall be allocated by contractual agreement with natural resources districts for the purpose of



accelerating the decommissioning of illegal water wells throughout the state. The allocations each fiscal year shall be made by the Department of Water, Energy, and Environment to natural resources districts in a proportion based on the number of illegal water wells decommissioned in each district in the previous fiscal year which were part of the district's cost-share program to the total number of illegal water wells decommissioned in the state in the previous fiscal year which were part of a district cost-share program. Subsequent allocations for any district which has had a cost-share program for three or more consecutive years shall be based upon the previous three-year average. The allocations may be adjusted on or after March 1 of any year if the Director of Water, Energy, and Environment determines that one or more districts cannot reasonably be expected to use their full allocation for that fiscal year. Actual disbursement to each district shall be on a reimbursement basis and shall not exceed the amount expended by the district consistent with sections 46-1401 to 46-1405. The Nebraska Natural Resources Commission shall adopt and promulgate rules and regulations to carry out such sections.

**Sec. 270.** Section 46-1502, Reissue Revised Statutes of Nebraska, is amended to read:

46-1502 For purposes of the Wellhead Protection Area Act:

(1) Controlling entity means a city, a village, a natural resources district, a rural water district, any other entity, including, but not limited to, a privately owned public water supply system, or any combination thereof operating under an agreement pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act that operates a public water supply system;

(2) Department means the Department of Water, Energy, and Environment;

(3) Director means the Director of Water, Energy, and Environment; and

(4) Wellhead protection area means the surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

**Sec. 271.** Section 46-1605, Reissue Revised Statutes of Nebraska, is

amended to read:

46-1605 Alterations means alterations to an existing dam that directly affect the safety of the dam or reservoir, as determined by the Chief Water Officer, but does not include maintenance and repair of the dam to retain its initial structural integrity.

**Sec. 272.** Section 46-1606, Reissue Revised Statutes of Nebraska, is amended to read:

46-1606 Application approval means authorization in writing issued by the Chief Water Officer to an owner who has applied to the Chief Water Officer for permission to construct, reconstruct, enlarge, alter, breach, remove, or abandon a dam and which specifies the conditions or limitations under which work is to be performed by the owner or under which approval is granted.

**Sec. 273.** Section 46-1607, Reissue Revised Statutes of Nebraska, is amended to read:

46-1607 Approval to operate means authorization in writing issued by the Chief Water Officer to an owner who has completed construction, reconstruction, enlargement, or alteration of a dam.

**Sec. 274.** Section 46-1611, Reissue Revised Statutes of Nebraska, is amended to read:

46-1611 (1) Dam means any artificial barrier, including appurtenant works, with the ability to impound water, wastewater, or liquid-borne materials and which (a) is twenty-five feet or more in height from the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier if it is not across a stream channel or watercourse, to the maximum storage elevation or (b) has an impounding capacity at maximum storage elevation of fifty acre-feet or more, except that any barrier described in this subsection which is not in excess of six feet in height or which has an impounding capacity at maximum storage elevation of not greater than fifteen acre-feet shall be exempt, unless such barrier, due to its location or other physical characteristics, is classified as a high hazard potential dam.

(2) Dam does not include:

(a) An obstruction in a canal used to raise or lower water;

(b) A fill or structure for highway or railroad use, but if such structure serves, either primarily or secondarily, additional purposes commonly associated with dams it shall be subject to review by the Chief Water Officer;

(c) Canals, including the diversion structure, and levees; or

(d) Water storage or evaporation ponds regulated by the United States Nuclear Regulatory Commission.

**Sec. 275.** Section 46-1613, Reissue Revised Statutes of Nebraska, is amended to read:

46-1613 Department means the Department of Water, Energy, and Environment.

**Sec. 276.** Section 46-1614, Reissue Revised Statutes of Nebraska, is amended to read:

46-1614 Chief Water Officer means the Chief Water Officer of the Department of Water, Energy, and Environment.

**Sec. 277.** Section 46-1636, Reissue Revised Statutes of Nebraska, is amended to read:

46-1636 The Safety of Dams and Reservoirs Act does not relieve the owner or operator of a dam or reservoir from obtaining any necessary approvals from the Chief Water Officer under sections 46-233 to 46-241 or from any other local, state, or federal regulatory authority.

**Sec. 278.** Section 46-1637, Reissue Revised Statutes of Nebraska, is amended to read:

46-1637 (1) Except as provided in subsections (2) and (4) of this section, no city, village, or county may, by ordinance or resolution enacted by the legislative body thereof or adopted by the people, (a) regulate, supervise, or provide for the regulation or supervision of any dams and associated reservoirs or the construction, reconstruction, enlargement, repair, alteration, operation, breach, removal, or abandonment thereof or (b) limit the size or the impounding capacity of a dam if such action would conflict with the power and authority vested in the Chief Water Officer pursuant to the Safety of Dams and

Reservoirs Act.

(2) A city, village, or county may adopt ordinances or resolutions (a) regulating, supervising, or providing for the regulation or supervision of dams and reservoirs that are not within the state's jurisdiction and are not subject to regulation, owned, or operated by another public agency or body or (b) which apply only to adjacent structures not germane to the safety of the dam, such as, but not limited to, roads and fences.

(3) A city, village, or county may institute overlay zoning precluding construction of structures downstream of a state-permitted dam that is classified as having other than a high hazard potential if a breach-inundation study performed by an engineer, in accordance with generally accepted engineering practice, determines that construction of such structures would require that such dam be reclassified as having a high hazard potential. The owners of such dam shall provide such engineering study as a condition to requesting such overlay zoning.

(4) The Safety of Dams and Reservoirs Act does not preempt or supersede any local zoning ordinances, resolutions, rules, or regulations regarding special use permits enacted by a political subdivision with respect to permit applications for livestock waste control facilities.

**Sec. 279.** Section 46-1639, Reissue Revised Statutes of Nebraska, is amended to read:

46-1639 (1) No action shall be brought against the state, the Chief Water Officer, the department, or its agents or employees for the recovery of damages caused by the partial or total failure of any dam by reason of control and regulation thereof pursuant to the Safety of Dams and Reservoirs Act, including, but not limited to, any of the following:

(a) Design and construction application approval of the dam or approval of interim flood routing plans during construction, reconstruction, enlargement, alteration, breach, removal, or abandonment;

(b) The issuance or enforcement of orders relative to maintenance or operation of the dam;

(c) Control and regulation of the dam;

(d) Measures taken to protect against failure of the dam during an emergency, except for negligent acts of the department or the Chief Water Officer in assuming control of a dam during an emergency; or

(e) Failure to act.

(2) The Safety of Dams and Reservoirs Act does not relieve an owner or operator of a dam of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam.

**Sec. 280.** Section 46-1640, Reissue Revised Statutes of Nebraska, is amended to read:

46-1640 The findings and orders of the Chief Water Officer, an application approval, and an approval to operate any dam issued by the Chief Water Officer are final, conclusive, and binding upon all owners and state agencies, regulatory or otherwise, as to the safety of design, construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of any dam.

The Chief Water Officer may report all dam incidents as defined by the National Performance of Dams Program to the National Performance of Dams Program archive.

**Sec. 281.** Section 46-1641, Reissue Revised Statutes of Nebraska, is amended to read:

46-1641 The owner of any dam subject to the Safety of Dams and Reservoirs Act shall notify the Chief Water Officer of any change in the ownership of the dam. Notification shall be in such form and include such evidence of ownership as the Chief Water Officer may by rule and regulation require.

**Sec. 282.** Section 46-1642, Reissue Revised Statutes of Nebraska, is amended to read:

46-1642 An applicant for a permit for a livestock waste control facility which includes a dam, holding pond, or lagoon for which approval by the Chief Water Officer is not otherwise required but for which approval under section 54-2429 is required shall submit an application for approval along with plans,

drawings, and specifications to the Chief Water Officer and obtain approval from the Chief Water Officer before beginning construction. The Chief Water Officer shall approve or deny the dam, holding pond, or lagoon pursuant to this section within sixty days after such application is submitted.

**Sec. 283.** Section 46-1645, Reissue Revised Statutes of Nebraska, is amended to read:

46-1645 When the safety and technical considerations pertaining to an application approval, an approval to operate, or the plans and specifications of a dam require it, or when requested in writing by the owner, the Chief Water Officer shall appoint a consulting board of three or more consultants to report to the Chief Water Officer on the safety features involved. The cost and expense of a consulting board, if appointed at the request of an owner, shall be paid by the owner.

**Sec. 284.** Section 46-1646, Reissue Revised Statutes of Nebraska, is amended to read:

46-1646 (1) The Chief Water Officer shall review and approve the design, construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of all dams in the state for the protection of life and property as provided in the Safety of Dams and Reservoirs Act.

(2) No person shall construct, reconstruct, enlarge, alter, breach, remove, or abandon any dam without approval by the Chief Water Officer.

(3) An owner of a dam who has entered into a cooperative agreement with the Chief Water Officer pursuant to subdivision (2)(d) of section 46-1663 shall be deemed to be in compliance with the act.

**Sec. 285.** Section 46-1647, Reissue Revised Statutes of Nebraska, is amended to read:

46-1647 (1) In order to protect life and property, the owner of every high hazard potential dam shall develop and periodically test and update an emergency action plan to be implemented in the event of an emergency involving such dam. In order to protect life and property, the Chief Water Officer may require the owners of any significant hazard potential dam to develop and

periodically test and update an emergency action plan to be implemented in the event of an emergency involving such dams.

(2) Such emergency action plan shall include, but not be limited to, the following elements:

- (a) Emergency notification plan with flowchart;
- (b) A statement of purpose;
- (c) A project description;
- (d) Emergency detection, evaluation, and classification;
- (e) General responsibilities;
- (f) Preparedness;
- (g) Inundation maps or other acceptable description of the inundated area;

and

- (h) Appendices.

(3) For purposes of evaluating the adequacy of an emergency action plan, the Chief Water Officer shall review, evaluate for adequacy, and approve or disapprove each emergency action plan submitted under this section. The Chief Water Officer shall accept emergency action plans developed for dams under a federal dam safety program.

(4) If the Chief Water Officer determines that a dam constitutes an immediate risk to life or property, the Chief Water Officer shall order the owner to take such action as is necessary to remove such risk.

**Sec. 286.** Section 46-1648, Reissue Revised Statutes of Nebraska, is amended to read:

46-1648 In making any investigation or inspection necessary to enforce or implement the Safety of Dams and Reservoirs Act, the Chief Water Officer or the Chief Water Officer's representatives, upon reasonable notice, may enter upon private property of the dam and reservoir owner as necessary. Such right of entry shall extend to all employees, surveyors, or other agents of the department in the official performance of their duties, and such persons shall not be liable for prosecution for trespass when performing their official duties.

**Sec. 287.** Section 46-1649, Reissue Revised Statutes of Nebraska, is amended to read:

46-1649 (1) The Chief Water Officer may investigate and gather or cause the owner to gather such data, including advances made in safety practices elsewhere, as may be needed for a proper review and study of the various features of the design, construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of dams.

(2) The Chief Water Officer may make or cause the owner to make such watershed investigations and studies as are necessary to keep abreast of developments affecting runoff and peak storm discharges in the vicinity of a dam.

(3) The Chief Water Officer may make or cause the owner to make such seismic investigations and studies as may be necessary to keep abreast of developments affecting seismic stability of a dam.

**Sec. 288.** Section 46-1650, Reissue Revised Statutes of Nebraska, is amended to read:

46-1650 (1) The Chief Water Officer may take any administrative or legal action necessary for the enforcement of the Safety of Dams and Reservoirs Act.

(2) An action or proceeding under this section may be initiated whenever any owner or any person acting as an agent of any owner:

(a) Fails to comply with the requirements imposed by the act or by any application approval, approval to operate, order, rule, regulation, or requirement of the Chief Water Officer under the act; or

(b) Commits or allows the commission of violations of the act or of any application approval, approval to operate, order, rule, regulation, or requirement of the Chief Water Officer under the act.

(3) Any action or proceeding under this section shall be initiated either administratively or in a court in a jurisdiction in which:

(a) The dam, area of hazard potential, or some part thereof exists;

(b) The person named in the complaint has its principal place of business;

or



(c) The person named in the complaint resides.

**Sec. 289.** Section 46-1651, Reissue Revised Statutes of Nebraska, is amended to read:

46-1651 (1) The Chief Water Officer may adopt and promulgate rules and regulations containing standards for the design, inspection, construction, reconstruction, enlargement, alteration, breach, removal, abandonment, and periodic testing of emergency action plans of dams to carry out the purposes of the Safety of Dams and Reservoirs Act. Such rules and regulations may also include, but are not limited to, establishing:

(a) Standards and criteria for the siting and design of dams, considering both existing and projected conditions which may affect the safety of a project during its construction and operational life;

(b) Requirements for operation of dams, including operational plans to be prepared and implemented by owners;

(c) Requirements for monitoring, inspection, and reporting of conditions affecting the safety of dams; and

(d) Requirements for emergency action plans to be prepared and implemented by owners in cooperation with emergency management authorities.

(2) In adopting rules and regulations applicable to dams which may have a high hazard potential or a significant hazard potential, the Chief Water Officer may consider:

(a) The state of scientific and technological knowledge and good engineering practices relating to various types of dams;

(b) The economic impact of a failure of a structure upon the state and its citizens; and

(c) The relationship of dams in hydrologic management in the watershed as a whole.

**Sec. 290.** Section 46-1652, Reissue Revised Statutes of Nebraska, is amended to read:

46-1652 (1) Construction of any new dam or the enlargement of any dam shall not commence until the owner has applied for and obtained from the Chief

Water Officer written application approval of plans and specifications.

(2) A separate application for each dam shall be filed with the Chief Water Officer upon forms provided by the Chief Water Officer. Plans and specifications signed and sealed by the design engineer shall accompany the application.

(3) The application shall provide the following information:

- (a) The name and address of the owner;
- (b) The name and address of the applicant, if different from the owner;
- (c) The name and address of the operator or other person to be contacted regarding arrangements for inspections or other matters associated with the dam;
- (d) The location, type, size, purpose, and height of the proposed dam;
- (e) The reservoir surface areas and associated storage capacity at elevation intervals not exceeding two feet;
- (f) Plans for proposed permanent instrument installations in the dam;
- (g) The area of the drainage basin, rainfall records, streamflow records, and flood flow records and estimates, if available;
- (h) Maps and design drawings showing plans, elevations, and sections of all principal structures and appurtenant works with other features of the project in sufficient detail, including design analyses, to determine safety, adequacy, and suitability of design;
- (i) The estimated construction cost of the dam; and
- (j) Such other pertinent information as the Chief Water Officer requires.

(4) The Chief Water Officer may, when in the Chief Water Officer's judgment it is necessary, also require the following:

- (a) Data concerning subsoil and rock foundation conditions and the materials involved in the construction of the dam;
- (b) Investigations of, and reports on, subsurface conditions, exploratory pits, trenches and adits, drilling, coring, and geophysical tests to measure in place and in the laboratory the properties and behavior of foundation materials at the dam site;

(c) Investigations and reports on the geology of the dam site, possible geologic hazards, seismic activity, faults, weak seams and joints, availability and quality of construction materials, and other pertinent features; and

(d) Other appropriate information.

(5) If an application is incomplete or defective, it shall be returned to the applicant to complete or to correct the defects. The application shall be corrected and returned to the Chief Water Officer within ninety days after it is returned to the applicant or within such additional time as may be allowed by the Chief Water Officer. If the application is returned to the Chief Water Officer after expiration of such time period, it shall be dismissed.

**Sec. 291.** Section 46-1653, Reissue Revised Statutes of Nebraska, is amended to read:

46-1653 (1) Before commencing the reconstruction or alteration of a dam or the abandonment, breach, or removal of a dam so that it no longer constitutes a dam, the owner shall file an application and secure the written application approval of the Chief Water Officer.

(2) The application shall give such pertinent information or data concerning the dam as may be required by the Chief Water Officer.

(3) The application shall give the name and address of the applicant and shall adequately detail, with appropriate references to the existing dam, the proposed reconstruction, alteration, abandonment, breach, or removal of the dam. The application shall be accompanied by plans and specifications signed and sealed by the design engineer. The Chief Water Officer may waive any of the requirements of this section if the requirements are unnecessary for the application approval.

(4) If an application is incomplete or defective, it shall be returned to the applicant to complete or to correct the defects. The application shall be corrected and returned to the Chief Water Officer within ninety days after it is returned to the applicant or within such additional time as may be allowed by the Chief Water Officer. If the application is returned to the Chief Water Officer after expiration of such time period, it shall be dismissed.

(5) In case of an emergency in which the Chief Water Officer declares that repairs or breaching of the dam are necessary to safeguard life and property, repairs or breaching shall be started immediately by the owner or by the Chief Water Officer at the owner's expense. The Chief Water Officer shall be notified within twenty-four hours of emergency repairs or breaching when instituted by the owner.

(6) The proposed repairs or breaching shall conform to any orders issued by the Chief Water Officer.

**Sec. 292.** Section 46-1654, Reissue Revised Statutes of Nebraska, is amended to read:

46-1654 (1) Approval of applications for which approval under sections 46-233 to 46-242 is not required shall be issued within ninety days after receipt of the completed application plus any extensions of time required to resolve matters diligently pursued by the applicant. At the discretion of the Chief Water Officer, one or more public hearings may be held on an application.

(2) Approval of applications under the Safety of Dams and Reservoirs Act, for which approval under sections 46-233 to 46-242 is required, shall not be issued until all pending matters before the Chief Water Officer under the Safety of Dams and Reservoirs Act or such sections have been resolved and approved.

(3) Application approval shall be granted with terms, conditions, and limitations necessary to safeguard life and property.

(4) If actual construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of the dam is not commenced within the time established by the Chief Water Officer, the application approval becomes void, except that the Chief Water Officer may, upon written application and for good cause shown, extend the time for commencing construction, reconstruction, enlargement, alteration, breach, removal, or abandonment. If approval under sections 46-233 to 46-242 is also required, the Chief Water Officer may not extend the time for commencing construction without following the procedures and granting a similar extension under subsection (2) of section 46-238.

(5) Written notice shall be provided to the Chief Water Officer at least ten days before construction, reconstruction, enlargement, alteration, breach, removal, or abandonment is to begin and such other notices shall be given to the Chief Water Officer as the Chief Water Officer may require.

**Sec. 293.** Section 46-1655, Reissue Revised Statutes of Nebraska, is amended to read:

46-1655 (1) The application for approval of construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of a dam shall be accompanied by a filing fee as established by rule and regulation of the Chief Water Officer but not to exceed (a) two hundred dollars for a dam less than twenty-five feet in height, (b) three hundred dollars for a dam twenty-five feet in height to not more than fifty feet in height, and (c) four hundred dollars for a dam in excess of fifty feet in height.

(2) Only one filing fee shall be collected for an enlargement by flashboards, sandbags, earthen levees, gates, or other works, devices, or obstructions which are from time to time to be removed and replaced or opened and shut and thereby operated so as to vary the surface elevation of the reservoir.

(3) A dam subject to the Safety of Dams and Reservoirs Act and for which plans and specifications have been approved prior to September 4, 2005, shall not be required to pay any additional fee or submit an additional application for approval unless such dam requires reconstruction, enlargement, alteration, breach, removal, or abandonment.

(4) An application shall not be considered by the Chief Water Officer until the filing fee is received.

(5) Fees collected by the department under this section shall be remitted to the State Treasurer for credit to the Dam Safety Cash Fund.

**Sec. 294.** Section 46-1656, Reissue Revised Statutes of Nebraska, is amended to read:

46-1656 The Dam Safety Cash Fund is created. The fund shall consist of fees credited pursuant to section 46-1655 and any money specifically

appropriated to the fund by the Legislature. Money in the fund shall not be subject to any fiscal-year limitation or provision for lapse of unexpended balance at the end of any fiscal year or biennium. The fund shall be administered by the department. Money in the fund may be expended by the department for costs incurred by the department or the Chief Water Officer in the administration of the Safety of Dams and Reservoirs Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Sec. 295.** Section 46-1657, Reissue Revised Statutes of Nebraska, is amended to read:

46-1657 (1) Upon completion of a new or reconstructed dam and reservoir or of the enlargement of a dam and reservoir, the owner shall file with the Chief Water Officer, without a filing fee, a completion certification accompanied by supplementary drawings or descriptive matter signed and sealed by the design engineer, showing or describing the work as actually completed. Such supplementary materials may include, but need not be limited to, the following as determined by the Chief Water Officer:

(a) A record of all geological boreholes and grout holes and grouting;

(b) A record of permanent location points, benchmarks, and instruments embedded in the structure;

(c) A record of tests of concrete or other material used in the construction, reconstruction, or enlargement of the dam; and

(d) A record of initial seepage flows and embedded instrument readings.

(2) In connection with the enlargement of a dam, the supplementary drawings and descriptive matter need apply only to the new work.

(3) An approval to operate shall be issued by the Chief Water Officer upon a finding by the Chief Water Officer that the dam is safe to impound within the limitations prescribed in the application approval. No impoundment by the structure shall occur prior to issuance of the approval to operate.

**Sec. 296.** Section 46-1658, Reissue Revised Statutes of Nebraska, is

amended to read:

46-1658 (1) Upon completion of the alteration of any dam, the owner shall file with the Chief Water Officer a completion certification accompanied by supplementary drawings or descriptive matter, as determined by the Chief Water Officer, signed and sealed by the design engineer, showing or describing the work as actually completed.

(2) An approval to operate shall be issued upon a finding by the Chief Water Officer that the dam is safe to impound within the limitations prescribed in the application approval. Pending issuance of a new or revised approval to operate, the owner of the dam shall not cause the dam to impound beyond the limitations prescribed in the existing application approval.

**Sec. 297.** Section 46-1659, Reissue Revised Statutes of Nebraska, is amended to read:

46-1659 (1) Upon completion of the removal, breach, or abandonment of a dam, the design engineer shall file with the Chief Water Officer a completion certification.

(2) Before final approval of the removal of a dam is issued, the Chief Water Officer may inspect the site of the work and determine that all work was accomplished in substantial conformance with the application approval.

(3) Following the removal of a dam, the Chief Water Officer may report such removal to the National Performance of Dams Program and to the National Inventory of Dams.

**Sec. 298.** Section 46-1660, Reissue Revised Statutes of Nebraska, is amended to read:

46-1660 (1) Each approval to operate issued by the Chief Water Officer under the Safety of Dams and Reservoirs Act shall contain such terms and conditions as the Chief Water Officer may prescribe.

(2) The Chief Water Officer shall revoke, suspend, or amend any approval to operate whenever it determines that the dam constitutes a danger to life and property.

(3) Before any approval to operate is revoked by the Chief Water Officer,

the Chief Water Officer shall hold a public hearing. Written notice of the time and place of the hearing shall be mailed to the owner at least thirty days before the date set for the hearing. Any interested persons may appear at the hearing and present their views and objections to the proposed action.

**Sec. 299.** Section 46-1661, Reissue Revised Statutes of Nebraska, is amended to read:

46-1661 (1) Upon receipt of a written complaint alleging that the person or property of the complainant is endangered by the construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of any dam, the Chief Water Officer shall cause an inspection and investigation to be made unless the data, records, and inspection reports on file are found adequate to make a determination whether the complaint is valid. The complainant shall be provided with a copy of the official report of the inspection and investigation.

(2) If it is found that an unsafe condition exists, the Chief Water Officer shall notify the owner of the dam to take such action as is necessary to correct the condition, including breaching or removal of any dam found to be beyond repair.

**Sec. 300.** Section 46-1662, Reissue Revised Statutes of Nebraska, is amended to read:

46-1662 (1) During the construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of any dam, the Chief Water Officer may make periodic inspections for the purpose of ascertaining compliance with the approved plans and specifications. The Chief Water Officer shall require the owner to direct the design engineer to provide adequate supervision during construction, reconstruction, enlargement, alteration, breach, removal, or abandonment and to provide sufficient information to enable the Chief Water Officer to determine that conformity with the approved plans and specifications is being attained.

(2) If, after any inspection or investigation, during the construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of a



dam or at any time prior to issuance of an approval to operate, it is found by the Chief Water Officer that modifications or changes are necessary to ensure the safety of the dam, the Chief Water Officer shall order the owner to revise his or her plans and specifications. The owner may, pursuant to section 46-1645, request an independent consulting board to review the order of the Chief Water Officer.

(3) If at any time during construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of any dam, the Chief Water Officer finds that the work is not being done in accordance with the approved plans and specifications, the Chief Water Officer shall deliver a written notice of noncompliance to the owner. The notice shall be delivered by registered mail or by personal service to the owner, shall state the particulars in which the approved plans and specifications are not being or have not been complied with, and shall order immediate compliance with the approved plans and specifications. The Chief Water Officer may order that no further work be done until such compliance has been effected and approved by the department.

(4) Failure to comply with the notice delivered under subsection (3) of this section may cause revocation of application approval by the Chief Water Officer. If compliance with the notice has not occurred within sixty days after the date of the notice, the Chief Water Officer shall order the incomplete structure removed sufficiently to eliminate any safety hazard to life.

**Sec. 301.** Section 46-1663, Reissue Revised Statutes of Nebraska, is amended to read:

46-1663 (1) The Chief Water Officer shall require owners to keep original records and any modifications to construction available and in good order.

(2) The Chief Water Officer may:

(a) Adopt such rules and regulations and issue such orders as necessary to secure adequate maintenance, operation, and inspection by owners;

(b) Require engineering and geologic investigations to safeguard life and property;

(c) Accept approvals and reports of equivalent inspections prepared for

dams under a federal dam safety program; and

(d) Enter into cooperative agreements with the owners of dams which are required to comply with a federal dam safety program that has objectives, standards, and requirements that meet or exceed the purposes of the Safety of Dams and Reservoirs Act.

**Sec. 302.** Section 46-1664, Reissue Revised Statutes of Nebraska, is amended to read:

46-1664 (1) The Chief Water Officer shall inspect dams for the purpose of determining their safety. The normal inspection frequency shall be annually for high hazard potential dams, biennially for significant hazard potential dams, and every five years for low hazard potential dams and every five years or more for minimal hazard potential dams. The Chief Water Officer may vary the inspection frequency of some sites based on an evaluation of the site performance history. The Chief Water Officer may conduct additional inspections at any time. If serious safety concerns are found by the Chief Water Officer during the inspections, the Chief Water Officer shall require the owner to conduct tests and investigations sufficient for the Chief Water Officer to determine the condition of the dam. After review of the tests or investigations, the Chief Water Officer may require modification, removal, or breach of the dam or alteration of operating procedures to restore or improve the safety of the dam and may require installation of instrumentation to monitor the performance of the dam.

(2) The Chief Water Officer may report the results of dam inspections that determine unsafe conditions or noncompliance to the National Performance of Dams Program.

**Sec. 303.** Section 46-1665, Reissue Revised Statutes of Nebraska, is amended to read:

46-1665 (1) The owner of a dam has the primary responsibility for determining when an emergency exists. When the owner of a dam determines that an emergency exists involving a dam, the owner shall immediately implement the emergency action plan as required pursuant to section 46-1647. The owner shall

immediately notify any persons who may be endangered if the dam should fail, notify emergency management organizations in the area, take necessary remedial action to prevent or mitigate the consequences of failure, and notify the Chief Water Officer. The Chief Water Officer shall take any remedial action necessary to protect life and property if, in the Chief Water Officer's judgment, either:

(a) The condition of any dam is so dangerous to the safety of life or property as not to permit time for the issuance and enforcement of an order relative to maintenance or operation; or

(b) Passing or imminent floods or any other condition threatens the safety of any dam.

(2) In applying the remedial means provided for in this section, the Chief Water Officer may in an emergency, with the Chief Water Officer's own forces or by other means at the Chief Water Officer's disposal, do any or all of the following:

(a) Take full charge and control of any dam;

(b) Lower the water level by releasing water from the reservoir;

(c) Completely drain the reservoir;

(d) Perform any necessary remedial or protective work at the site; or

(e) Take such other steps as may be essential to safeguard life and property.

(3) The Chief Water Officer shall continue in full charge and control of such dam and its appurtenant works until they are rendered safe or the emergency occasioning the action has ceased and the owner is able to take back full charge and control. The Chief Water Officer's taking full charge and control under this section does not relieve the owner of such dam of liability for any negligent acts of such owner.

(4) The Chief Water Officer may report emergency actions involving the safety of a dam to the National Performance of Dams Program in a timely manner.

**Sec. 304.** Section 46-1666, Reissue Revised Statutes of Nebraska, is amended to read:

46-1666 (1) Violation of the Safety of Dams and Reservoirs Act or of any

application approval, approval to operate, order, rule, regulation, or requirement of the Chief Water Officer under the act is a Class V misdemeanor. Each day that the violation continues constitutes a separate and distinct offense.

(2) Any person who willfully obstructs, hinders, or prevents the Chief Water Officer from performing the duties imposed by the act commits a Class IV misdemeanor.

(3) Any owner or any person who engages in the construction, reconstruction, enlargement, alteration, breach, removal, or abandonment of any dam or who knowingly does work on or permits work to be done on the dam without the approval of the Chief Water Officer or in violation of the act and who fails to immediately notify the Chief Water Officer thereof commits a Class V misdemeanor.

**Sec. 305.** Section 46-1667, Reissue Revised Statutes of Nebraska, is amended to read:

46-1667 (1) If the Chief Water Officer has reason to believe that an owner or other person is violating or has violated the Safety of Dams and Reservoirs Act, an application approval, an approval to operate, a rule, a regulation, an order, or a requirement of the Chief Water Officer issued or adopted pursuant to the act, the Chief Water Officer shall give the owner or person written notice by certified mail that the owner or person appears to be in violation of the act. The owner or other person shall have thirty days from the mailing of such notice to respond or to request a hearing before the Chief Water Officer as to why the owner or other person should not be ordered to cease and desist from the violation. The notice shall inform the owner or other person how to request the hearing and the consequences of failure to request a hearing.

(2) If the Chief Water Officer finds that an owner or person is constructing, reconstructing, enlarging, altering, breaching, removing, or abandoning a dam without having first obtained the required application approval, the Chief Water Officer shall issue a temporary order for the owner or person to cease and desist the construction, reconstruction, enlargement,

alteration, breach, removal, or abandonment pending final action by the Chief Water Officer pursuant to subsection (3) of this section. The temporary order shall include written notice by certified mail to the owner or person of the time and date set by the Chief Water Officer for a hearing to show cause why the temporary order should be vacated.

(3) After a response to a notice or a hearing pursuant to subsection (1) or (2) of this section or after the expiration of time to request a hearing, the Chief Water Officer shall issue a decision and final order. The decision and final order may take such form as the Chief Water Officer determines to be reasonable and appropriate and may include a determination of violation, a cease and desist order, the recommendation of a civil penalty, and an order directing that positive steps be taken to abate or ameliorate any harm or damage arising from the violation. The owner or person affected may appeal the hearing decision as provided in section 61-207.

(4) If the owner or person continues the violation after the Chief Water Officer has issued a final decision and order pursuant to subsection (3) of this section or a temporary order pursuant to subsection (2) of this section, the Chief Water Officer may apply for a temporary restraining order or preliminary or permanent injunction from a court of competent jurisdiction. A decision to seek injunctive relief does not preclude other forms of relief or enforcement against the violator.

**Sec. 306.** Section 46-1668, Reissue Revised Statutes of Nebraska, is amended to read:

46-1668 (1) Any person who violates the Safety of Dams and Reservoirs Act or an application approval, an approval to operate, a rule, a regulation, an order, or a requirement of the Chief Water Officer under the act may be assessed a civil penalty in an amount not to exceed five hundred dollars per day for each day the violation continues.

(2) The Chief Water Officer shall bring an action to recover a penalty imposed under this section in a court in the jurisdiction in which the violation occurred.

(3) In determining the amount of the penalty, the court shall consider the degree of harm to the public, whether the violation was knowing or willful, the past conduct of the defendant, whether the defendant has taken steps to cease, remove, or mitigate the violation, and any other relevant information.

**Sec. 307.** Section 46-1669, Reissue Revised Statutes of Nebraska, is amended to read:

46-1669 Any affected person aggrieved by any final order or decision made by the Chief Water Officer pursuant to the Safety of Dams and Reservoirs Act may appeal the order as provided in section 61-207. For purposes of this section, affected person means the applicant or holder of any approvals under the act and any owner of an estate or interest in or concerning land or water whose interest is or may be impacted in a direct and significant manner by such final order or decision.

**Sec. 308.** Section 46-1670, Reissue Revised Statutes of Nebraska, is amended to read:

46-1670 (1) Every owner of a dam subject to the Safety of Dams and Reservoirs Act that was completed prior to September 4, 2005, and not previously approved when approval was otherwise required shall file an application with the Chief Water Officer for approval of such dam.

(2) A separate application for each dam shall be filed with the Chief Water Officer upon forms supplied by the Chief Water Officer and shall include such appropriate information concerning the dam as the Chief Water Officer requires.

(3) The Chief Water Officer may give notice, by certified mail to the owner's last address of record in the office of the county assessor of the county in which the dam is located, to the owner of dams required under this section to file an application who or which have failed to do so, and a failure to file within sixty days after receipt of such notice shall be punishable as provided in the act.

(4) The Chief Water Officer may make inspections of such dams and may require owners of such dams and reservoirs to perform, at the owner's expense,

such work or tests as may reasonably be required to disclose information sufficient to enable the Chief Water Officer to determine whether to issue an approval to operate or to issue orders directing further work at the owner's expense necessary to safeguard life and property. For this purpose, the Chief Water Officer may require an owner to lower the water level of or to drain the reservoir.

(5) If, upon inspection or upon completion to the satisfaction of the Chief Water Officer of all work ordered, the Chief Water Officer finds that the dam is safe to impound, an approval to operate shall be issued.

(6) If at any time the Chief Water Officer finds that the dam is not safe to impound, the Chief Water Officer shall notify the owner in writing and shall set a time and place for hearing on the matter. The owner of such dam shall ensure that such dam does not impound following receipt of such notice. Written notice of the time and place of the hearing shall be mailed, at least thirty days prior to the date set for the hearing, to the owner. Any interested person may appear at the hearing and present his or her views and objections to the proposed action.

**Sec. 309.** Section 49-506, Revised Statutes Cumulative Supplement, 2024, is amended to read:

49-506 After the Secretary of State has made the distribution provided by section 49-503, he or she shall deliver additional copies of the session laws and the journal of the Legislature pursuant to this section in print or electronic format as he or she determines, upon recommendation by the Clerk of the Legislature and approval of the Executive Board of the Legislative Council.

One copy of the session laws shall be delivered to the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of Decisions, the State Court Administrator, the State Fire Marshal, the Department of Administrative Services, the Department of Agriculture, the Department of Banking and Finance, the State Department of Education, the Department of Insurance, the Department of Labor, the Department of Motor Vehicles, the Department of Revenue, the Department of Transportation, the

Department of Veterans' Affairs, the Department of Water, Energy, and Environment, the Military Department, the Nebraska State Patrol, the Nebraska Commission on Law Enforcement and Criminal Justice, each of the Nebraska state colleges, the Game and Parks Commission, the Nebraska Library Commission, the Nebraska Liquor Control Commission, the Nebraska Accountability and Disclosure Commission, the Public Service Commission, the State Real Estate Commission, the Nebraska State Historical Society, the Public Employees Retirement Board, the Risk Manager, the Legislative Fiscal Analyst, the Public Counsel, the materiel division of the Department of Administrative Services, the State Records Administrator, the budget division of the Department of Administrative Services, the Tax Equalization and Review Commission, the inmate library at all state penal and correctional institutions, the Commission on Public Advocacy, and the Library of Congress; two copies to the Governor, the Secretary of State, the Commission of Industrial Relations, and the Coordinating Commission for Postsecondary Education, one of which shall be for use by the community colleges; three copies to the Department of Health and Human Services; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General; nine copies to the Revisor of Statutes; sixteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law.

One copy of the journal of the Legislature shall be delivered to the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of Decisions, the State Court Administrator, the Nebraska State Historical Society, the Legislative Fiscal Analyst, the Tax Equalization and Review Commission, the Commission on Public Advocacy, and the Library of Congress; two copies to the Secretary of State and the Commission of Industrial Relations; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General and the Revisor of Statutes; eight copies to the Clerk of the Legislature; thirteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law. The remaining copies shall be delivered to the State Librarian



who shall use the same, so far as required for exchange purposes, in building up the State Library and in the manner specified in sections 49-507 to 49-509.

**Sec. 310.** Section 49-617, Revised Statutes Cumulative Supplement, 2024, is amended to read:

49-617 The Revisor of Statutes shall cause the statutes to be printed. The printer shall deliver all completed copies to the Supreme Court. These copies shall be held and disposed of by the court as follows: Sixty copies to the State Library to exchange for statutes of other states; five copies to the State Library to keep for daily use; not to exceed twenty-five copies to the Legislative Council for bill drafting and related services to the Legislature and executive state officers; as many copies to the Attorney General as he or she has attorneys on his or her staff; as many copies to the Commission on Public Advocacy as it has attorneys on its staff; up to sixteen copies to the State Court Administrator; thirteen copies to the Tax Commissioner; eight copies to the Nebraska Publications Clearinghouse; six copies to the Public Service Commission; four copies to the Secretary of State; three copies to the Tax Equalization and Review Commission; four copies to the Clerk of the Legislature for use in his or her office and three copies to be maintained in the legislative chamber, one copy on each side of the chamber and one copy at the desk of the Clerk of the Legislature, under control of the sergeant at arms; three copies to the Department of Health and Human Services; two copies each to the Governor of the state, the Chief Justice and each judge of the Supreme Court, each judge of the Court of Appeals, the Clerk of the Supreme Court, the Reporter of Decisions, the Commissioner of Labor, the Auditor of Public Accounts, and the Revisor of Statutes; one copy each to the Secretary of State of the United States, each Indian tribal court located in the State of Nebraska, the library of the Supreme Court of the United States, the Adjutant General, the Air National Guard, the Commissioner of Education, the State Treasurer, the Board of Educational Lands and Funds, the Director of Agriculture, the Director of Administrative Services, the Director of Economic Development, the director of the Nebraska Public Employees Retirement Systems,

the Director-State Engineer, the Director of Banking and Finance, the Director of Insurance, the Director of Motor Vehicles, the Director of Veterans' Affairs, the Director of Water, Energy, and Environment, the Director of Correctional Services, the Nebraska Emergency Operating Center, each judge of the Nebraska Workers' Compensation Court, each commissioner of the Commission of Industrial Relations, the Nebraska Liquor Control Commission, the State Real Estate Commission, the secretary of the Game and Parks Commission, the Board of Pardons, each state institution under the Department of Health and Human Services, each state institution under the State Department of Education, the State Surveyor, the Nebraska State Patrol, the materiel division of the Department of Administrative Services, the personnel division of the Department of Administrative Services, the Nebraska Motor Vehicle Industry Licensing Board, the Board of Trustees of the Nebraska State Colleges, each of the Nebraska state colleges, each district judge of the State of Nebraska, each judge of the county court, each judge of a separate juvenile court, the Lieutenant Governor, each United States Senator from Nebraska, each United States Representative from Nebraska, each clerk of the district court for the use of the district court, the clerk of the Nebraska Workers' Compensation Court, each clerk of the county court, each county attorney, each county public defender, each county law library, and the inmate library at all state penal and correctional institutions, and each member of the Legislature shall be entitled to two complete sets, and two complete sets of such volumes as are necessary to update previously issued volumes, but each member of the Legislature and each judge of any court referred to in this section shall be entitled, on request, to an additional complete set. Copies of the statutes distributed without charge, as listed in this section, shall be the property of the state or governmental subdivision of the state and not the personal property of the particular person receiving a copy. Distribution of statutes to the library of the College of Law of the University of Nebraska shall be as provided in sections 85-176 and 85-177.

**Sec. 311.** Section 54-2417, Reissue Revised Statutes of Nebraska, is

amended to read:

54-2417 For purposes of the Livestock Waste Management Act:

(1) Animal feeding operation means a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the location. Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of livestock waste. Animal feeding operation does not include aquaculture as defined in section 2-3804.01;

(2) Best management practices means schedules of activities, prohibitions, maintenance procedures, and other management practices found to be the most effective methods based on the best available technology achievable for specific sites to prevent or reduce the discharge of pollutants to waters of the state and control odor where appropriate. Best management practices also includes operating procedures and practices to control site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage;

(3) Construct means the initiation of physical onsite activities;

(4) Construction and operating permit means the state permit to construct and operate a livestock waste control facility, including conditions imposed on the livestock waste control facility and the associated animal feeding operation;

(5) Construction approval means an approval issued prior to December 1, 2006, by the department allowing construction of a livestock waste control facility;

(6) Council means the Environmental Quality Council;

(7) Department means the Department of Water, Energy, and Environment;

(8) Discharge means the spilling, leaking, pumping, pouring, emitting, emptying, or dumping of pollutants into any waters of the state or in a place

which will likely reach waters of the state;

(9) Existing livestock waste control facility means a livestock waste control facility in existence prior to April 15, 1998, that does not hold a permit and which has requested an inspection prior to January 1, 2000;

(10) Livestock waste control facility means any structure or combination of structures utilized to control livestock waste at an animal feeding operation until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, debris basins, liquid manure storage pits, lagoons, and other such devices utilized to control livestock waste;

(11) Major modification means an expansion or increase to the lot area or feeding area; change in the location of the animal feeding operation; change in the methods of waste treatment, waste storage, or land application of waste; increase in the number of animals; change in animal species; or change in the size or location of the livestock waste control facility;

(12) National Pollutant Discharge Elimination System permit means either a general permit or an individual permit issued by the department pursuant to subsection (11) of section 81-1505. A general permit authorizes categories of disposal practices or livestock waste control facilities and covers a geographic area corresponding to existing geographic or political boundaries, though it may exclude specified areas from coverage. General permits are limited to the same or similar types of animal feeding operations or livestock waste control facilities which require the same or similar monitoring and, in the opinion of the Director of Water, Energy, and Environment, are more appropriately controlled under a general permit than under an individual permit;

(13) New animal feeding operation means an animal feeding operation constructed after July 16, 2004;

(14) New livestock waste control facility means any livestock waste control facility for which a construction permit, an operating permit, a National Pollutant Discharge Elimination System permit, a construction

approval, or a construction and operating permit, or an application therefor, is submitted on or after April 15, 1998;

(15) Operating permit means a permit issued prior to December 1, 2006, by the department after the completion of the livestock waste control facility in accordance with the construction approval and the submittal of a completed certification form to the department;

(16) Person has the same meaning as in section 81-1502; and

(17) Waters of the state has the same meaning as in section 81-1502.

**Sec. 312.** Section 54-2421, Reissue Revised Statutes of Nebraska, is amended to read:

54-2421 A map delineating segments and watershed boundaries for cold water class A streams, as designated prior to May 25, 1999, and prepared by the department, shall be maintained by the department and used by the department for determinations made concerning cold water class A streams and stream watersheds under the Livestock Waste Management Act unless changed by the council. Beginning on May 25, 1999, the council may designate and may redesignate previously designated waters of this state as cold water class A streams for purposes of the act based on the determination by the council that the waters provide or could provide habitat of sufficient water volume or flow, water quality, substrate composition, and water temperature capable of maintaining year-round populations of cold water biota, including reproduction of a salmonoid (trout) population. The council shall not designate or redesignate a stream as a cold water class A stream unless the stream has supported the reproduction of a salmonoid (trout) population within the previous five years. The department shall revise and maintain the cold water class A stream and stream watershed map to incorporate all designations and redesignations of the council.

**Sec. 313.** Section 54-2429, Reissue Revised Statutes of Nebraska, is amended to read:

54-2429 (1) An applicant for a National Pollutant Discharge Elimination System permit or a construction and operating permit under the Environmental

Protection Act or the Livestock Waste Management Act shall not be issued a permit until the applicant has obtained any necessary approvals from the Chief Water Officer under the Safety of Dams and Reservoirs Act. The department may require the applicant to obtain approval from the Chief Water Officer for any dam, holding pond, or lagoon structure which would not otherwise require approval under the Safety of Dams and Reservoirs Act but which in the event of a failure could result in a significant discharge into waters of the state and have a significant impact on the environment.

(2) An applicant required to obtain a National Pollutant Discharge Elimination System permit is subject to the requirements of the Engineers and Architects Regulation Act.

(3) An applicant who has a large concentrated animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and who is required to obtain a construction and operating permit is subject to the requirements of the Engineers and Architects Regulation Act.

(4) An applicant who has a small or medium animal feeding operation, as defined in 40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004, and who is required to obtain a construction and operating permit, but not required to obtain a National Pollutant Discharge Elimination System permit, is exempt from the Engineers and Architects Regulation Act.

(5) The department may require an engineering evaluation or assessment performed by a licensed professional engineer for a livestock waste control facility if after an inspection: (a) The department determines that the facility has (i) visible signs of structural breakage below the permanent pool, (ii) signs of discharge or proven discharge due to structural weakness, (iii) improper maintenance, or (iv) inadequate capacity; or (b) the department has reason to believe that an animal feeding operation with a livestock waste control facility has violated or threatens to violate the Environmental Protection Act, the Livestock Waste Management Act, or any rules or regulations adopted and promulgated under such acts. Animal feeding operations not required to have a permit under the Environmental Protection Act, the Livestock Waste

Management Act, or the rules and regulations adopted and promulgated pursuant to such acts are exempt from the Engineers and Architects Regulation Act.

**Sec. 314.** Section 54-2430, Reissue Revised Statutes of Nebraska, is amended to read:

54-2430 (1) Except as provided in this section, no new livestock waste control facility shall be constructed and no physical onsite activities specific to a new livestock waste control facility, except the use of a borrow site for construction of other components of the animal feeding operation, shall be initiated unless surface water runoff from the upstream area, except incidental runoff, is adequately diverted around the structure and is not permitted to enter the reservoir area. For purposes of this section, incidental runoff means the runoff that drains from the slope of the embankments, the top of the dam, the reservoir area, the feedlots, the associated roadways, and up to twenty-five acres of additional area that cannot be diverted. Incidental runoff capacity from a twenty-five-year frequency, twenty-four-hour storm shall be provided for in the waste reservoir in addition to the capacity required for the waste effluent or stored materials.

(2) The department shall permit a requested increase in the twenty-five-acre limitation for a new livestock waste control facility for an animal feeding operation for which an inspection was requested prior to January 1, 2000, unless the department determines that the detriment to existing water users that would result from permitting the acreage increase would outweigh the detriment to the operator of the animal feeding operation if the increase were not permitted.

(3) For other new livestock waste control facilities, the department may permit an increase in the twenty-five-acre limitation if it determines that (a) the applicant has no reasonable way to limit the amount of the additional runoff acreage to twenty-five acres or less at the proposed location of the livestock waste control facility, (b) the applicant has no reasonable alternative for relocating the livestock waste control facility so that the additional runoff acreage would not exceed twenty-five acres, and (c) either

(i) an increase in the permitted runoff acreage would not reduce water supplies to the detriment of existing water users or (ii)(A) the requested facility is for a proposed expansion of an animal feeding operation in existence and in compliance with the Livestock Waste Management Act as of January 1, 2003, (B) the amount of the runoff acreage permitted in excess of the twenty-five-acre limitation is not more than fifteen percent of total permitted feedlot area, and (C) any detriment to existing water users that would result from permitting the acreage increase would be outweighed by the detriment to the operator of the animal feeding operation if the increase were not permitted.

**Sec. 315.** Section 54-2940, Revised Statutes Cumulative Supplement, 2024, is amended to read:

54-2940 In carrying out its duties to prevent, suppress, control, and eradicate dangerous diseases the department may:

(1) Issue quarantines to any person or public or private premises within the state where an affected animal, suspected affected animal, or regulated article is or was located, and upon any animal imported into Nebraska in violation of the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, and any importation rules or regulations until such quarantine is released by the State Veterinarian. Whenever additional animals are placed within a quarantined premises or area, such quarantine may be amended accordingly by the department. Births and death loss shall be included on inventory documentation pursuant to the quarantine;

(2) Regulate or prohibit animal or regulated article movement into, within, or through the state through quarantines, controlled movement orders, importation orders, or embargoes as deemed necessary by the State Veterinarian;

(3) Require an affected animal or suspected affected animal to be (a) euthanized, detained, slaughtered, or sold for immediate slaughter at a federally inspected slaughter establishment or (b) inspected, tested, treated, subjected to an epidemiological investigation, monitored, or vaccinated. The department may require tested animals to be identified by an official identification eartag. Costs for confinement, restraint, and furnishing the



necessary assistance and facilities for such activities shall be the responsibility of the owner or custodian of the animal;

(4) Seek an emergency proclamation by the Governor in accordance with section 81-829.40 when deemed appropriate. All state agencies and political subdivisions of the state shall cooperate with the implementation of any emergency procedures and measures developed pursuant to such proclamation;

(5)(a) Access records or animals and enter any premises related to the purposes of the Animal Health and Disease Control Act or the Exotic Animal Auction or Exchange Venue Act without being subject to any action for trespass or reasonable damages if reasonable care is exercised; and

(b) Obtain an inspection warrant in the manner prescribed in sections 29-830 to 29-835 if any person refuses to allow the department access or entry as authorized under this subdivision;

(6) Adopt and promulgate rules and regulations to enforce and effectuate the general purpose and provisions of the Animal Health and Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, and any other provisions the department deems necessary for carrying out its duties under such acts including:

(a) Standards for program diseases to align with USDA/APHIS/VS program standards;

(b) Provisions for maintaining a livestock disease reporting system;

(c) Procedures for establishing and maintaining accredited, certified, validated, or designated disease-free animals, herds, or flocks;

(d) In consultation with the Department of Water, Energy, and Environment and the Department of Health and Human Services, best management practices for the disposal of carcasses of dead livestock;

(e) In consultation with the Department of Water, Energy, and Environment and the University of Nebraska, operating procedures governing composting of livestock carcasses;

(f) Recommendations of where and how any available federal funds and state personnel and materials are to be allocated for the purpose of program disease

activities; and

(g) Provisions for secure food supply plans to ensure the continuity of business is maintained during a foreign animal or transboundary disease outbreak;

(7) When funds are available, develop a livestock emergency response system capable of coordinating and executing a rapid response to the incursion or potential incursion of a dangerous livestock disease episode which poses a threat to the health of the state's livestock and could cause a serious economic impact on the state, international trade, or both;

(8) When funds are available, support planning for and assistance with catastrophic livestock mortality disposal, including the acquisition of equipment and supplies and securing of services, to augment preparedness for and response to a disease, natural disaster, or other emergency event resulting in catastrophic livestock mortality or euthanization;

(9) Allow animals intended for direct slaughter to move to a controlled feedlot for qualified purposes; and

(10) Approve qualified commuter herd agreements and livestock producer plans and, when appropriate, allow for exceptions to requirements by written compliance agreements.

**Sec. 316.** Section 57-1407, Reissue Revised Statutes of Nebraska, is amended to read:

57-1407 (1) After receipt of an application under section 57-1405, the commission shall:

(a) Within sixty days, schedule a public hearing;

(b) Notify the pipeline carrier of the time, place, and purpose of the public hearing;

(c) Publish a notice of the time, place, and purpose of the public hearing in at least one newspaper of general circulation in each county in which the major oil pipeline is to be constructed; and

(d) Serve notice of the public hearing upon the governing bodies of the counties and municipalities through which the proposed route of the major oil

pipeline would be located as specified in subdivision (2)(d) of section 57-1405.

(2) The commission may hold additional public meetings for the purpose of receiving input from the public at locations as close as practicable to the proposed route of the major oil pipeline. The commission shall make the public input part of the record.

(3) If requested by the commission, the following agencies shall file a report with the commission, prior to the hearing on the application, regarding information within the respective agencies' area of expertise relating to the impact of the major oil pipeline on any area within the respective agencies' jurisdiction, including in such report opinions regarding the advisability of approving, denying, or modifying the location of the proposed route of the major oil pipeline: The Department of Water, Energy, and Environment, the Department of Revenue, the Department of Transportation, the Game and Parks Commission, the Nebraska Oil and Gas Conservation Commission, the Nebraska State Historical Society, the State Fire Marshal, and the Board of Educational Lands and Funds. The agencies may submit a request for reimbursement of reasonable and necessary expenses incurred for any consultants hired pursuant to this subsection.

(4) An application under the Major Oil Pipeline Siting Act shall be approved if the proposed route of the major oil pipeline is determined by the Public Service Commission to be in the public interest. The pipeline carrier shall have the burden to establish that the proposed route of the major oil pipeline would serve the public interest. In determining whether the pipeline carrier has met its burden, the commission shall not evaluate safety considerations, including the risk or impact of spills or leaks from the major oil pipeline, but the commission shall evaluate:

(a) Whether the pipeline carrier has demonstrated compliance with all applicable state statutes, rules, and regulations and local ordinances;

(b) Evidence of the impact due to intrusion upon natural resources and not due to safety of the proposed route of the major oil pipeline to the natural

resources of Nebraska, including evidence regarding the irreversible and irretrievable commitments of land areas and connected natural resources and the depletion of beneficial uses of the natural resources;

(c) Evidence of methods to minimize or mitigate the potential impacts of the major oil pipeline to natural resources;

(d) Evidence regarding the economic and social impacts of the major oil pipeline;

(e) Whether any other utility corridor exists that could feasibly and beneficially be used for the route of the major oil pipeline;

(f) The impact of the major oil pipeline on the orderly development of the area around the proposed route of the major oil pipeline;

(g) The reports of the agencies filed pursuant to subsection (3) of this section; and

(h) The views of the governing bodies of the counties and municipalities in the area around the proposed route of the major oil pipeline.

**Sec. 317.** Section 57-1502, Reissue Revised Statutes of Nebraska, is amended to read:

57-1502 For purposes of sections 57-1501 to 57-1503:

(1) Department means the Department of Water, Energy, and Environment;

(2) Oil pipeline means a pipeline which is larger than eight inches in inside diameter and which is constructed in Nebraska for the transportation of petroleum, or petroleum components, products, or wastes, including crude oil or any fraction of crude oil, within, through, or across Nebraska, but does not include in-field and gathering lines; and

(3) Pipeline carrier means an individual, a company, a corporation, an association, or any other legal entity that engages in owning, operating, or managing an oil pipeline.

**Sec. 318.** Section 57-1609, Reissue Revised Statutes of Nebraska, is amended to read:

57-1609 Before issuing a permit, the commission shall consult with the Department of Water, Energy, and Environment and the Underground Injection

Control program permitting authority.

**Sec. 319.** Section 57-1614, Reissue Revised Statutes of Nebraska, is amended to read:

57-1614 (1) The commission shall take action to ensure that a storage facility does not cause pollution or create a nuisance. For the purposes of this provision and in applying other laws, carbon dioxide streams stored, and which remain in storage under a commission permit, are not a pollutant and do not constitute a nuisance.

(2) The commission's authority in subsection (1) of this section does not limit the jurisdiction held by the Department of Water, Energy, and Environment. Nothing else in the Nebraska Geologic Storage of Carbon Dioxide Act limits the jurisdiction held by the Department of Water, Energy, and Environment.

(3) The commission shall take action to ensure that substances that compromise the objectives of the act or the integrity of a storage reservoir do not enter a storage reservoir.

(4) The commission shall take action to ensure that carbon dioxide does not escape from a storage facility.

**Sec. 320.** Section 57-1619, Reissue Revised Statutes of Nebraska, is amended to read:

57-1619 (1) After carbon dioxide injections into a reservoir end and upon application by the storage operator, the commission shall consider issuing a certificate of project completion.

(2) The certificate may only be issued after public notice and hearing. The commission shall establish notice requirements for such hearing.

(3) The certificate may only be issued after the commission has consulted with the Department of Water, Energy, and Environment and the Underground Injection Control program permitting authority.

(4) The certificate may only be issued if the storage operator:

- (a) Is in full compliance with all laws governing the storage facility;
- (b) Shows that it has addressed all pending claims regarding the storage

facility's operation;

(c) Shows that it has received an authorization of site closure from the applicable underground injection control program permitting authority for each storage facility injection well; and

(d) Shows that any wells, equipment, and facilities to be used in the post-closure period are in good condition and retain mechanical integrity.

(5) Once a certificate is issued:

(a) Title to the storage facility and to the stored carbon dioxide transfers, without payment of any compensation, to the State of Nebraska;

(b) Title acquired by the state includes all rights and interests in, and all responsibilities associated with, the stored carbon dioxide;

(c) The storage operator and all persons who generated any injected carbon dioxide streams are released from all regulatory requirements associated with the storage facility;

(d) Any financial assurance provided by the storage operator shall be released; and

(e) Monitoring and managing the storage facility is the state's responsibility to be overseen by the commission.

**Sec. 321.** Section 58-202, Reissue Revised Statutes of Nebraska, is amended to read:

58-202 (1) The Legislature hereby finds and declares that:

(a) The high cost of agricultural loans and the general unavailability of such loans at favorable rates and terms for farmers, particularly beginning farmers, and other agricultural enterprises have resulted in decreased crop, livestock, and business productivity and prevented farmers and other agricultural enterprises from acquiring modern agricultural equipment and processes. These problems have made it difficult for farmers and other agricultural enterprises to maintain or increase their present number of employees and have decreased the supply of agricultural commodities available to fulfill the needs of the citizens of this state; and

(b) There exists in this state an inadequate supply of and a pressing need

for farm credit and agricultural loan financing at interest rates and terms which are consistent with the needs of farmers, particularly beginning farmers, and other agricultural enterprises.

(2) The Legislature hereby finds and declares that:

(a) From time to time the high rates of interest charged by mortgage lenders seriously restrict existing housing transfers and new housing starts and the resultant reduction in residential construction starts causes a condition of substantial unemployment and underemployment in the construction industry;

(b) Such conditions generally result in and contribute to the creation of slums and blighted areas in the urban and rural areas of this state and a deterioration of the quality of living conditions within this state and necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident prevention, and other public services and facilities; and

(c) There exists in the urban and rural areas of this state an inadequate supply of and a pressing need for sanitary, safe, and uncrowded housing at prices at which low-income and moderate-income persons, particularly first-time homebuyers, can afford to purchase, construct, or rent and as a result such persons are forced to occupy unsanitary, unsafe, and overcrowded housing.

(3) The Legislature hereby finds and declares that:

(a) Adequate and reliable energy supplies are a basic necessity of life and sufficient energy supplies are essential to supplying adequate food and shelter;

(b) The cost and availability of energy supplies has been and will continue to be a matter of state and national concern;

(c) The increasing cost and decreasing availability of energy supplies for purposes of residential heating will limit the ability of many of Nebraska's citizens to provide the basic necessities of life and will result in a deterioration in living conditions and a threat to the health and welfare of the citizens of this state;

(d) Energy conservation through building modifications including, but not limited to, insulation, weatherization, and the installation of alternative energy devices has been shown to be a prudent means of reducing energy consumption costs and the need for additional costly facilities to produce and supply energy;

(e) Because of the high cost of available capital, the purchase of energy conservation devices is not possible for many Nebraskans. The prohibitively high interest rates for private capital create a situation in which the necessary capital cannot be obtained solely from private enterprise sources and there is a need for the stimulation of investment of private capital, thereby encouraging the purchase of energy conservation devices and energy conserving building modifications;

(f) The increased cost per capita of supplying adequate life-sustaining energy needs has reduced the amount of funds, both public and private, available for providing other necessities of life, including food, health care, and safe, sanitary housing; and

(g) The continuing purchase of energy supplies results in the transfer of ever-increasing amounts of capital to out-of-state energy suppliers.

(4) The Legislature hereby finds and declares that:

(a) There exist within this state unemployment and underemployment especially in areas of basic economic activity, caused by economic decline and need for diversification of the economic base, needlessly increasing public expenditures for unemployment compensation and welfare, decreasing the tax base, reducing tax revenue, and resulting in economic and social liabilities to the entire state;

(b) Such unemployment and underemployment cause areas of the state to deteriorate and become substandard and blighted and such conditions result in making such areas economic or social liabilities harmful to the economic and social well-being of the entire state and the communities in which they exist, needlessly increasing public expenditures, imposing onerous state and municipal burdens, decreasing the tax base, reducing tax revenue, substantially impairing



or arresting the sound growth of the state and the municipalities, depreciating general state and community-wide values, and contributing to the spread of disease and crime which necessitate excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire, and accident protection, and for other public services and facilities;

(c) There exist within this state conditions resulting from the concentration of population of various counties, cities, and villages which require the construction, maintenance, and operation of adequate hospital and nursing facilities for the care of the public health. Since these conditions cannot be remedied by the ordinary operations of private enterprises and since provision of adequate hospital, nursing, and medical care is a public use, it is in the public interest that adequate hospital and medical facilities and care be provided in order to care for and protect the public health and welfare;

(d) Creation of basic economic jobs in the private sector and the promotion of health and welfare by the means provided under the Nebraska Investment Finance Authority Act and the resulting reduction of needless public expenditures, expansion of the tax base, provision of hospitals and health care and related facilities, and increase of tax revenue are needed within this state; and

(e) Stimulation of economic development throughout the state and the provision of health care at affordable prices are matters of state policy, public interest, and statewide concern and within the powers and authority inherent in and reserved to the state in order that the state and its municipalities shall not continue to be endangered by areas which consume an excessive proportion of their revenue, in order that the economic base of the state may be broadened and stabilized thereby providing jobs and necessary tax base, and in order that adequate health care services be provided to all residents of this state.

(5) The Legislature hereby finds and declares that:

(a) There is a need within this state for financing to assist municipalities, as defined in section 81-15,149, in providing wastewater treatment facilities and safe drinking water facilities. The federal funding provided for wastewater treatment facilities is extremely limited while the need to provide and improve wastewater treatment facilities and safe drinking water facilities is great;

(b) The construction, development, rehabilitation, and improvement of modern and efficient sewer systems and wastewater treatment facilities are essential to protecting and improving the state's water quality, the provision of adequate wastewater treatment facilities and safe drinking water facilities is essential to economic growth and development, and new sources of financing for such projects are needed;

(c) The federal government has acted to end the system of federal construction grants for clean water projects and has instead provided for capitalization grants to capitalize state revolving funds for wastewater treatment projects and will soon expand that to include safe drinking water facilities, and the state has created or is expected to create appropriate funds or accounts for such purpose. The state is required or expected to be required to provide matching funds for deposit into such funds or accounts, and there is a need for financing in excess of the amount which can be provided by the federal money and the state match; and

(d) Additional assistance can be provided to municipalities as defined in section 81-15,149 to alleviate the problems of water pollution or the provision of safe drinking water by providing for the issuance of revenue bonds, the proceeds of which shall be deposited into the Wastewater Treatment Facilities Construction Loan Fund or the comparable state fund to finance safe drinking water facilities. Nothing in this section shall prohibit the provision of loans to a municipality as defined in section 81-15,149 for the construction, development, rehabilitation, operation, maintenance, and improvement of wastewater treatment facilities or safe drinking water facilities.

(6) The Legislature hereby finds and declares that:

(a) There is a need within this state for financing to assist public school boards and school districts and private for-profit or not-for-profit schools in connection with removal of materials determined to be hazardous to the health and well-being of the residents of the state and the reduction or elimination of accessibility barriers and that the federal funding provided for such projects is extremely limited and the need and requirement to remove such materials and to reduce or eliminate accessibility barriers from school buildings is great;

(b) The financing of the removal of such environmental hazards and the reduction or elimination of accessibility barriers is essential to protecting and improving the facilities in the state which provide educational benefits and services;

(c) The federal government has directed schools to remove such hazardous materials and to reduce or eliminate accessibility barriers; and

(d) The problems enumerated in this subsection cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the investment of private capital and assist in the financing of the removal of environmental hazards and the reduction or elimination of accessibility barriers in educational facilities in this state in order to provide for a clean, safe, and accessible environment to protect the health and welfare of the citizens and residents of this state.

(7) The Legislature hereby finds and declares that:

(a) The rapidly rising volume of waste deposited by society threatens the capacity of existing and future landfills. The nature of waste disposal means that unknown quantities of potentially toxic and hazardous materials are being buried and pose a constant threat to the ground water supply. In addition, the nature of the waste and the disposal methods utilized allow the waste to remain basically inert for decades, if not centuries, without decomposition;

(b) Wastes filling Nebraska's landfills may at best represent a potential

resource, but without proper management wastes are hazards to the environment and to the public health and welfare;

(c) The growing concern with ground water protection and the desire to avoid financial risks inherent in ground water contamination have caused many smaller landfills to close in favor of using higher-volume facilities. Larger operations allow for better ground water protection at a relatively lower and more manageable cost;

(d) The reduction of solid waste at the source and the recycling of reusable waste materials will reduce the flow of waste to landfills and increase the supply of reusable materials for the use of the public;

(e) There is a need within this state for financing to assist counties, cities, villages, entities created under the Interlocal Cooperation Act and the Joint Public Agency Act, and private persons with the construction and operation of new solid waste disposal areas or facilities and with the closure, monitoring, and remediation of existing solid waste disposal areas and facilities;

(f) Financing the construction and operation of new solid waste disposal areas and facilities and financing the closure, monitoring, and remediation of existing and former solid waste disposal areas and facilities in the state is essential to protect the environment and the public health and welfare;

(g) The federal government has directed that effective October 1, 1993, all solid waste disposal areas and facilities shall be upgraded to meet stringent siting, design, construction, operation, closure, monitoring, and remediation requirements; and

(h) The problems enumerated in this subsection cannot be remedied through the operation of private enterprise or individual communities or both but may be alleviated through the assistance of the authority to encourage the investment of private capital and to assist in the financing of solid waste disposal areas and facilities and in the removal of environmental hazards in solid waste disposal areas and facilities in this state in order to provide for a clean environment to protect the health and welfare of the citizens and

residents of this state.

(8) The Legislature hereby finds and declares that:

(a) During emergencies the resources of political subdivisions must be effectively directed and coordinated to public safety agencies to save lives, to protect property, and to meet the needs of citizens;

(b) There exists a need for public safety communication systems for use by Nebraska's public safety agencies as defined in the Nebraska Public Safety Communication System Act;

(c) Investment in the public safety communication infrastructure is required to ensure the effectiveness of such public safety agencies. Since the maintenance of public safety is a paramount concern but the cost of purchasing and operating multiple communication infrastructures is prohibitive, it is imperative that political subdivisions cooperate in their efforts to obtain real and personal property to establish, operate, maintain, and manage public safety communication systems; and

(d) There is a need within this state for financing to assist political subdivisions and any entities created under the Interlocal Cooperation Act and the Joint Public Agency Act with the acquisition, construction, and operation of real and personal property of public safety communication systems.

(9) The Legislature hereby finds and declares that, as of May 27, 2005, and in connection with the financing of agricultural projects, there is a need to increase both the limit on individual net worth and the limit on the aggregate loan amount that may be provided by the authority. Such adjustments are necessary to address the inadequate supply of and pressing need for farm credit and agricultural loan financing at interest rates and terms that are consistent with the needs of farmers, particularly beginning farmers, and other agricultural enterprises.

(10) The Legislature hereby finds and declares that:

(a) The amount of funding and other resources available to remedy the problems identified in this section has been, and continues to be, insufficient. Accordingly, the authority must be provided with additional

powers to adequately address the problems identified in this section with funding derived from public and private sources and state and federal sources;

(b) Carrying out the purposes of the Nebraska Investment Finance Authority Act may necessitate innovative agreements with public agencies and private entities and it is the policy of this state to encourage such public-private and intergovernmental cooperation; and

(c) Better, more broad-based sources of financing must be made available to the authority and by the authority to the private sector of the economy to enable the authority to address the problems identified in this section.

**Sec. 322.** Section 58-221, Revised Statutes Cumulative Supplement, 2024, is amended to read:

58-221 Residential energy conservation device shall mean any prudent means of reducing the demands for conventional fuels or increasing the supply or efficiency of these fuels in residential housing and shall include, but not be limited to:

(1) Caulking and weather stripping of doors and windows;

(2) Furnace efficiency modifications, including:

(a) Replacement burners, furnaces, heat pumps, or boilers or any combination thereof which, as determined by the Director of Water, Energy, and Environment, substantially increases the energy efficiency of the heating system;

(b) Any device for modifying flue openings which will increase the energy efficiency of the heating system; and

(c) Any electrical or mechanical furnace ignition system which replaces a standing gas pilot light;

(3) A clock thermostat;

(4) Ceiling, attic, wall, and floor insulation;

(5) Water heater insulation;

(6) Storm windows and doors, multiglazed windows and doors, and heat-absorbed or heat-reflective glazed window and door materials;

(7) Any device which controls demand of appliances and aids load

management;

(8) Any device to utilize solar energy, biomass, geothermal, or wind power for any residential energy conservation purpose including heating of water and space heating or cooling; and

(9) Any other conservation device, renewable energy technology, and specific home improvement necessary to insure the effectiveness of the energy conservation measures as the Director of Water, Energy, and Environment by rule or regulation identifies.

**Sec. 323.** Section 60-6,363, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,363 For purposes of sections 60-6,363 to 60-6,374:

(1) Diesel-powered motor vehicle shall mean a self-propelled vehicle which is designed primarily for transporting persons or property on a highway and which is powered by an internal combustion engine of the compression ignition type;

(2) Motor vehicle shall mean a self-propelled vehicle with a gross unloaded vehicle weight of ten thousand pounds or more or any combination of vehicles of a type subject to registration which is towed by such a vehicle;

(3) Smoke shall mean the solid or liquid matter, except water, discharged from a motor vehicle engine which obscures the transmission of light;

(4) Smokemeter shall mean a full-flow, light-extinction smokemeter of a type approved by the Department of Water, Energy, and Environment and operating on the principles described in the federal standards;

(5) Opacity shall mean the degree to which a smoke plume emitted from a diesel-powered motor vehicle engine will block the passage of a beam of light expressed as a percentage; and

(6) Smoke control system shall mean a system consisting of one or more devices and adjustments designed to control the discharge of smoke from diesel-powered motor vehicles.

**Sec. 324.** Section 60-6,364, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,364 Sections 60-6,363 to 60-6,374 shall apply to all diesel-powered motor vehicles operated within this state with the exception of the following:

(1) Emergency vehicles operated by federal, state, and local governmental authorities;

(2) Vehicles which are not required to be registered in accordance with the Motor Vehicle Registration Act;

(3) Vehicles used for research and development which have been approved by the Director of Water, Energy, and Environment;

(4) Vehicles being operated while undergoing maintenance;

(5) Vehicles operated under emergency conditions;

(6) Vehicles being operated in the course of training programs which have been approved by the director; and

(7) Other vehicles expressly exempted by the director.

**Sec. 325.** Section 60-6,367, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,367 (1) Officials of the Department of Water, Energy, and Environment and local enforcement officials shall have the authority to issue citations to suspected violators of sections 60-6,363 to 60-6,374 on the basis of their visual evaluation of the smoke emitted from a diesel-powered motor vehicle. A citation shall give the suspected violator a reasonable time to furnish evidence to the department that such alleged violation has been corrected or else such suspected violator shall be subject to the penalties set out in section 60-6,373. A suspected violator may demand that the suspected vehicle be tested by an approved smokemeter prior to a trial on the alleged violation.

(2) Smokemeter tests shall be conducted (a) by or under the supervision of a person or testing facility authorized by the Director of Water, Energy, and Environment to conduct such tests and (b) by installing an approved smokemeter on the exhaust pipe and operating the suspected vehicle at engine revolutions per minute equivalent to the engine revolutions per minute at the time of the alleged violation.

(3) The results of smokemeter tests run in accordance with this section



and after the alleged violation shall be admissible as evidence in legal proceedings.

**Sec. 326.** Section 60-6,368, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,368 (1) The Director of Water, Energy, and Environment shall have the power, after public hearings on due notice, to adopt and promulgate, consistent with and in furtherance of the provisions of sections 60-6,363 to 60-6,374, rules and regulations in accordance with which he or she will carry out his or her responsibilities and obligations under such sections.

(2) Any rules or regulations promulgated by the director shall be consistent with the provisions of the federal standards, if any, relating to control of emissions from the diesel-powered motor vehicles affected by such rules and regulations. The director shall not require, as a condition for the sale of any diesel-powered motor vehicle covered by sections 60-6,363 to 60-6,374, the inspection, certification, or other approval of any feature or equipment designed for the control of noise or emissions from such diesel-powered motor vehicles if such feature or equipment has been certified, approved, or otherwise authorized pursuant to laws or regulations of any federal governmental body as sufficient to make lawful the sale of any diesel-powered motor vehicle covered by such sections.

**Sec. 327.** Section 61-201, Reissue Revised Statutes of Nebraska, is amended to read:

61-201 The Chief Water Officer of the Department of Water, Energy, and Environment shall be qualified by training and business experience to manage and supervise the Division of Water of the Department of Water, Energy, and Environment. The Division of Water of the Department of Water, Energy, and Environment shall assist the Chief Water Officer in carrying out the Chief Water Officer's duties. The Chief Water Officer shall (1) be a professional engineer as provided in the Engineers and Architects Regulation Act or a professional geologist as provided in the Geologists Regulation Act and (2) have had at least five years' experience in a position of responsibility in

irrigation work. The Chief Water Officer shall be appointed by the Governor, subject to confirmation by the Legislature. The Chief Water Officer shall report directly to the Director of Water, Energy, and Environment. The Chief Water Officer shall, before assuming the duties of the office, take and subscribe an oath, such as is required by state officers.

**Sec. 328.** Section 61-202, Reissue Revised Statutes of Nebraska, is amended to read:

61-202 The Department of Water, Energy, and Environment may employ such personnel, including legal and technical advisors, as necessary to carry out the duties required of the department, including the duties required of the Chief Water Officer.

**Sec. 329.** Section 61-203, Reissue Revised Statutes of Nebraska, is amended to read:

61-203 The Chief Water Officer shall adopt a seal. Copies of all records or other instruments related to the duties of the Chief Water Officer in the Department of Water, Energy, and Environment when certified by the Chief Water Officer as true copies and bearing the seal thereof shall be received in any court as prima facie evidence of the original record or instruments.

**Sec. 330.** Section 61-204, Reissue Revised Statutes of Nebraska, is amended to read:

61-204 (1) The Chief Water Officer of the Department of Water, Energy, and Environment may adopt and promulgate rules and regulations to carry out the duties of the Chief Water Officer except to the extent such power is statutorily granted to the Nebraska Natural Resources Commission. The Chief Water Officer shall administer rules and regulations adopted and promulgated by the commission.

(2) The rules, regulations, and orders of the Director of Water Resources, the Department of Water Resources, the Nebraska Natural Resources Commission, the Director of Natural Resources, and the Department of Natural Resources shall remain in effect unless changed or eliminated by the Chief Water Officer or the Department of Water, Energy, and Environment, as determined by their

respective duties or by the commission to the extent such power is statutorily granted to the commission.

**Sec. 331.** Section 61-205, Reissue Revised Statutes of Nebraska, is amended to read:

61-205 The Chief Water Officer of the Department of Water, Energy, and Environment shall exercise the powers and perform the duties assigned to the Department of Natural Resources prior to July 1, 2025, except those duties assigned to the Director of the Department of Water, Energy, and Environment or the Department of Water, Energy, and Environment.

The Chief Water Officer and his or her duly authorized assistants shall have access at all reasonable times to all dams, reservoirs, hydroelectric plants, water measuring devices, and headgates, and other devices for diverting water, for the purpose of performing the duties assigned to the Chief Water Officer.

**Sec. 332.** Section 61-206, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-206 (1) The Chief Water Officer is given jurisdiction over all matters pertaining to water rights for irrigation, power, or other useful purposes except as such jurisdiction is specifically limited by statute. The Chief Water Officer may adopt and promulgate rules and regulations governing matters coming before the Chief Water Officer. The Chief Water Officer may refuse to allow any water to be used by claimants until their rights have been determined and made of record. The Chief Water Officer may request information relative to irrigation and water power works from any county, irrigation, or power officers and from any other persons. The Chief Water Officer may have hearings on complaints, petitions, or applications in connection with any of such matters. Such hearings shall be had at the time and place designated by the Chief Water Officer. The Chief Water Officer shall have power to certify official acts, compel attendance of witnesses, take testimony by deposition as in suits at law, and examine books, papers, documents, and records of any county, party, or parties interested in any of the matters mentioned in this section or have such

examinations made by its qualified representative and shall make and preserve a true and complete transcript of its proceedings and hearings. If a final decision is made without a hearing, a hearing shall be held at the request of any party to the proceeding if the request is made within thirty days after the decision is rendered. If a hearing is held at the request of one or more parties, the Chief Water Officer may require each such requesting party and each person who requests to be made a party to such hearing to pay the proportional share of the cost of such transcript. Upon any hearing, the Chief Water Officer shall receive any evidence relevant to the matter under investigation and the burden of proof shall be upon the person making the complaint, petition, and application. After such hearing and investigation, the Chief Water Officer shall render a decision in the premises in writing and shall issue such order or orders duly certified as the Chief Water Officer may deem necessary.

(2) The Chief Water Officer shall serve as the official officer of the state in connection with water resources development, soil and water conservation, flood prevention, watershed protection, and flood control.

(3) The Chief Water Officer or the Chief Water Officer's authorized representatives shall:

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

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

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

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

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

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

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

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

**Sec. 333.** Section 61-207, Reissue Revised Statutes of Nebraska, is amended to read:

61-207 If any county, party, or parties interested in irrigation or water power work affected thereby are dissatisfied with the decision or with any order adopted by the Chief Water Officer, such dissatisfied county, party, or parties may appeal to the Court of Appeals to reverse, vacate, or modify the order complained of. The procedure to obtain such reversal, modification, or vacation of any such decision or order upon which a hearing has been had before the Chief Water Officer shall be governed by the same provisions in force with reference to appeals and error proceedings from the district court. The evidence presented before the Chief Water Officer as reported by the Chief Water Officer's official stenographer and reduced to writing, together with a transcript of the record and pleadings upon which the decision is based, duly certified in such case under the seal of the Department of Water, Energy, and Environment, shall constitute the complete record and the evidence upon which the case shall be presented to the appellate court. The time for perfecting such appeal shall be limited to thirty days after the rendition of such decision or order, and the appellate court shall advance such appeal to the head of its docket.

**Sec. 334.** Section 61-208, Reissue Revised Statutes of Nebraska, is amended to read:

61-208 The Chief Water Officer may make surveys of streams showing location of possible water power developments and irrigation projects.

**Sec. 335.** Section 61-209, Reissue Revised Statutes of Nebraska, is amended to read:

61-209 The Chief Water Officer may conduct special projects for water data collection on behalf of other state agencies, political subdivisions, or federal agencies. Such data shall be public information. The Chief Water Officer may charge a fee to cover in whole or in part the costs of collecting, analyzing, and publishing the data and such fees shall be deposited in the Department of Water, Energy, and Environment Cash Fund.

**Sec. 336.** Section 61-210, Reissue Revised Statutes of Nebraska, is amended to read:

61-210 The Department of Water, Energy, and Environment Cash Fund is created. The State Treasurer shall credit to such fund such money as is specifically appropriated or reappropriated by the Legislature. The State Treasurer shall also credit such fund with payments, if any, accepted for services rendered by the department, including the Chief Water Officer, and fees collected pursuant to subsection (6) of section 46-606 and section 61-209. The funds made available to the Department of Water, Energy, and Environment by the United States, through the Natural Resources Conservation Service of the Department of Agriculture or through any other agencies, shall be credited to the fund by the State Treasurer. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The Department of Water, Energy, and Environment shall allocate money from the fund to pay costs of the programs or activities of the department, including the programs or activities of the Chief Water Officer. The Director of Administrative Services, upon receipt of proper vouchers approved by the department, shall issue warrants on the fund, and the State Treasurer shall

countersign and pay from, but never in excess of, the amounts to the credit of the fund. Transfers may be made from the fund to the General Fund at the direction of the Legislature.

**Sec. 337.** Section 61-211, Reissue Revised Statutes of Nebraska, is amended to read:

61-211 The Chief Water Officer may direct managers or operators of interstate ditches to construct and maintain suitable measuring devices at or near the state line in Nebraska. A manager or operator shall within thirty days after receipt of notice from the Chief Water Officer construct and complete installation of such a measuring device and shall furnish daily gauge height reports to the Chief Water Officer from the beginning to the end of the irrigation season, in such form and manner as recommended by the Chief Water Officer. Failure of any manager or operator of an interstate ditch to comply with this section shall be a Class V misdemeanor.

**Sec. 338.** Section 61-215, Reissue Revised Statutes of Nebraska, is amended to read:

61-215 There shall be one or more division supervisors acting for the Chief Water Officer to administer the public water of the state in water division No. 1 and water division No. 2, as created by section 61-212. Such a division supervisor, acting for the Chief Water Officer, shall have the immediate direction and control of the distribution of water in such manner as directed by the Chief Water Officer.

**Sec. 339.** Section 61-216, Reissue Revised Statutes of Nebraska, is amended to read:

61-216 The division supervisor or supervisors shall, under the direction of the Chief Water Officer, see that the laws relative to the distribution of water are executed in accordance with the rights of priority of appropriation.

**Sec. 340.** Section 61-218, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-218 (1) The Water Resources Cash Fund is created. The fund shall be administered by the Department of Water, Energy, and Environment. Any money in

the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall credit to the fund such money as is (a) transferred to the fund by the Legislature, (b) paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, (c) donated as gifts, bequests, or other contributions to such fund from public or private entities, (d) made available by any department or agency of the United States if so directed by such department or agency, (e) allocated pursuant to section 81-15,175, and (f) received by the state for settlement of claims relating to interstate river compacts or decrees.

(3)(a) The fund shall be expended by the department in any area that has adopted an integrated management plan as provided in section 46-715.

(b) The fund shall be used in any such area:

(i) To aid management actions taken to reduce consumptive uses of water;

(ii) To enhance streamflows or ground water recharge;

(iii) For any other activity deemed necessary by the department in the development and implementation of an integrated management plan;

(iv) For purposes of the Resilient Soils and Water Quality Act; or

(v) For purposes of projects or proposals described in the grant application as set forth in subdivision (2)(h) of section 81-15,175.

(c) To the extent funds are not expended pursuant to subdivision (b) of this subsection, the department may conduct a statewide assessment of short-term and long-term water management activities and funding needs to meet statutory requirements in sections 46-713 to 46-718 and 46-739 and any requirements of an interstate compact or decree or formal state contract or agreement.

(d) The fund shall not be used to pay for administrative expenses or any salaries for any political subdivision.

(4) It is the intent of the Legislature that three million three hundred thousand dollars be transferred each fiscal year from the General Fund to the



Water Resources Cash Fund for FY2011-12 through FY2022-23, except that for FY2012-13 it is the intent of the Legislature that four million seven hundred thousand dollars be transferred from the General Fund to the Water Resources Cash Fund. It is the intent of the Legislature that the State Treasurer credit any money received from any Republican River Compact settlement to the Water Resources Cash Fund in the fiscal year in which it is received.

(5)(a) Expenditures from the Water Resources Cash Fund may be made to natural resources districts eligible under subsection (3) of this section for activities to either achieve a sustainable balance of consumptive water uses or assure compliance with an interstate compact or decree or a formal state contract or agreement and shall require a match of local funding in an amount equal to or greater than forty percent of the total cost of carrying out the eligible activity. The department shall, no later than August 1 of each year, beginning in 2007, determine the amount of funding that will be made available to natural resources districts from the Water Resources Cash Fund and notify natural resources districts of this determination. The department shall adopt and promulgate rules and regulations governing application for and use of the Water Resources Cash Fund by natural resources districts. Such rules and regulations shall, at a minimum, include the following components:

(i) Require an explanation of how the planned activity will achieve a sustainable balance of consumptive water uses or will assure compliance with an interstate compact or decree or a formal state contract or agreement as required by section 46-715 and the controls, rules, and regulations designed to carry out the activity; and

(ii) A schedule of implementation of the activity or its components, including the local match as set forth in subdivision (5)(a) of this section.

(b) Any natural resources district that fails to implement and enforce its controls, rules, and regulations as required by section 46-715 shall not be eligible for funding from the Water Resources Cash Fund until it is determined by the department that compliance with the provisions required by section 46-715 has been established.

(6) The Department of Water, Energy, and Environment shall submit electronically an annual report to the Legislature no later than October 1 of each year that shall detail the use of the Water Resources Cash Fund in the previous year. The report shall provide:

(a) Details regarding the use and cost of activities carried out by the department; and

(b) Details regarding the use and cost of activities carried out by each natural resources district that received funds from the Water Resources Cash Fund.

(7)(a) Prior to the application deadline for fiscal year 2011-12, the Department of Natural Resources shall apply for a grant of nine million nine hundred thousand dollars from the Nebraska Environmental Trust Fund, to be paid out in three annual installments of three million three hundred thousand dollars. The purposes listed in the grant application shall be consistent with the uses of the Water Resources Cash Fund provided in this section and shall be used to aid management actions taken to reduce consumptive uses of water, to enhance streamflows, to recharge ground water, or to support wildlife habitat in any river basin determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(b) If the application is granted, funds received from such grant shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund for the purpose of supporting the projects set forth in the grant application. The department shall include in its grant application documentation that the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund into the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund for fiscal year 2013-14.

(c) It is the intent of the Legislature that the department apply for an additional three-year grant that would begin in fiscal year 2014-15, an additional three-year grant from the Nebraska Environmental Trust Fund that

would begin in fiscal year 2017-18, and an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2020-21 if the criteria established in subsection (4) of section 81-15,175 are achieved.

(8) The department shall establish a subaccount within the Water Resources Cash Fund for the accounting of all money received as a grant from the Nebraska Environmental Trust Fund as the result of an application made pursuant to subsection (7) of this section. At the end of each calendar month, the department shall calculate the amount of interest earnings accruing to the subaccount and shall notify the State Treasurer who shall then transfer a like amount from the Water Resources Cash Fund to the Nebraska Environmental Trust Fund.

(9) Any funds transferred from the Nebraska Environmental Trust Fund to the Water Resources Cash Fund shall be expended in accordance with section 81-15,168.

(10) The State Treasurer shall transfer one million dollars from the Water Resources Cash Fund to the Nitrogen Reduction Incentive Cash Fund as soon as administratively possible after July 19, 2024, but before June 30, 2025, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

**Sec. 341.** Section 61-222, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-222 The Water Sustainability Fund is created in the Department of Water, Energy, and Environment. The fund shall be used in accordance with the provisions established in sections 2-1506 to 2-1513 and for costs directly related to the administration of the fund. The Legislature shall not appropriate or transfer money from the Water Sustainability Fund for any other purpose, except that transfers may be made from the Water Sustainability Fund to the Department of Water, Energy, and Environment Cash Fund and as a one-time transfer to the General Fund as described in this section.

The Water Sustainability Fund shall consist of money transferred to the fund by the Legislature, other funds as appropriated by the Legislature, and

money donated as gifts, bequests, or other contributions from public or private entities. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by such department or agency. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Prior to October 1, 2024, investment earnings from investment of money in the fund shall be credited to the fund. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

It is the intent of the Legislature that twenty-one million dollars be transferred from the General Fund to the Water Sustainability Fund in fiscal year 2014-15 and that eleven million dollars be transferred from the General Fund to the Water Sustainability Fund each fiscal year beginning in fiscal year 2015-16.

The State Treasurer shall transfer one hundred seventy-five thousand dollars from the Water Sustainability Fund to the Department of Water, Energy, and Environment Cash Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer four hundred twenty-five thousand dollars from the Water Sustainability Fund to the Department of Water, Energy, and Environment Cash Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer five hundred thousand dollars from the Water Sustainability Fund to the General Fund on or before June 30, 2021, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer four hundred seventy-five thousand dollars from the Water Sustainability Fund to the Department of Water, Energy, and Environment Cash Fund on or before June 30, 2022, on such dates and in such

amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

The State Treasurer shall transfer four hundred seventy-five thousand dollars from the Water Sustainability Fund to the Department of Water, Energy, and Environment Cash Fund on or before June 30, 2023, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

**Sec. 342.** Section 61-224, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-224 There is hereby created the Critical Infrastructure Facilities Cash Fund in the Department of Water, Energy, and Environment. The fund shall consist of funds appropriated or transferred by the Legislature. The fund shall be used by the Department of Water, Energy, and Environment (1) to provide a grant to a natural resources district to offset costs related to soil and water improvements intended to protect critical infrastructure facilities within the district which includes military installations, transportation routes, and wastewater treatment facilities, (2) to provide a grant to an irrigation district for reimbursement of costs related to temporary repairs to the main canal and tunnels of an interstate irrigation system which experienced a failure, and (3) to provide a grant to an entity within a county with a population exceeding one hundred thousand inhabitants formed pursuant to the Interlocal Cooperation Act for the purpose of funding a portion of the cost of a wastewater system. Any funds remaining after all such project costs have been completely funded shall be transferred to the General Fund. Transfers may be made from the Critical Infrastructure Facilities Cash Fund to the General Fund at the direction of the Legislature. Any money in the Critical Infrastructure Facilities Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, and any interest earned by the fund shall be credited to the General Fund.

**Sec. 343.** Section 61-226, Revised Statutes Cumulative Supplement, 2024, is

amended to read:

61-226 The Department of Water, Energy, and Environment shall develop a state flood mitigation plan as a stand-alone document to be annexed into the state hazard mitigation plan maintained by the Nebraska Emergency Management Agency. Such plan shall be structured in accordance with Federal Emergency Management Agency guidelines, and shall be comprehensive, collaborative, and statewide in scope with opportunities for input from diverse stakeholders.

**Sec. 344.** Section 61-227, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-227 The Department of Water, Energy, and Environment shall convene a plan development group which shall be housed and staffed for administrative purposes within such department. The Department of Water, Energy, and Environment shall engage with federal, state, and local agency and community stakeholders in the development of the state flood mitigation plan, including, but not limited to, the Department of Transportation, the Department of Economic Development, the Department of Agriculture, the Nebraska Emergency Management Agency, natural resources districts, the United States Department of Agriculture, the United States Army Corps of Engineers, the United States Geological Survey, the Federal Emergency Management Agency, the University of Nebraska, representatives of counties, municipalities, and other political subdivisions, and the Natural Resources Committee of the Legislature. The Department of Water, Energy, and Environment may engage other sources to provide technical expertise as needed.

**Sec. 345.** Section 61-228, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-228 The Department of Water, Energy, and Environment shall:

(1) Evaluate the flood issues that occurred in 2019, and identify cost-effective flood mitigation strategies that should be adopted to reduce the disruption of lives and livelihoods and prioritize making Nebraska communities more resilient;

(2) Identify opportunities to implement flood hazard mitigation strategies

with the intent to reduce the impact of flood events;

(3) Work to improve knowledge and understanding of available recovery resources while identifying potential gaps in current disaster program delivery;

(4) Identify potential available funding sources that can be accessed to improve the resilience of the state through flood mitigation and post-flood disaster recovery. The funding sources shall include, but not be limited to, assistance from (a) the Federal Emergency Management Agency's Flood Mitigation Assistance Grant Program, Building Resilient Infrastructure and Communities Grant Program, Hazard Mitigation Grant Program, Public Assistance Program, and Individual Assistance Program, (b) the United States Department of Housing and Urban Development's Community Development Block Grant Program and Community Development Block Grant Disaster Recovery Program, and (c) programs of the United States Department of Agriculture's Natural Resources Conservation Service. Identification of such funding sources shall be in addition to grants and cost-sharing programs available through other agencies that support flood hazard mitigation planning in communities;

(5) Compile a centralized list of critical infrastructure and state-owned facilities and identify those with the highest risk of flooding. In compiling such list, the Department of Water, Energy, and Environment shall consult and collaborate with other state and local agencies that have information that identifies vulnerable facilities;

(6) Evaluate state laws, rules, regulations, policies, and programs related to flood hazard mitigation and development in flood hazard-prone areas to support the state's administration of the Federal Emergency Management Agency's National Flood Insurance Program, Community Rating System, and Risk Mapping, Assessment, and Planning Program;

(7) Examine existing law and, if necessary, recommend statutory or administrative changes to help ensure collaboration and coordination between state and local entities in statewide flood mitigation planning; and

(8) Hold two public hearings, one prior to the first state flood

mitigation plan development meeting and one prior to the completion of such plan. Notice of each hearing shall be published at least thirty days prior to the hearing date.

**Sec. 346.** Section 61-303, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-303 The Department of Water, Energy, and Environment shall have the necessary authority to develop, construct, manage, and operate the Perkins County Canal Project consistent with the terms of the South Platte River Compact and pursuant to the Perkins County Canal Project Act. The department's powers under the act shall include: (a) Contracting for services, (b) acquiring permits, (c) acquiring and owning real property, (d) acquiring, holding, and exercising water rights, (e) employing personnel, (f) accepting grants, loans, donations, gifts, bequests, or other contributions from any person or entity, public or private, including any funds made available by any department or agency of the United States, (g) managing and expending such funds as are made available to it from the Perkins County Canal Project Fund, and (h) any other necessary functions consistent with the compact and pursuant to the act in protecting Nebraska's full entitlement to flows of the South Platte River. For purposes of the Perkins County Canal Project Act, the Department of Water, Energy, and Environment is authorized to acquire real estate or access thereto in the name of the State of Nebraska by the use of eminent domain as provided under section 76-725. The department is also authorized to resolve all disputes that may arise, including the initiation or defense of legal actions of any kind, as necessary to achieve the purposes of the act.

**Sec. 347.** Section 61-305, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-305 (1) The Perkins County Canal Project Fund is created. The fund shall be administered by the Department of Water, Energy, and Environment. The State Treasurer shall credit to the fund any money transferred by the Legislature and such grants, loans, donations, gifts, bequests, or other money received from any federal or state agency or public or private source for use



by the department for the canal project. Any fees collected for water delivery may be credited to the fund. Any money in the Perkins County Canal Project Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any investment earnings from investment of money in the Perkins County Canal Project Fund shall be credited to such fund, except that for fiscal years 2023-24, 2024-25, and 2025-26, such investment earnings shall be credited as provided in section 84-622.

(2)(a) The department shall use the Perkins County Canal Project Fund to identify the optimal route and purchase land for and develop, construct, manage, and operate the Perkins County Canal as outlined by the South Platte River Compact and to contract with an independent firm for the purposes of completing a study of such canal. The study shall include, but may not be limited to, the following:

(i) Costs of completion of a canal and adjoining reservoirs as outlined in the South Platte River Compact;

(ii) A timeline for completion of a canal and adjoining reservoirs as outlined in the South Platte River Compact;

(iii) A cost-effectiveness study examining alternatives, including alternatives that may reduce environmental or financial impacts; and

(iv) The impacts of the canal on drinking water supplies for the cities of Lincoln and Omaha.

(b) The department shall provide the findings of such study electronically to the Clerk of the Legislature and present the findings at a public hearing held by the Appropriations Committee of the Legislature on or before December 31, 2022.

**Sec. 348.** Section 61-401, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-401 Sections 61-401 to 61-405 shall be known and may be cited as the Jobs and Economic Development Initiative Act and may also be referred to as the JEDI Act.

**Sec. 349.** Section 61-403, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-403 (1) The Department of Water, Energy, and Environment is granted all power necessary to carry out the purposes of the Jobs and Economic Development Initiative Act, including, but not limited to, the power to:

(a) Purchase, sell, or lease land;

(b) Enter into contracts, including, but not limited to, contracts relating to the provision of construction services, management services, legal services, auditor services, and other consulting services or advice as the department may require in the performance of its duties; and

(c) Enter into agreements with natural resources districts to accomplish the purposes of the act. In any such agreement, a natural resources district may use the full powers granted to it by law.

(2) It is the intent of the Legislature that the department engage private parties and entities to construct and develop the lake and enter into contracts or public-private partnerships that the department deems advantageous to the construction and development of the lake, and land adjacent thereto, and to advance the purposes of the act.

(3) Notwithstanding any other provision of law, the department shall give preference to:

(a) Contract proposals relating to the development or management of the lake from a Nebraska nonprofit corporation whose board of directors include at least four directors who are appointed by the Governor with the approval of a majority of the Legislature, one representative of the Game and Parks Commission who is a nonvoting, ex officio member of such board of directors, and one member of the Legislature who is appointed by the Executive Board of the Legislative Council and who is a nonvoting, ex officio member of such board of directors. All such directors must agree to be bound by the conflict-of-interest provisions in sections 49-1493 to 49-14,104. Any such nonprofit corporation shall be bound by the Open Meetings Act and sections 84-712 to 84-712.09 and shall publicly let contracts valued in excess of twenty-five

thousand dollars; and

(b) Contract proposals which provide for a public-private partnership with the state in constructing, developing, or managing the lake.

(4) The department is granted authority to select the land upon which the lake will be built. In making such selection, the following shall apply:

(a) The land shall be located in or near a county having a population of at least one hundred thousand but not more than three hundred thousand inhabitants and within the flood plain or floodway of the Platte River;

(b) Preference shall be given to locations that were materially underwater when the Platte River flooded in 2019;

(c) It is the intent of the Legislature that the lake be at least three thousand six hundred surface acres in size;

(d) No dam shall be constructed on the main channel of the Platte River in order to construct the lake; and

(e) No city or village, or any part thereof, shall be flooded in order to construct the lake.

(5) The department is granted authority to designate the land selected for the lake under subsection (4) of this section, and land near or adjacent thereto, as the Lake Development District.

(6) The department may, in the performance of its duties, seek input and advice from any natural resources district that encompasses any of the area included in the Lake Development District.

(7) It is the intent of the Legislature that the department engage local stakeholders as the department carries out its duties under this section.

(8) The land selected for the lake shall be owned by the state, and the department shall ensure that the general public has complete access to the lake. No private entity involved in the constructing, developing, or managing of the lake shall designate any portion of the lake for exclusively private use. Nothing in this subsection shall preclude reasonable limitations on the number of people using the lake, a marina, or any other access point so long as such limitation does not restrict access to a designated class of private

parties.

(9) Neither the Director of Water, Energy, and Environment nor any employee of the Department of Water, Energy, and Environment shall have a financial interest, either personally or through an immediate family member, in any purchase, sale, or lease of real property relating to the construction or development of the lake or in any contract entered into by the department relating to the construction, development, or management of the lake. For purposes of this subsection, immediate family member means a spouse, child, sibling, parent, grandparent, or grandchild.

**Sec. 350.** Section 61-404, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-404 Notwithstanding any other provision of law, no land within the Lake Development District, as designated by the Department of Water, Energy, and Environment pursuant to section 61-403, shall be annexed.

**Sec. 351.** Section 61-405, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-405 (1) The Jobs and Economic Development Initiative Fund is created. The fund shall be administered by the Department of Water, Energy, and Environment. The State Treasurer shall credit to the fund any money transferred to the fund by the Legislature and such donations, gifts, bequests, or other money received from any federal or state agency or public or private source. The fund shall be used for water and recreational projects pursuant to the Jobs and Economic Development Initiative Act. Transfers may be made from the fund to the Cash Reserve Fund or the Roads Operations Cash Fund at the direction of the Legislature. Any money in the Jobs and Economic Development Initiative Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Prior to October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the fund. Beginning October 1, 2024, any investment earnings from investment of money in the fund shall be credited to the General Fund.

(2) An amount, not to exceed twenty million dollars, shall be available for site selection costs, feasibility and public water supply studies, and flood mitigation costs of the Department of Water, Energy, and Environments related to any projects pursuant to the Jobs and Economic Development Initiative Act. The Department of Water, Energy, and Environment shall, in cooperation with impacted communities, including, but not limited to, any city of the primary class and metropolitan utilities district, contract with an independent consultant to conduct a study on the consequences of any lake located in the Lower Platte River Basin to the public water supply of such communities. Such study shall consider all aspects of water quality, water quantity, and water infrastructure, and any other issues necessary to protect the public water supply, including the impact to future water supply opportunities to the impacted communities.

(3) No funds shall be expended for any project, other than those enumerated in subsection (2) of this section, from the Jobs and Economic Development Initiative Fund unless the Director of Water, Energy, and Environment certifies to the budget administrator of the budget division of the Department of Administrative Services that the Department of Water, Energy, and Environment has conducted any environmental, hydrological, or other feasibility studies the director deems necessary to establish the feasibility of any projects pursuant to the Jobs and Economic Development Initiative Act and that, based on the results of such studies, the director has deemed the projects feasible.

**Sec. 352.** Section 61-502, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-502 For purposes of the Public Water and Natural Resources Project Contracting Act:

(1) Alternative technical concept means changes suggested by a qualified, eligible, short-listed design-builder to the department's basic configurations, project scope, design, or construction criteria;

(2) Best value-based selection process means a process of selecting a

design-builder using price, schedule, and qualifications for evaluation factors;

(3) Construction manager means the legal entity which proposes to enter into a construction manager-general contractor contract pursuant to the act;

(4) Construction manager-general contractor contract means a contract which is subject to a qualification-based selection process between the department and a construction manager to furnish preconstruction services during the design development phase of the project and, if an agreement can be reached which is satisfactory to the department, construction services for the construction phase of the project;

(5) Construction services means activities associated with building the project;

(6) Department means the Department of Water, Energy, and Environment;

(7) Design-build contract means a contract between the department and a design-builder which is subject to a best value-based selection process to furnish (a) architectural, engineering, and related design services and (b) labor, materials, supplies, equipment, and construction services;

(8) Design-builder means the legal entity which proposes to enter into a design-build contract;

(9) Preconstruction services means all nonconstruction-related services that a construction manager performs in relation to the design of the project before execution of a contract for construction services. Preconstruction services includes, but is not limited to, cost estimating, value engineering studies, constructability reviews, delivery schedule assessments, and life-cycle analysis;

(10) Private partner means any entity that is a partner in a public-private partnership other than the State of Nebraska, any agency of the State of Nebraska, the federal government, any agency of the federal government, any other state government, or any agency of any government at any level;

(11) Progressive design-build means a project-delivery process in which both the design and construction of a project are procured from a single entity

that is selected through a qualification-based selection process at the earliest feasible stage of the project;

(12) Project performance criteria means the performance requirements of the project suitable to allow the design-builder to make a proposal. Performance requirements shall include, but are not limited to, the following, if required by the project: Capacity, durability, standards, ingress and egress requirements, description of the site, surveys, soil and environmental information concerning the site, material quality standards, design and milestone dates, site development requirements, compliance with applicable law, and other criteria for the intended use of the project;

(13) Proposal means an offer in response to a request for proposals (a) by a design-builder to enter into a design-build contract or (b) by a construction manager to enter into a construction manager-general contractor contract;

(14) Public-private partnership means a project delivery method for construction or financing of capital projects or procurement of services under a written public-private partnership agreement entered into pursuant to section 61-520 between at least one private partner and the State of Nebraska or any agency of the state;

(15) Qualification-based selection process means a process of selecting a construction manager or progressive design-builder based on qualifications;

(16) Request for proposals means the documentation by which the department solicits proposals; and

(17) Request for qualifications means the documentation or publication by which the department solicits qualifications.

**Sec. 353.** Section 61-520, Revised Statutes Cumulative Supplement, 2024, is amended to read:

61-520 (1) A public-private partnership delivery method may be used for projects under the Public Water and Natural Resources Project Contracting Act as provided in this section and rules and regulations adopted and promulgated pursuant to this section only to the extent allowed under the Constitution of Nebraska. State contracts using this method shall be awarded by competitive

negotiation.

(2) The department utilizing a public-private partnership shall continue to be responsible for oversight of any function that is delegated to or otherwise performed by a private partner.

(3) On or before July 1, 2024, the Director of Water, Energy, and Environment shall adopt and promulgate rules and regulations setting forth criteria to be used in determining when a public-private partnership is to be used for a particular project. The rules and regulations shall reflect the intent of the Legislature to promote and encourage the use of public-private partnerships in the State of Nebraska. The Director of Water, Energy, and Environment shall consult with design-builders, progressive design-builders, construction managers, other contractors and design professionals, including engineers and architects, and other appropriate professionals during the development of the rules and regulations.

(4) A request for proposals for a project utilizing a public-private partnership shall include at a minimum:

- (a) The parameters of the proposed public-private partnership agreement;
- (b) The duties and responsibilities to be performed by the private partner or private partners;
- (c) The methods of oversight to be employed by the department;
- (d) The duties and responsibilities that are to be performed by the department and any other parties to the contract;
- (e) The evaluation factors and the relative weight of each factor to be used in the scoring of awards;
- (f) Plans for financing and operating the project and the revenue, service payments, bond financings, and appropriations of public funds needed for the qualifying project;
- (g) Comprehensive documentation of the experience, capabilities, capitalization and financial condition, and other relevant qualifications of the private entity submitting the proposal;
- (h) The ability of a private partner or private partners to quickly



respond to the needs presented in the request for proposals and the importance of economic development opportunities represented by the project. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds; and

(i) Other information required by the department to evaluate the proposals submitted and the overall proposed public-private partnership.

(5) A private entity desiring to be a private partner shall demonstrate to the satisfaction of the department that it is capable of performing any duty, responsibility, or function it may be authorized or directed to perform as a term or condition of the public-private partnership agreement.

(6) A request for proposals may be canceled, or all proposals may be rejected, if it is determined in writing that such action is taken in the best interest of the State of Nebraska and approved by the purchasing officer.

(7) Upon execution of a public-private partnership agreement, the department shall ensure that the contract clearly identifies that a public-private partnership is being utilized.

(8) The department shall:

(a) Adhere to the rules and regulations adopted and promulgated under this section when utilizing a public-private partnership for financing capital projects; and

(b) Electronically report annually to the Natural Resources Committee of the Legislature regarding private-public partnerships which have been considered or are approved pursuant to this section.

**Sec. 354.** Section 66-203, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-203 (1) The Department of Water, Energy, and Environment shall offer a rebate for qualified clean-burning motor vehicle fuel property.

(2)(a) The rebate for qualified clean-burning motor vehicle fuel property as defined in subdivisions (4)(a) and (b) of section 66-202 is the lesser of

fifty percent of the cost of the qualified clean-burning motor vehicle fuel property or four thousand five hundred dollars for each motor vehicle.

(b) A qualified clean-burning motor vehicle fuel property is not eligible for a rebate under this section if the person or entity applying for the rebate has claimed another rebate or grant for the same motor vehicle under any other state rebate or grant program.

(3) The rebate for qualified clean-burning motor vehicle fuel property as defined in subdivision (4)(c) of section 66-202 is the lesser of fifty percent of the cost of the qualified clean-burning motor vehicle fuel property or two thousand five hundred dollars for each qualified clean-burning motor vehicle fuel property.

(4) No qualified clean-burning motor vehicle fuel property shall qualify for more than one rebate under this section.

**Sec. 355.** Section 66-204, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-204 (1) The Clean-burning Motor Fuel Development Fund is created. The fund shall consist of grants, private contributions, and all other sources.

(2) The fund shall be used by the Department of Water, Energy, and Environment to provide rebates under the Nebraska Clean-burning Motor Fuel Development Act up to the amount transferred under subsection (3) of this section. No more than thirty-five percent of the money in the fund annually shall be used as rebates for flex-fuel dispensers. The department may use the fund for necessary costs in the administration of the act up to an amount not exceeding ten percent of the fund annually.

(3) Within five days after August 30, 2015, the State Treasurer shall transfer five hundred thousand dollars from the General Fund to the Clean-burning Motor Fuel Development Fund to carry out the Nebraska Clean-burning Motor Fuel Development Act.

(4) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The State Treasurer shall transfer two hundred thousand dollars from the Clean-burning Motor Fuel Development Fund to the General Fund on or before June 30, 2018, on such dates and in such amounts as directed by the budget administrator of the budget division of the Department of Administrative Services.

**Sec. 356.** Section 66-301, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-301 For purposes of sections 66-301 to 66-304:

(1) Covered electric generating unit means a fossil fuel-fired electric generating unit existing within the state prior to August 30, 2015, that is subject to regulation under the federal emission guidelines;

(2) Federal emission guidelines means any final rules, regulations, guidelines, or other requirements that the United States Environmental Protection Agency may adopt for regulating carbon dioxide emissions from covered electric generating units under section 111(d) of the federal Clean Air Act, 42 U.S.C. 7411(d);

(3) State means the State of Nebraska; and

(4) State plan means any plan to establish and enforce carbon dioxide emission control measures that the Department of Water, Energy, and Environment may adopt to implement the obligations of the state under the federal emission guidelines.

**Sec. 357.** Section 66-302, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-302 The Department of Water, Energy, and Environment shall not submit a state plan for regulating carbon dioxide emissions from covered electric generating units to the United States Environmental Protection Agency until the department has prepared a report as required in section 66-303. Nothing in this section shall prevent the department from complying with federally prescribed deadlines.

**Sec. 358.** Section 66-303, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-303 (1) The Department of Water, Energy, and Environment shall also prepare a report that assesses the effects of the state plan for regulating carbon dioxide emissions from covered electric generating units on:

(a) The electric power sector, including:

(i) The type and amount of electric generating capacity within the state that is likely to retire or switch to another fuel;

(ii) The stranded investment in electric generating capacity and other infrastructure;

(iii) The amount of investment necessary to offset retirements of electric generating capacity and maintain generation reserve margins;

(iv) Potential risks to electric reliability, including resource adequacy risks and transmission constraints; and

(v) The amount by which retail electricity prices within the state are forecast to increase or decrease; and

(b) Employment within the state, including direct and indirect employment effects within affected sectors of the state's economy.

(2) The department shall complete the report required under this section at least thirty days prior to submitting the state plan prepared pursuant to section 66-302 and shall electronically submit to the Legislature a copy of such report.

(3) If the Legislature is in session when it receives the report, the Legislature may vote on a nonbinding legislative resolution endorsing or disapproving the state plan based on the findings of the report.

**Sec. 359.** Section 66-304, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-304 Upon submitting a state plan to the United States Environmental Protection Agency, the Department of Water, Energy, and Environment shall electronically submit to the Legislature a copy of the state plan.

**Sec. 360.** Section 66-489.02, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-489.02 (1) For tax periods beginning on and after July 1, 2009, at the

time of filing the return required by section 66-488, the producer, supplier, distributor, wholesaler, or importer shall, in addition to the other taxes provided for by law, pay a tax at the rate of five percent of the average wholesale price of gasoline for the gallons of the motor fuels as shown by the return, except that there shall be no tax on the motor fuels reported if they are otherwise exempted by sections 66-482 to 66-4,149.

(2) The department shall calculate the average wholesale price of gasoline on April 1, 2009, and on each April 1 and October 1 thereafter. The average wholesale price on April 1 shall apply to returns for the tax periods beginning on and after July 1, and the average wholesale price on October 1 shall apply to returns for the tax periods beginning on and after January 1. The average wholesale price shall be determined using data available from the Department of Water, Energy, and Environment and shall be an average wholesale price per gallon of gasoline sold in the state over the previous six-month period, excluding any state or federal excise tax or environmental fees. The change in the average wholesale price between two six-month periods shall be adjusted so that the increase or decrease in the tax provided for in this section or section 66-6,109.02 does not exceed one cent per gallon.

(3) All sums of money received under this section shall be credited to the Highway Trust Fund. Credits and refunds of such tax allowed to producers, suppliers, distributors, wholesalers, or importers shall be paid from the Highway Trust Fund. The balance of the amount credited, after credits and refunds, shall be allocated as follows:

(a) Sixty-six percent to the Highway Cash Fund for the Department of Transportation;

(b) Seventeen percent to the Highway Allocation Fund for allocation to the various counties for road purposes; and

(c) Seventeen percent to the Highway Allocation Fund for allocation to the various municipalities for street purposes.

**Sec. 361.** Section 66-1004, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-1004 Energy conservation measure shall mean installing or using any:

(1) Caulking or weatherstripping of doors or windows;

(2) Furnace efficiency modifications involving electric service;

(3) Clock thermostats;

(4) Water heater insulation or modification;

(5) Ceiling, attic, wall, or floor insulation;

(6) Storm windows or doors, multiglazed windows or doors, or heat absorbing or reflective glazed window and door material;

(7) Devices which control demand of appliances and aid load management;

(8) Devices to utilize solar energy, biomass, or wind power for any energy conservation purpose, including heating of water and space heating or cooling, which have been identified by the Department of Water, Energy, and Environment as an energy conservation measure for the purposes of sections 66-1001 to 66-1011;

(9) High-efficiency lighting and motors;

(10) Devices which are designed to increase energy efficiency, the utilization of renewable resources, or both; and

(11) Such other conservation measures as the department shall identify.

**Sec. 362.** Section 66-1009, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-1009 (1) A customer borrowing from a utility under a plan adopted pursuant to sections 66-1001 to 66-1011 shall be allowed to contract with the utility for a repayment plan and shall be offered a repayment period of not less than three years and not more than twenty years.

(2) Upon default on a loan by a customer, after expending reasonable efforts to collect, a utility may treat the entire unpaid contract amount as due, but services to a residential, agricultural, or commercial customer may not be terminated as a result of such default. Default occurs when any amount due a utility under a plan adopted pursuant to sections 66-1001 to 66-1011, 70-625, 70-704, 81-1606 to 81-1626, and 84-162 to 84-167 is not paid within sixty days of the due date.

(3) Any customer obtaining a loan pursuant to section 66-1007 shall only use the funds to accomplish the purposes agreed upon at the time of the loan. If the borrower of any funds obtained pursuant to sections 66-1001 to 66-1011 uses such funds in a manner or for a purpose not authorized by this section, the total amount of the loan shall immediately become due and payable.

(4) Any amount due a utility on a loan pursuant to sections 66-1001 to 66-1011 which is not paid in full within sixty days of the due date shall become a lien as provided in this section on the real property concerned as to the full unpaid balance. No lien under this section shall be valid unless (a) the loan was signed by the party or parties shown on the indexes of the register of deeds to be the owners of record of such real property on the date of the loan and (b) the lien is filed not more than four months after the date of default, in the same office and in the same manner as mortgages in the county in which the real property is located. Such lien shall take effect and be in force from and after the time of delivering the same to the register of deeds for recording, and not before, as to all creditors and subsequent purchasers in good faith without notice, and such lien shall be adjudged void as to all such creditors and subsequent purchasers without notice whose deeds, mortgages, or other instruments shall be first recorded, except that such lien shall be valid between the parties. A publicly owned utility shall not maintain possession of any property which it may acquire pursuant to a lien authorized by this section for a period of time longer than is reasonably necessary to dispose of such property.

(5) Any loan made under a plan adopted pursuant to sections 66-1001 to 66-1011 shall not exceed fifteen thousand dollars, subject to any existing limitations under federal law. Any loan to be made by a utility which exceeds ten thousand dollars shall only be made in participation with a bank pursuant to a contract. The utility and the participating bank shall determine the terms and conditions of the contract.

(6) The Director of Water, Energy, and Environment may adopt and promulgate rules and regulations to carry out sections 66-1001 to 66-1011.

**Sec. 363.** Section 66-1105, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-1105 Any person who desires to withdraw ground water within the State of Nebraska for geothermal resource development shall, prior to commencing construction of any wells, obtain from the Director of Water, Energy, and Environment a permit to authorize the withdrawal, transfer, and further use or reinjection of such ground water. The Department of Water, Energy, and Environment shall adopt and promulgate rules and regulations governing the issuance of such permits, consistent with sections 66-1101 to 66-1106 and with Chapter 46, article 6. Such rules and regulations shall be compatible with rules and regulations adopted and promulgated by the department under the Environmental Protection Act. Any geothermal fluids produced incident to the development and production of geothermal resources shall be reinjected into the same geologic formation from which they were extracted in substantially the same volume and substantially the same or higher quality as when extracted unless the permit issued in accordance with this section authorizes further uses or processing other than those incident to reinjection.

**Sec. 364.** Section 66-1344, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-1344 (1) Beginning June 1, 2000, during such period as funds remain in the Ethanol Production Incentive Cash Fund, any ethanol facility shall receive a credit of seven and one-half cents per gallon of ethanol, before denaturing, for new production for a period not to exceed thirty-six consecutive months. For purposes of this subsection, new production means production which results from the expansion of an existing facility's capacity by at least two million gallons first placed into service after June 1, 1999, as certified by the facility's design engineer to the Department of Revenue. For expansion of an existing facility's capacity, new production means production in excess of the average of the highest three months of ethanol production at an ethanol facility during the twenty-four-month period immediately preceding certification of the facility by the design engineer. No credits shall be



allowed under this subsection for expansion of an existing facility's capacity until production is in excess of twelve times the three-month average amount determined under this subsection during any twelve-consecutive-month period beginning no sooner than June 1, 2000. New production shall be approved by the Department of Revenue based on such ethanol production records as may be necessary to reasonably determine new production. This credit must be earned on or before December 31, 2003.

(2)(a) Beginning January 1, 2002, any new ethanol facility which is in production at the minimum rate of one hundred thousand gallons annually for the production of ethanol, before denaturing, and which has provided to the Department of Revenue written evidence substantiating that the ethanol facility has received the requisite authority from the Department of Water, Energy, and Environment and from the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, on or before June 30, 2004, shall receive a credit of eighteen cents per gallon of ethanol produced for ninety-six consecutive months beginning with the first calendar month for which it is eligible to receive such credit and ending not later than June 30, 2012, if the facility is defined by subdivision (b)(i) of this subsection, and for forty-eight consecutive months beginning with the first calendar month for which it is eligible to receive such credit and ending not later than June 30, 2008, if the facility is defined by subdivision (b)(ii) of this subsection. The new ethanol facility shall provide an analysis to the Department of Revenue of samples of the product collected according to procedures specified by the department no later than July 30, 2004, and at least annually thereafter. The analysis shall be prepared by an independent laboratory meeting the International Organization for Standardization standard ISO/IEC 17025:1999. Prior to collecting the samples, the new ethanol facility shall notify the department which may observe the sampling procedures utilized by the new ethanol facility to obtain the samples to be submitted for independent analysis. The minimum rate shall be established for a period of at least thirty days. In this regard, the new ethanol facility must produce at least eight

thousand two hundred nineteen gallons of ethanol within a thirty-day period. The ethanol must be finished product which is ready for sale to customers.

(b) For purposes of this subsection, new ethanol facility means a facility for the conversion of grain or other raw feedstock into ethanol and other byproducts of ethanol production which (i) is not in production on or before September 1, 2001, or (ii) has not received credits prior to June 1, 1999. A new ethanol facility does not mean an expansion of an existing ethanol plant that does not result in the physical construction of an entire ethanol processing facility or which shares or uses in a significant manner any existing plant's systems or processes and does not include the expansion of production capacity constructed after June 30, 2004, of a plant qualifying for credits under this subsection. This definition applies to contracts entered into after April 16, 2004.

(c) Not more than fifteen million six hundred twenty-five thousand gallons of ethanol produced annually at an ethanol facility shall be eligible for credits under this subsection. Not more than one hundred twenty-five million gallons of ethanol produced at an ethanol facility by the end of the ninety-six-consecutive-month period or forty-eight-consecutive-month period set forth in this subsection shall be eligible for credits under this subsection.

(3) The credits described in this section shall be given only for ethanol produced at a plant in Nebraska at which all fermentation, distillation, and dehydration takes place. No credit shall be given on ethanol produced for or sold for use in the production of beverage alcohol. Not more than ten million gallons of ethanol produced during any twelve-consecutive-month period at an ethanol facility shall be eligible for the credit described in subsection (1) of this section. The credits described in this section shall be in the form of a nonrefundable, transferable motor vehicle fuel tax credit certificate. No transfer of credits will be allowed between the ethanol producer and motor vehicle fuel licensees who are related parties.

(4) Ethanol production eligible for credits under this section shall be measured by a device approved by the Division of Weights and Measures of the

Department of Agriculture. Confirmation of approval by the division shall be provided by the ethanol facility at the time the initial claim for credits provided under this section is submitted to the Department of Revenue and annually thereafter. Claims submitted by the ethanol producer shall be based on the total number of gallons of ethanol produced, before denaturing, during the reporting period measured in gross gallons.

(5) The Department of Revenue shall prescribe an application form and procedures for claiming credits under this section. In order for a claim for credits to be accepted, it must be filed by the ethanol producer within three years of the date the ethanol was produced or by September 30, 2012, whichever occurs first.

(6) Every producer of ethanol shall maintain records similar to those required by section 66-487. The ethanol producer must maintain invoices, meter readings, load-out sheets or documents, inventory records, including work-in-progress, finished goods, and denaturant, and other memoranda requested by the Department of Revenue relevant to the production of ethanol. On an annual basis, the ethanol producer shall also be required to furnish the department with copies of the reports filed with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The maintenance of all of this information in a provable computer format or on microfilm is acceptable in lieu of retention of the original documents. The records must be retained for a period of not less than three years after the claim for ethanol credits is filed.

(7) For purposes of ascertaining the correctness of any application for claiming a credit provided in this section, the Tax Commissioner (a) may examine or cause to have examined, by any agent or representative designated by him or her for that purpose, any books, papers, records, or memoranda bearing upon such matters, (b) may by summons require the attendance of the person responsible for rendering the application or other document or any officer or employee of such person or the attendance of any other person having knowledge in the premises, and (c) may take testimony and require proof material for his

or her information, with power to administer oaths or affirmations to such person or persons. The time and place of examination pursuant to this subsection shall be such time and place as may be fixed by the Tax Commissioner and as are reasonable under the circumstances. In the case of a summons, the date fixed for appearance before the Tax Commissioner shall not be less than twenty days from the time of service of the summons. No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations. All records obtained pursuant to this subsection shall be subject to the confidentiality requirements and exceptions thereto as provided in section 77-27,119.

(8) To qualify for credits under this section, an ethanol producer shall provide public notice for bids before entering into any contract for the construction of a new ethanol facility. Preference shall be given to a bidder residing in Nebraska when awarding any contract for construction of a new ethanol facility if comparable bids are submitted. For purposes of this subsection, bidder residing in Nebraska means any person, partnership, foreign or domestic limited liability company, association, or corporation authorized to engage in business in the state with employees permanently located in Nebraska. If an ethanol producer enters into a contract for the construction of a new ethanol facility with a bidder who is not a bidder residing in Nebraska, such producer shall demonstrate to the satisfaction of the Department of Revenue in its application for credits that no comparable bid was submitted by a responsible bidder residing in Nebraska. The department shall deny an application for credits if it is determined that the contract was denied to a responsible bidder residing in Nebraska without cause.

(9) The pertinent provisions of Chapter 66, article 7, relating to the administration and imposition of motor fuel taxes shall apply to the administration and imposition of assessments made by the Department of Revenue relating to excess credits claimed by ethanol producers under the Ethanol Development Act. These provisions include, but are not limited to, issuance of a deficiency following an examination of records, an assessment becoming final

after sixty days absent a written protest, presumptions regarding the burden of proof, issuance of deficiency within three years of original filing, issuance of notice by registered or certified mail, issuance of penalties and waiver thereof, issuance of interest and waiver thereof, and issuance of corporate officer or employee or limited liability company manager or member assessments. For purposes of determining interest and penalties, the due date will be considered to be the date on which the credits were used by the licensees to whom the credits were transferred.

(10) If a written protest is filed by the ethanol producer with the department within the sixty-day period in subsection (9) of this section, the protest shall: (a) Identify the ethanol producer; (b) identify the proposed assessment which is being protested; (c) set forth each ground under which a redetermination of the department's position is requested together with facts sufficient to acquaint the department with the exact basis thereof; (d) demand the relief to which the ethanol producer considers itself entitled; and (e) request that an evidentiary hearing be held to determine any issues raised by the protest if the ethanol producer desires such a hearing.

(11) For applications received after April 16, 2004, an ethanol facility receiving benefits under the Ethanol Development Act shall not be eligible for benefits under the Employment and Investment Growth Act, the Invest Nebraska Act, the Nebraska Advantage Act, or the Imagine Nebraska Act.

**Sec. 365.** Section 66-1504, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-1504 Department shall mean the Department of Water, Energy, and Environment.

**Sec. 366.** Section 66-1518, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-1518 (1) The Environmental Quality Council shall adopt and promulgate rules and regulations governing reimbursements authorized under the Petroleum Release Remedial Action Act. Such rules and regulations shall include:

(a) Procedures regarding the form and procedure for application for

payment or reimbursement from the fund, including the requirement for timely filing of applications;

(b) Procedures for the requirement of submitting cost estimates for phases or stages of remedial actions, procurement requirements to be followed by responsible persons, and requirements for reuse of fixtures and tangible personal property by responsible persons during a remedial action;

(c) Procedures for investigation of claims for payment or reimbursement;

(d) Procedures for determining the amount and type of costs that are eligible for payment or reimbursement from the fund;

(e) Procedures for auditing persons who have received payments from the fund;

(f) Procedures for reducing reimbursements made for a remedial action for failure by the responsible person to comply with applicable statutory or regulatory requirements. Reimbursement may be reduced as much as one hundred percent; and

(g) Other procedures necessary to carry out the act.

(2) The Director of Water, Energy, and Environment shall (a) estimate the cost to complete remedial action at each petroleum contaminated site where the responsible party has been ordered by the department to begin remedial action, and, based on such estimates, determine the total cost that would be incurred in completing all remedial actions ordered; (b) determine the total estimated cost of all approved remedial actions; (c) determine the total dollar amount of all pending claims for payment or reimbursement; (d) determine the total of all funds available for reimbursement of pending claims; and (e) include the determinations made pursuant to this subsection in the department's annual report to the Legislature.

(3) The department shall make available to the public a current schedule of reasonable rates for equipment, services, material, and personnel commonly used for remedial action. The department shall consider the schedule of reasonable rates in reviewing all costs for the remedial action which are submitted in a plan. The rates shall be used to determine the amount of

reimbursement for the eligible and reasonable costs of the remedial action, except that (a) the reimbursement for the costs of the remedial action shall not exceed the actual eligible and reasonable costs incurred by the responsible person or his or her designated representative and (b) reimbursement may be made for costs which exceed or are not included on the schedule of reasonable rates if the application for such reimbursement is accompanied by sufficient evidence for the department to determine and the department does determine that such costs are reasonable.

**Sec. 367.** Section 66-1529.02, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-1529.02 (1) The department may undertake remedial actions in response to a release first reported after July 17, 1983, and on or before June 30, 2028, with money available in the fund if:

- (a) The responsible person cannot be identified or located;
- (b) An identified responsible person cannot or will not comply with the remedial action requirements; or
- (c) Immediate remedial action is necessary, as determined by the Director of Water, Energy, and Environment, to protect human health or the environment.

(2) The department may pay the costs of a third-party claim meeting the requirements of subdivision (2)(f) of section 66-1525 with money available in the fund if the responsible person cannot or will not pay the third-party claim.

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

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

**Sec. 368.** Section 66-2001, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-2001 (1) The Natural Gas Fuel Board is hereby established to advise the Department of Water, Energy, and Environment regarding the promotion of natural gas as a motor vehicle fuel in Nebraska. The board shall provide recommendations relating to:

(a) Distribution, infrastructure, and workforce development for natural gas to be used as a motor vehicle fuel;

(b) Loans, grants, and tax incentives to encourage the use of natural gas as a motor vehicle fuel for individuals and public and private fleets; and

(c) Such other matters as it deems appropriate.

(2) The board shall consist of eight members appointed by the Governor. The Governor shall make the initial appointments by October 1, 2012. The board shall include:

(a) One member representing a jurisdictional utility as defined in section 66-1802;

(b) One member representing a metropolitan utilities district;

(c) One member representing the interests of the transportation industry in the state;

(d) One member representing the interests of the business community in the state, specifically fueling station owners or operators;

(e) One member representing natural gas marketers or pipelines in the state;

(f) One member representing automobile dealerships or repair businesses in the state;

(g) One member representing labor interests in the state; and



(h) One member representing environmental interests in the state, specifically air quality.

(3) All appointments shall be subject to the approval of a majority of the members of the Legislature if the Legislature is in session, and if the Legislature is not in session, any appointment to fill a vacancy shall be temporary until the next session of the Legislature, at which time a majority of the members of the Legislature may approve or disapprove such appointment.

(4) Members shall be appointed for terms of four years, except that of the initial appointees the terms of the members representing a jurisdictional utility and a metropolitan utilities district shall expire on September 30, 2015, the terms of the members representing the transportation industry, the business community, natural gas marketers or pipelines, and automobile dealerships or repair businesses shall expire on September 30, 2014, and the terms of the members representing labor and environmental interests shall expire on September 30, 2013. Members may be reappointed. A member shall serve until a successor is appointed and qualified.

(5) A vacancy on the board shall exist in the event of death, disability, resignation, or removal for cause of a member. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term. An appointment to fill a vacancy shall be made by the Governor with the approval of a majority of the Legislature, and any person so appointed shall have the same qualifications as the person whom he or she succeeds.

(6) The board shall meet at least once annually.

(7) The members shall not be reimbursed for expenses associated with carrying out their duties as members.

(8) The department shall provide administrative support to the board as necessary so that the board may carry out its duties.

**Sec. 369.** Section 66-2201, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-2201 For purposes of sections 66-2201 to 66-2207:

- (1) Department means the Department of Water, Energy, and Environment;
- (2) E-15 means a blend of ethanol and gasoline in which ethanol comprises fifteen percent of the blend by volume;
- (3) E-85 means a blend of ethanol and gasoline in which ethanol comprises seventy percent or more of the blend by volume;
- (4) Motor fuel pump means a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank;
- (5) Program means the Renewable Fuel Infrastructure Program created in section 66-2202;
- (6) Retail dealer means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis; and
- (7) Retail motor fuel site means a geographic location in this state where a retail dealer sells and dispenses motor fuel from a motor fuel pump on a retail basis.

**Sec. 370.** Section 66-2216, Revised Statutes Cumulative Supplement, 2024, is amended to read:

66-2216 Beginning in 2025, the Department of Revenue and the Department of Water, Energy, and Environment shall annually issue a joint report that identifies the statewide ethanol blend rate. The statewide ethanol blend rate shall be equal to the average percentage of ethanol contained in each gallon of motor fuel sold in this state. Retail dealers shall provide a quarterly report of the number of gallons of each type of motor fuel sold and the percentage of ethanol in each gallon to the Department of Revenue. Reports to the Department of Revenue shall be submitted on a form and in the manner prescribed by the Department of Revenue.

**Sec. 371.** Section 69-2011, Revised Statutes Cumulative Supplement, 2024, is amended to read:

69-2011 On and after October 1, 1993, a person shall not sell or offer for sale at retail any disposable diaper which is constructed of a material which is not biodegradable or photodegradable if the Director of Water, Energy, and

Environment determines that biodegradable or photodegradable disposable diapers are readily available at a comparable price and quality. The determination of quality shall include a study of the environmental impact and fate of such disposable diapers. The director shall issue his or her determination to the Legislature on or before October 1, 1992. For purposes of this section (1) readily available shall mean available for purchase in sufficient quantities to meet demand through usual retail channels throughout the state and (2) comparable price and quality shall mean at a cost not in excess of five percent above the average price for products of comparable quality which are not biodegradable or photodegradable.

**Sec. 372.** Section 69-2502, Revised Statutes Cumulative Supplement, 2024, is amended to read:

69-2502 For purposes of the Plastic Container Coding Act:

(1) Code shall mean a molded, imprinted, or raised symbol on or near the bottom of a plastic bottle or rigid plastic container;

(2) Department shall mean the Department of Water, Energy, and Environment;

(3) Plastic shall mean any material made of polymeric organic compounds and additives that can be shaped by flow;

(4) Plastic bottle shall mean a plastic container intended for a single use that:

(a) Has a neck smaller than the body of the container;

(b) Is designed for a screw-top, snap cap, or other closure; and

(c) Has a capacity of not less than sixteen fluid ounces or more than five gallons; and

(5) Rigid plastic container shall mean any formed or molded container intended for a single use, composed predominately of plastic resin, that has a relatively inflexible finite shape or form with a capacity of not less than eight ounces or more than five gallons. Rigid plastic container shall not include a plastic bottle.

**Sec. 373.** Section 70-669, Reissue Revised Statutes of Nebraska, is amended

to read:

70-669 No inferior right to the use of the waters of this state shall be acquired by a superior right without just compensation therefor to the inferior user. The just compensation paid to those using water for power purposes shall not be greater than the cost of replacing the power which would be generated in the plant or plants of the power user by the water so acquired. The just compensation to be paid to a holder of an instream-basin-management appropriation that has been changed from a manufacturing of hydropower appropriation pursuant to section 46-290 shall be the cost per acre-foot of water subordinated for the hydropower appropriation at the time of approval of the change. The amount of compensation may be adjusted annually, except that any increase shall not exceed the annual change in the Consumer Price Index from the time of approval of the change. If publication of such index is discontinued, a comparable index selected by the Chief Water Officer of the Department of Water, Energy, and Environment shall be used.

**Sec. 374.** Section 70-1003, Revised Statutes Cumulative Supplement, 2024, is amended to read:

70-1003 (1)(a) There is hereby established an independent board to be known as the Nebraska Power Review Board. The board shall consist of five members, including at least one engineer, at least one attorney, and three additional persons. No more than one person who is or who has within four years preceding such person's appointment been either a director, an officer, or an employee of any electric utility or an elective state officer shall serve on the board at the same time. Any board member who previously was either a director, an officer, or an employee of any electric utility within four years preceding such board member's appointment shall refrain from taking any action or making any decision in any proceeding before the board that involves such electric utility for a period of four years after the date such board member ceased being a director, an officer, or an employee of such electric utility.

(b) Members of the board shall be appointed by the Governor subject to the approval of the Legislature. Upon expiration of the terms of the members first

appointed, the successors shall be appointed for terms of four years. No member of the board shall serve more than three consecutive terms. Any vacancy on the board arising other than from the expiration of a term shall be filled by appointment for the unexpired portion of the term, and any person appointed to fill a vacancy on the board shall be eligible for reappointment for two more consecutive terms. No more than three members of the board shall be registered members of that political party represented by the Governor.

(2) Each member of the board shall receive one hundred dollars per day for each day actually and necessarily engaged in the performance of his or her duties, but not to exceed seven thousand dollars in any one year, except for the member designated to represent the board on the Southwest Power Pool Regional State Committee or its equivalent successor, who shall receive two hundred fifty dollars for each day actually and necessarily engaged in the performance of his or her duties, not to exceed thirty-five thousand dollars in any one year. If the member designated to represent the board on the Southwest Power Pool Regional State Committee should for any reason no longer serve in that capacity during a year, the pay received while serving in such capacity shall not be used for purposes of calculating the seven-thousand-dollar limitation for board members not serving in that capacity. When another board member acts as the proxy for the designated Southwest Power Pool Regional State Committee member, he or she shall receive the same pay as the designated member would have for that activity. Pay received while serving as proxy for such designated member shall not be used for purposes of determining whether the seven-thousand-dollar limitation has been met for board members not serving as such designated member. Total pay to board members for activities related to the Southwest Power Pool shall not exceed an aggregate total of forty thousand dollars in any one year. Each member shall be reimbursed for expenses while so engaged as provided in sections 81-1174 to 81-1177. The board shall have jurisdiction as provided in Chapter 70, article 10.

(3) The board shall elect from their members a chairperson and a vice-chairperson. Decisions of the board shall require the approval of a majority of

the members of the board.

(4) The board shall employ an executive director and may employ such other staff necessary to carry out the duties pursuant to Chapter 70, article 10. The executive director shall serve at the pleasure of the board and shall be solely responsible to the board. The executive director shall be responsible for the administrative operations of the board and shall perform such other duties as may be delegated or assigned to him or her by the board. The board may obtain the services of experts and consultants necessary to carry out the board's duties pursuant to Chapter 70, article 10.

(5) The board shall publish and submit a biennial report with annual data to the Governor, with copies to be filed with the Clerk of the Legislature and with the Department of Water, Energy, and Environment. The report submitted to the Clerk of the Legislature shall be submitted electronically. The department shall consider the information in the Nebraska Power Review Board's report when the department prepares its own reports pursuant to sections 81-1606 and 81-1607. The report of the board shall include:

(a) The assessments for the fiscal year imposed pursuant to section 70-1020;

(b) The gross income totals for each category of the industry and the industry total;

(c) The number of suppliers against whom the assessment is levied, by category and in total;

(d) The projected dollar costs of generation, transmission, and microwave applications, approved and denied;

(e) The actual dollar costs of approved applications upon completion, and a summary of an informational hearing concerning any significant divergence between the projected and actual costs;

(f) A description of Nebraska's current electric system and information on additions to and retirements from the system during the fiscal year, including microwave facilities;

(g) A statistical summary of board activities and an expenditure summary;

(h) A roster of power suppliers in Nebraska and the assessment each paid;  
and

(i) Appropriately detailed historical and projected electric supply and demand statistics, including information on the total generating capacity owned by Nebraska suppliers and the total peak load demand of the previous year, along with an indication of how the industry will respond to the projected situation.

(6) The board may, in its discretion, hold public hearings concerning the conditions that may indicate that retail competition in the electric industry would benefit Nebraska's citizens and what steps, if any, should be taken to prepare for retail competition in Nebraska's electricity market. In determining whether to hold such hearings, the board shall consider the sufficiency of public interest.

(7) The board may, at any time deemed beneficial by the board, submit a report to the Governor with copies to be filed with the Clerk of the Legislature and the Natural Resources Committee of the Legislature. The report filed with the Clerk of the Legislature and the committee shall be filed electronically. The report may include:

(a) Whether or not a viable regional transmission organization and adequate transmission exist in Nebraska or in a region which includes Nebraska;

(b) Whether or not a viable wholesale electricity market exists in a region which includes Nebraska;

(c) To what extent retail rates have been unbundled in Nebraska;

(d) A comparison of Nebraska's wholesale electricity prices to the prices in the region; and

(e) Any other information the board believes to be beneficial to the Governor, the Legislature, and Nebraska's citizens when considering whether retail electric competition would be beneficial, such as, but not limited to, an update on deregulation activities in other states and an update on federal deregulation legislation.

(8) The board may establish working groups of interested parties to assist

the board in carrying out the powers set forth in subsections (6) and (7) of this section.

**Sec. 375.** Section 71-2433, Revised Statutes Cumulative Supplement, 2024, is amended to read:

71-2433 A property owner with knowledge of a clandestine drug lab on his or her property shall report such knowledge and location as soon as practicable to the local law enforcement agency or to the Nebraska State Patrol. A law enforcement agency that discovers a clandestine drug lab in the State of Nebraska shall report the location of such lab to the Nebraska State Patrol within thirty days after making such discovery. Such report shall include the date of discovery of such lab, the county where the property containing such lab is located, and a legal description of the property or other description or address of such property sufficient to clearly establish its location. As soon as practicable after such discovery, the appropriate law enforcement agency shall provide the Nebraska State Patrol with a complete list of the chemicals, including methamphetamine, its precursors, solvents, and related reagents, found at or removed from the location of such lab. Upon receipt, the Nebraska State Patrol shall promptly forward a copy of such report and list to the department, the Department of Water, Energy, and Environment, the municipality or county where the lab is located, the director of the local public health department serving such municipality or county, and the property owner or owners.

**Sec. 376.** Section 71-3503, Revised Statutes Cumulative Supplement, 2024, is amended to read:

71-3503 For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or



ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to the

Radiation Control Act;

(8) Department means the Department of Health and Human Services;

(9) Administrator means the administrator of radiation control designated pursuant to section 71-3504;

(10) Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(11) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials; or

(c) A license issued to a radon measurement specialist, radon mitigation specialist, radon measurement business, or radon mitigation business;

(12) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

(c)(i) Any discrete source of radium-226 that is produced, extracted, or converted after extraction for use for a commercial, medical, or research

activity; or

(ii) Any material that (A) has been made radioactive by use of a particle accelerator and (B) is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity; and

(d) Any discrete source of naturally occurring radioactive material, other than source material, that:

(i) The United States Nuclear Regulatory Commission, in consultation with the Administrator of the United States Environmental Protection Agency, the United States Secretary of Energy, the United States Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Is extracted or converted after extraction for use in a commercial, medical, or research activity;

(13) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

(14) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision (14)(a) of this section but does not include source material;

(15) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating

equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(16) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

(17) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(18) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care;

(19) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(20) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(21) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated

reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(22) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (12)(b) of this section;

(23) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner;

(24) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(25) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

(26) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(27) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations in excess of one hundred nanocuries per gram;

(28) Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

(29) X-ray system means an assemblage of components for the controlled

production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system; and

(30) Deliberate misconduct means an intentional act or omission by a person that (a) would intentionally cause a licensee, registrant, or applicant for a license or registration to be in violation of any rule, regulation, or order of or any term, condition, or limitation of any license or registration issued by the department under the Radiation Control Act or (b) constitutes an intentional violation of a requirement, procedure, instruction, contract, purchase order, or policy under the Radiation Control Act by a licensee, a registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee, registrant, or applicant for a license or registration.

**Sec. 377.** Section 71-3508.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-3508.04 (1) For licensed activities involving source material milling, source material mill tailings, and management of low-level radioactive waste, the department shall, and for other classes of licensed activities the department may, adopt and promulgate rules and regulations which establish standards and procedures to ensure that the licensee will provide an adequate surety or other financial arrangement to permit the completion of all requirements established by the department for the licensure, regulation, decontamination, closure, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with such licensed activity in case the licensee should default for any reason in performing such requirements. All sureties required which are forfeited shall be paid to the department and remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. Money in such fund remitted pursuant to this subsection shall be expended by the department as necessary to complete the closure and reclamation requirements and shall not be used for normal operating

expenses of the department.

(2) For licensed activities involving the disposal of source material mill tailings and management of low-level radioactive waste, the department shall, and for other classes of licensed activities when radioactive material which will require surveillance or care is likely to remain at the site after the licensed activities cease the department may, adopt and promulgate rules and regulations which establish standards and procedures to ensure that the licensee, before termination of the license, will make available such funding arrangements as may be necessary to provide for long-term site surveillance and care. All such funds collected from licensees shall be paid to the department and remitted to the State Treasurer for credit to the fund. All funds accrued as interest on money credited to the fund pursuant to this subsection may be expended by the department for the continuing long-term surveillance, maintenance, and other care of facilities from which such funds are collected as necessary for protection of the occupational and public health and safety and the environment. If title to and custody of any radioactive material and its disposal site are transferred to the United States upon termination of any license for which funds have been collected for such long-term care, the collected funds and interest accrued thereon shall be transferred to the United States.

(3) The sureties or other financial arrangements and funds required by this section shall be established in amounts sufficient to ensure compliance with standards, if any, established by the department pertaining to licensure, regulation, closure, decommissioning, reclamation, and long-term site surveillance and care of such facilities and sites.

(4) To provide for the proper care and surveillance of sites subject to subsection (2) of this section which are not subject to section 71-3508.01, the state may acquire by gift or transfer from another governmental agency or private person any land and appurtenances necessary to fulfill the purposes of this section. Any such gift or transfer shall be subject to approval and acceptance by the Legislature.

(5) The department may by contract, agreement, lease, or license with any person, including another state agency, provide for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site subject to this section as needed to carry out the purposes of this section.

(6) If a person licensed by any governmental agency other than the department desires to transfer a site to the state for the purpose of administering or providing long-term care, a lump-sum deposit shall be made to the department and remitted to the State Treasurer for credit to the Health and Human Services Cash Fund. The amount of such deposit shall be determined by the department taking into account the factors stated in subsections (1) and (2) of this section.

**Sec. 378.** Section 71-3524, Reissue Revised Statutes of Nebraska, is amended to read:

71-3524 For purposes of sections 71-3523 to 71-3528:

(1) Department means the Department of Health and Human Services;

(2) High-level radioactive waste means (a) irradiated reactor fuel, (b) liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or equivalent in a facility for reprocessing irradiated reactor fuel, (c) solids into which such liquid wastes have been converted, and (d) other highly radioactive waste material as defined by the United States Nuclear Regulatory Commission; and

(3) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations in excess of one hundred nanocuries per gram.

**Sec. 379.** Section 71-5301, Revised Statutes Cumulative Supplement, 2024, is amended to read:

71-5301 For purposes of the Nebraska Safe Drinking Water Act, unless the context otherwise requires:

(1) Council means the Advisory Council on Public Water Supply;



(2) Department means the Department of Water, Energy, and Environment;

(3) Director means the Director of Water, Energy, and Environment or his or her authorized representative;

(4) Designated agent means any political subdivision or corporate entity having the demonstrated capability and authority to carry out in whole or in part the Nebraska Safe Drinking Water Act and with which the director has consummated a legal and binding contract covering specifically delegated responsibilities;

(5) Major construction, extension, or alteration means those structural changes that affect the source of supply, treatment processes, or transmission of water to service areas but does not include the extension of service mains within established service areas;

(6) Operator means the individual or individuals responsible for the continued performance of the water supply system or any part of such system during assigned duty hours;

(7) Owner means any person owning or operating a public water system;

(8) Person means any individual, corporation, firm, partnership, limited liability company, association, company, trust, estate, public or private institution, group, agency, political subdivision, or other entity or any legal successor, representative, agent, or agency of any of such entities;

(9) Water supply system means all sources of water and their surroundings under the control of one owner and includes all structures, conduits, and appurtenances by means of which such water is collected, treated, stored, or delivered except service pipes between street mains and buildings and the plumbing within or in connection with the buildings served;

(10)(a) Public water system means a system for providing the public with water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per year. Public water system includes (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used

primarily in connection with such system and (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Public water system does not include a special irrigation district. A public water system is either a community water system or a noncommunity water system.

(b) Service connection does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if (i) the water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, cooking, and other similar uses, (ii) the department determines that alternative water to achieve the equivalent level of public health protection provided by the Nebraska Safe Drinking Water Act and rules and regulations under the act is provided for residential or similar uses for drinking and cooking, or (iii) the department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the Nebraska Safe Drinking Water Act and the rules and regulations under the act.

(c) Special irrigation district means an irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use if the system or the residential or similar users of the system comply with exclusion provisions of subdivision (b)(ii) or (iii) of this subdivision;

(11) Drinking water standards means rules and regulations adopted and promulgated pursuant to section 71-5302 which (a) establish maximum levels for harmful materials which, in the judgment of the director, may have an adverse effect on the health of persons and (b) apply only to public water systems;

(12) Lead free means (a) not containing more than two-tenths percent lead when used with respect to solder and flux and (b) not containing more than a weighted average of twenty-five hundredths percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and

fixtures;

(13) Community water system means a public water system that (a) serves at least fifteen service connections used by year-round residents of the area served by the system or (b) regularly serves at least twenty-five year-round residents;

(14) Noncommunity water system means a public water system that is not a community water system;

(15) Nontransient noncommunity water system means a public water system that is not a community water system and that regularly serves at least twenty-five of the same individuals over six months per year; and

(16) Federal Safe Drinking Water Act means the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the act existed on January 1, 2021.

**Sec. 380.** Section 71-5316, Revised Statutes Cumulative Supplement, 2024, is amended to read:

71-5316 For purposes of the Drinking Water State Revolving Fund Act, unless the context otherwise requires:

(1) Safe Drinking Water Act means the federal Safe Drinking Water Act, as the act existed on October 23, 2018;

(2) Construction means any of the following: Preliminary planning to determine the feasibility of a safe drinking water project for a public water system; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures, or other necessary preliminary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of public water systems; or the inspection or supervision of any of such items;

(3) Council means the Environmental Quality Council;

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

(5) Director means the Director of Water, Energy, and Environment;

(6) Operate and maintain means all necessary activities, including the normal replacement of equipment or appurtenances, to assure the dependable and economical function of a public water system in accordance with its intended

purpose;

(7) Owner means any person owning or operating a public water system;

(8) Public water system has the definition found in section 71-5301; and

(9) Safe drinking water project means the structures, equipment, surroundings, and processes required to establish and operate a public water system.

**Sec. 381.** Section 71-5328, Revised Statutes Cumulative Supplement, 2024, is amended to read:

71-5328 (1) For purposes of this section:

(a) Department means the Department of Water, Energy, and Environment;

(b) Metropolitan utilities district means a district created pursuant to section 14-2101; and

(c) Qualified labor training organization means any job training service provider headquartered in the State of Nebraska with a demonstrated history of providing workforce training relevant to the skilled labor necessary for the removal and replacement of lead service lines.

(2) The Lead Service Line Cash Fund is created. The fund shall be administered by the department. The fund shall consist of funds transferred by the Legislature. The fund shall be used for grants under subsections (3) and (4) of this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) The department shall utilize not more than twenty percent of the money in the Lead Service Line Cash Fund for the purpose of providing grants to qualified labor training organizations for the following:

(a) Infrastructure expenditures necessary to establish a lead service line training facility or for any expenditures necessary to establish a lead service line training program; or

(b) Labor training or any educational programming expenditures necessary to provide the proper trade skills necessary for laborers and plumbers to replace lead service lines.

(4) The department shall utilize all remaining money in the Lead Service Line Cash Fund for the purpose of providing grants to metropolitan utilities districts for the following:

(a) Removing and replacing lead service lines;

(b) Repaying debt incurred for any loan received by the metropolitan utilities district for the purpose of replacing lead service lines, including any loan or loans under the federal Drinking Water State Revolving Fund or any other loan incurred specifically for the purpose of removing lead service lines;

(c) Providing information to residents on the benefits of removing lead service lines;

(d) Performing necessary construction, assessment, mapping, or any other labor, management, or contracted services required for and associated with removing and replacing lead service lines; or

(e) Acquiring any equipment, materials, or supplies necessary to replace lead service lines.

(5) The department may adopt and promulgate rules and regulations to carry out this section.

**Sec. 382.** Section 71-6406, Revised Statutes Cumulative Supplement, 2024, is amended to read:

71-6406 (1)(a) Any county, city, or village may enact, administer, or enforce a local building or construction code if or as long as such county, city, or village:

(i) Adopts the state building code; or

(ii) Adopts a building or construction code that conforms generally with the state building code.

(b) If a county, city, or village does not adopt a code as authorized under subdivision (a) of this subsection within two years after an update to the state building code, the state building code shall apply in the county, city, or village, except that such code shall not apply to construction on a farm or for farm purposes.

(2) A local building or construction code shall be deemed to conform generally with the state building code if it:

(a) Adopts a special or differing building standard by amending, modifying, or deleting any portion of the state building code in order to reduce unnecessary costs of construction, increase safety, durability, or efficiency, establish best building or construction practices within the county, city, or village, or address special local conditions within the county, city, or village;

(b) Adopts any supplement, new edition, appendix, or component or combination of components of the state building code;

(c) Adopts any of the following:

(i) Section 305 or 310 of the 2018 edition of the International Building Code without the exceptions described in subdivision (1)(a) of section 71-6403;

(ii) Section 101.4.3 or any portion of chapter 29 of the 2018 edition of the International Building Code;

(iii) Section R313 or any portion of chapters 25 through 33 of the 2018 edition of the International Residential Code; or

(iv) Section 809 of the 2018 edition of the International Existing Building Code;

(d) Adopts a plumbing code, an electrical code, a fire prevention code, or any other standard code as authorized under section 14-419, 15-905, 18-132, or 23-172;

(e) Adopts a local energy code as authorized under section 81-1618; or

(f) Adopts minimum standards for radon resistant new construction which meet the minimum standards adopted under section 76-3504.

(3) A local building or construction code shall not be deemed to conform generally with the state building code if it:

(a) Includes a prior edition of any component or combination of components of the state building code; or

(b) Does not include minimum standards for radon resistant new construction that meet the minimum standards adopted under section 76-3504.

(4) A county, city, or village shall notify the Department of Water, Energy, and Environment if it amends or modifies its local building or construction code in such a way as to delete any portion of (a) chapter 13 of the 2018 edition of the International Building Code or (b) chapter 11 of the 2018 edition of the International Residential Code. The notification shall be made within thirty days after the adoption of such amendment or modification.

(5) A county, city, or village shall not adopt or enforce a local building or construction code other than as provided by this section.

(6) A county, city, or village which adopts or enforces a local building or construction code under this section shall regularly update its code. For purposes of this section, a code shall be deemed to be regularly updated if the most recently enacted state building code or a code that conforms generally with the state building code is adopted by the county, city, or village within two years after an update to the state building code.

(7) A county, city, or village may adopt amendments for the proper administration and enforcement of its local building or construction code including organization of enforcement, qualifications of staff members, examination of plans, inspections, appeals, permits, and fees. Any amendment adopted pursuant to this section shall be published separately from the local building or construction code. Any local building or construction code adopted under subdivision (1)(a) of this section or the state building code if applicable under subdivision (1)(b) of this section shall be the legally applicable code regardless of whether the county, city, or village has provided for the administration or enforcement of its local building or construction code under this subsection.

(8) A county, city, or village which adopts one or more standard codes as part of its local building or construction code under this section shall keep at least one copy of each adopted code, or portion thereof, for use and examination by the public in the office of the clerk of the county, city, or village prior to the adoption of the code and as long as such code is in effect.

(9) Notwithstanding the provisions of the Building Construction Act, a public building of any political subdivision shall be built in accordance with the applicable local building or construction code. Fees, if any, for services which monitor a builder's application of codes shall be negotiable between the political subdivisions involved, but such fees shall not exceed the actual expenses incurred by the county, city, or village doing the monitoring.

**Sec. 383.** Section 72-804, Revised Statutes Cumulative Supplement, 2024, is amended to read:

72-804 (1) Any new state building shall meet or exceed the requirements of the 2018 International Energy Conservation Code published by the International Code Council.

(2) Any new lighting, heating, cooling, ventilating, or water heating equipment or controls in a state-owned building and any new building envelope components installed in a state-owned building shall meet or exceed the requirements of the 2018 International Energy Conservation Code.

(3) The State Building Administrator of the Department of Administrative Services, in consultation with the Department of Water, Energy, and Environment, may specify:

(a) A more recent edition of the International Energy Conservation Code;

(b) Additional energy efficiency or renewable energy requirements for buildings; and

(c) Waivers of specific requirements which are demonstrated through life-cycle cost analysis to not be in the state's best interest. The agency receiving the funding shall be required to provide a life-cycle cost analysis to the State Building Administrator.

**Sec. 384.** Section 72-805, Revised Statutes Cumulative Supplement, 2024, is amended to read:

72-805 The 2018 International Energy Conservation Code, published by the International Code Council, applies to all new buildings constructed in whole or in part with state funds after July 1, 2020. The Department of Water, Energy, and Environment shall review building plans and specifications



necessary to determine whether a building will meet the requirements of this section. The department shall provide a copy of its review to the agency receiving funding. The agency receiving the funding shall verify that the building as constructed meets or exceeds the code. The verification shall be provided to the department. The Director of Water, Energy, and Environment may, in consultation with the State Building Administrator of the Department of Administrative Services, adopt and promulgate rules and regulations to carry out this section.

**Sec. 385.** Section 76-2,124, Reissue Revised Statutes of Nebraska, is amended to read:

76-2,124 (1) Any person transferring ownership of real property not inside the corporate limits of a municipality shall complete and provide to the transferee, at or before the closing of the transfer, a water resources update notice acknowledging (a) whether any surface water rights issued pursuant to Chapter 46, article 2, and in the name of any party other than an irrigation district, public power and irrigation district, or mutual irrigation company are attached to the real property, ownership of which is being transferred, and (b) whether there are any water wells, except water wells used solely for domestic purposes and constructed prior to September 9, 1993, on the real property, ownership of which is being transferred. If the water resources update notice discloses the existence of such surface water rights or such water wells, the transferee shall complete the water resources update notice and shall file it with the Department of Water, Energy, and Environment within sixty days after recording the deed or other instrument by which the transfer of ownership of real property is made. The department shall use such notice to update ownership of surface water rights and water well registrations as required by sections 46-230 and 46-602.

(2) The department shall prescribe the form and content of the water resources update notice and shall make such forms available to title insurance companies and other persons as deemed appropriate by the department. The requirement that a water resources update notice be filed with the department

or the failure to file such a notice does not affect the recording, legality, or sufficiency of a deed or other instrument evidencing the transfer of ownership of real property.

(3) The department shall not collect a fee for the filing of the water resources update notices.

**Sec. 386.** Section 76-2602, Revised Statutes Cumulative Supplement, 2024, is amended to read:

76-2602 In the Uniform Environmental Covenants Act:

(1) Activity and use limitations means restrictions or obligations created under the act with respect to real property.

(2) Agency means the Department of Water, Energy, and Environment or any other Nebraska or federal agency that determines or approves the environmental response project pursuant to which the environmental covenant is created.

(3) Common interest community means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums, or for maintenance, or improvement of other real property described in a recorded covenant that creates the common interest community.

(4) Environmental covenant means a servitude arising under an environmental response project that imposes activity and use limitations.

(5) Environmental response project means a plan or work performed for environmental remediation of real property and conducted:

(A) Under a federal or state program governing environmental remediation of real property, including the Petroleum Release Remedial Action Act;

(B) Incident to closure of a solid or hazardous waste management unit, if the closure is conducted with approval of an agency; or

(C) Under a state voluntary cleanup program authorized by the Remedial Action Plan Monitoring Act.

(6) Holder means the grantee of an environmental covenant as specified in subsection (a) of section 76-2603.

(7) Person means an individual, corporation, business trust, estate,

trust, partnership, limited liability company, association, joint venture, public corporation, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(8) Record, used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(9) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

**Sec. 387.** Section 76-2608, Revised Statutes Cumulative Supplement, 2024, is amended to read:

76-2608 (a) An environmental covenant, any amendment or termination of the covenant under section 76-2609 or 76-2610, and any subordination agreement must be recorded in every county in which any portion of the real property subject to the covenant is located. For purposes of indexing, a holder shall be treated as a grantee.

(b) Except as otherwise provided in subsection (c) of section 76-2609, an environmental covenant is subject to the laws of this state governing recording and priority of interests in real property.

(c) A copy of a document recorded under subsection (a) of this section shall also be provided to the Department of Water, Energy, and Environment if the department has not signed the covenant.

(d) The department shall make available to the public a listing of all documents under subsection (a) of this section or documents under subsection (c) of this section which have been provided to the department.

**Sec. 388.** Section 77-3,112, Reissue Revised Statutes of Nebraska, is amended to read:

77-3,112 Notwithstanding any provision of law, the Tax Commissioner shall not approve or grant to any person any tax credit, exemption, or refund for the employment of any person who has been removed from the United States pursuant to proceedings initiated by the United States Immigration and Customs

Enforcement, or other competent authority, or who has been convicted in a criminal court proceeding for offenses related to illegal immigration. Any benefits that were received prior to the removal or conviction will be recaptured to the extent the benefits were received based on the employment of such persons.

**Sec. 389.** Section 77-27,150, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-27,150 (1) An application for a refund of Nebraska sales and use taxes paid for any air or water pollution control facility may be filed with the Tax Commissioner by the owner of such facility in such manner and in such form as may be prescribed by the commissioner. The application for a refund shall contain: (a) Plans and specifications of such facility including all materials incorporated therein; (b) a descriptive list of all equipment acquired by the applicant for the purpose of industrial or agricultural waste pollution control; (c) the proposed operating procedure for the facility; (d) the acquisition cost of the facility for which a refund is claimed; and (e) a copy of the final findings of the Department of Water, Energy, and Environment issued pursuant to section 77-27,151.

(2) The Tax Commissioner shall offer an applicant a hearing upon request of such applicant. The hearing shall not affect the authority of the Department of Water, Energy, and Environment to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the Air and Water Pollution Control Tax Refund Act.

(3) A claim for refund received without a copy of the final findings of the Department of Water, Energy, and Environment issued pursuant to section 77-27,151 shall not be considered a valid claim and shall be returned to the applicant.

(4) Notice of the Tax Commissioner's refusal to issue a refund shall be mailed to the applicant.

**Sec. 390.** Section 77-27,151, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-27,151 If the Department of Water, Energy, and Environment finds that a facility or multiple facilities at a single location are designed and operated primarily for control, capture, abatement, or removal of industrial or agricultural waste from air or water and are suitable, are reasonably adequate, and meet the intent and purposes of the Environmental Protection Act, the Department of Water, Energy, and Environment shall so notify the owner of the facility in writing of its findings that the facility, multiple facilities, or the specified portions of any facility are approved. The Department of Water, Energy, and Environment shall also notify the Tax Commissioner of its findings and the extent of commercial or productive value derived from any materials captured or recovered by the facility.

**Sec. 391.** Section 77-27,152, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-27,152 (1) The Tax Commissioner, after giving notice by mail to the applicant and giving an opportunity for a hearing, shall modify or revoke the refund whenever the following appears: (a) The refund was obtained by fraud or misrepresentation regarding the payment of tax on materials incorporated into the facility or facilities; or (b) the Department of Water, Energy, and Environment has modified its findings regarding the facility covered by the refund.

(2) The Department of Water, Energy, and Environment may modify its findings when it determines any of the following: (a) The refund was obtained by fraud or misrepresentation regarding the facility or planned operation of the facility; (b) the applicant has failed substantially to operate the facility for the purpose and degree of control specified in the application or an amended application; or (c) the facility covered by the refund is no longer used for the primary purpose of pollution control.

(3) On the mailing to the refund applicant of notice of the action of the Tax Commissioner modifying or revoking the refund, the refund shall cease to be in force or shall remain in force only as modified. When a refund is revoked because a refund was obtained by fraud or misrepresentation, all taxes which

would have been payable if no certificate had been issued shall be immediately due and payable with the maximum interest and penalties prescribed by the Nebraska Revenue Act of 1967. No statute of limitations shall operate in the event of fraud or misrepresentation.

**Sec. 392.** Section 77-27,153, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-27,153 (1) A party aggrieved by the issuance, refusal to issue, revocation, or modification of a pollution control tax refund may appeal from the finding and order of the Tax Commissioner. The finding and order shall not affect the authority of the Department of Water, Energy, and Environment to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the Air and Water Pollution Control Tax Refund Act. The appeal shall be in accordance with the Administrative Procedure Act.

(2) The Department of Water, Energy, and Environment shall make its findings for the Air and Water Pollution Control Tax Refund Act in accordance with its normal administrative procedures. Nothing in the act is intended to affect the department's authority to make findings and to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the act.

**Sec. 393.** Section 77-27,154, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-27,154 The Tax Commissioner may adopt and promulgate rules and regulations that are necessary for the administration of the Air and Water Pollution Control Tax Refund Act. Such rules and regulations shall not abridge the authority of the Department of Water, Energy, and Environment to determine whether or not industrial or agricultural waste pollution control exists within the meaning of the act.

**Sec. 394.** Section 77-27,187.01, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-27,187.01 For purposes of the Nebraska Advantage Rural Development Act, unless the context otherwise requires:

(1) Any term has the same meaning as used in the Nebraska Revenue Act of 1967;

(2) Equivalent employees means the number of employees computed by dividing the total hours paid in a year to employees by the product of forty times the number of weeks in a year;

(3) Livestock means all animals, including cattle, horses, sheep, goats, hogs, dairy animals, chickens, turkeys, and other species of game birds and animals raised and produced subject to permit and regulation by the Game and Parks Commission or the Department of Agriculture;

(4) Livestock modernization or expansion means the construction, improvement, or acquisition of buildings, facilities, or equipment for livestock housing, confinement, feeding, production, and waste management. Livestock modernization or expansion does not include any improvements made to correct a violation of the Environmental Protection Act, the Integrated Solid Waste Management Act, the Livestock Waste Management Act, a rule or regulation adopted and promulgated pursuant to such acts, or any order of the Department of Water, Energy, and Environment undertaken within five years after a complaint issued from the Director of Water, Energy, and Environment under section 81-1507;

(5) Livestock production means the active use, management, and operation of real and personal property (a) for the commercial production of livestock, (b) for the commercial breeding, training, showing, or racing of horses or for the use of horses in a recreational or tourism enterprise, and (c) for the commercial production of dairy and eggs. The activity will be considered commercial if the gross income derived from an activity for two or more of the taxable years in the period of seven consecutive taxable years which ends with the taxable year exceeds the deductions attributable to such activity or, if the operation has been in existence for less than seven years, if the activity is engaged in for the purpose of generating a profit;

(6) Qualified employee leasing company means a company which places all employees of a client-lessee on its payroll and leases such employees to the

client-lessee on an ongoing basis for a fee and, by written agreement between the employee leasing company and a client-lessee, grants to the client-lessee input into the hiring and firing of the employees leased to the client-lessee;

(7) Related taxpayers includes any corporations that are part of a unitary business under the Nebraska Revenue Act of 1967 but are not part of the same corporate taxpayer, any business entities that are not corporations but which would be a part of the unitary business if they were corporations, and any business entities if at least fifty percent of such entities are owned by the same persons or related taxpayers and family members as defined in the ownership attribution rules of the Internal Revenue Code of 1986, as amended;

(8) Taxpayer means a corporate taxpayer or other person subject to either an income tax imposed by the Nebraska Revenue Act of 1967 or a franchise tax under Chapter 77, article 38, or a partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture that is or would otherwise be a member of the same unitary group if incorporated, which is, or whose partners, members, or owners representing an ownership interest of at least ninety percent of the control of such entity are, subject to or exempt from such taxes, and any other partnership, limited liability company, subchapter S corporation, cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, or joint venture when the partners, members, or owners representing an ownership interest of at least ninety percent of the control of such entity are subject to or exempt from such taxes; and

(9) Year means the taxable year of the taxpayer.

**Sec. 395.** Section 77-27,236, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-27,236 (1) A taxpayer who makes an investment after January 1, 2008, and prior to January 1, 2015, in a biodiesel facility shall receive a nonrefundable income tax credit as provided in this section.



(2) The credit provided in subsection (1) of this section shall be equal to thirty percent of the amount invested by the taxpayer in a biodiesel facility. The credit shall be taken over at least four taxable years subject to the following conditions:

(a) No more than ten percent of the credit provided for in subsection (1) of this section shall be taken in each of the first two taxable years the biodiesel facility produces B100 and no more than fifty percent of the credit provided for in subsection (1) of this section shall be taken in the third taxable year the biodiesel facility produces B100. The credit allowed under subsection (1) of this section shall not exceed fifty percent of the taxpayer's liability in any tax year;

(b) Any amount of credit not allowed because of the limitations in this section may be carried forward for up to fifteen taxable years after the taxable year in which the investment was made. The aggregate maximum income tax credit a taxpayer may obtain is two hundred fifty thousand dollars;

(c) The investment shall be at risk in the biodiesel facility. The investment shall be in the form of a purchase of an ownership interest or the right to receive payment of dividends from the biodiesel facility and shall remain in the business for at least three years. The Tax Commissioner may recapture any credits used if the investment does not remain invested for the three-year period. An investment placed in escrow does not qualify under this subdivision;

(d) The entire amount of the investment shall be expended by the biodiesel facility for plant, equipment, research and development, marketing and sales activity, or working capital;

(e) A partnership, a subchapter S corporation, a limited liability company that for tax purposes is treated like a partnership, a cooperative, including a cooperative exempt under section 521 of the Internal Revenue Code of 1986, as amended, or any other pass-through entity that invests in a biodiesel facility shall be considered to be the taxpayer for purposes of the credit limitations. Except for the limitation under subdivision (2)(a) of this section, the amount

of the credit allowed to a pass-through entity shall be determined at the partnership, corporate, cooperative, or other organizational level. The amount of the credit determined at the partnership, corporate, cooperative, or other organizational level shall be allowed to the partners, members, or other owners in proportion to their respective ownership interests in the pass-through entity;

(f) The credit shall be taken only if (i) the biodiesel facility produces B100, (ii) the biodiesel facility in which the investment was made produces at a rate of at least seventy percent of its rated capacity continuously for at least one week during the first taxable year the credit is taken and produces at a rate of at least seventy percent of its rated capacity over a six-month period during each of the next two taxable years the credit is taken, (iii) all processing takes place at the biodiesel facility in which the investment was made and which is located in Nebraska, and (iv) at least fifty-one percent of the ownership interest of the biodiesel facility is held by Nebraska resident individuals or Nebraska entities; and

(g) The biodiesel facility shall provide the Department of Revenue written evidence substantiating that the biodiesel facility has received the requisite authority from the Department of Water, Energy, and Environment and from the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The biodiesel facility shall annually provide an analysis to the Department of Revenue of samples of the product collected according to procedures specified by the department. The analysis shall be prepared by an independent laboratory meeting standards of the International Organization for Standardization. Prior to collecting the samples, the biodiesel facility shall notify the department which may observe the sampling procedures utilized by the biodiesel facility to obtain the samples to be submitted for independent analysis.

(3) Any biodiesel facility for which credits are granted shall, whenever possible, employ workers who are residents of the State of Nebraska.

(4) Trade secrets, academic and scientific research work, and other

proprietary or commercial information which may be filed with the Tax Commissioner shall not be considered to be public records as defined in section 84-712.01 if the release of such trade secrets, work, or information would give advantage to business competitors and serve no public purpose. Any person seeking release of the trade secrets, work, or information as a public record shall demonstrate to the satisfaction of the department that the release would not violate this section.

(5) For purposes of this section:

(a) Biodiesel facility means a plant or facility related to the processing, marketing, or distribution of biodiesel; and

(b) B100 means pure biodiesel containing mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated as B100, and meeting the American Society for Testing and Materials standard, ASTM D6751.

**Sec. 396.** Section 77-3442, Revised Statutes Cumulative Supplement, 2024, is amended to read:

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

(2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this section, school districts and multiple-district school systems may levy a maximum levy of one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year prior to fiscal year 2017-18, learning communities may levy a maximum levy for the general fund budgets of member school districts of ninety-five cents per one hundred dollars of taxable valuation of property subject to the levy. The proceeds from the levy pursuant to this subdivision shall be distributed pursuant to section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for each fiscal year prior to fiscal year 2017-18, school districts that are members of learning communities may levy for purposes of such districts' general fund budget and special building funds a maximum combined levy of the difference of

one dollar and five cents on each one hundred dollars of taxable property subject to the levy minus the learning community levy pursuant to subdivision (2)(b) of this section for such learning community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c) of this section are (i) amounts levied to pay for current and future sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment occurring prior to September 1, 2017, (ii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for current and future qualified voluntary termination incentives for certificated teachers pursuant to subsection (3) of section 79-8,142 that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iii) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for seventy-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2017, and August 31, 2018, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for fifty percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for twenty-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not

otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (vi) amounts levied in compliance with sections 79-10,110 and 79-10,110.02, and (vii) amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

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

(f) For each fiscal year, learning communities may levy a maximum levy of one-half cent on each one hundred dollars of taxable property subject to the levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to section 79-2111.

(g) For each fiscal year, learning communities may levy a maximum levy of one and one-half cents on each one hundred dollars of taxable property subject to the levy for early childhood education programs for children in poverty, for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects, except that no more than ten percent of such levy may be used for elementary learning center employees.

(3) For each fiscal year through fiscal year 2023-24, community college

areas may levy the levies provided in subdivisions (2)(a) through (c) of section 85-1517, in accordance with the provisions of such subdivisions. For fiscal year 2024-25 and each fiscal year thereafter, community college areas may levy the levies provided in subdivisions (2)(a) and (b) of section 85-1517, in accordance with the provisions of such subdivisions. A community college area may exceed the levy provided in subdivision (2)(a) of section 85-1517 by the amount necessary to generate sufficient revenue as described in section 85-1543 or 85-2238. A community college area may exceed the levy provided in subdivision (2)(b) of section 85-1517 by the amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Chief Water Officer of the Department of Water, Energy, and Environment shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted

funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

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

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

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

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

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated.

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



(10) Beginning July 1, 2016, rural and suburban fire protection districts may levy a maximum levy of ten and one-half cents per one hundred dollars of taxable valuation of property subject to the levy if (a) such district is located in a county that had a levy pursuant to subsection (8) of this section in the previous year of at least forty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) such district had a levy request pursuant to section 77-3443 in any of the three previous years and the county board of the county in which the greatest portion of the valuation of such district is located did not authorize any levy authority to such district in such year.

(11) A regional metropolitan transit authority may levy a maximum levy of ten cents per one hundred dollars of taxable valuation of property subject to the levy for each fiscal year that commences on the January 1 that follows the effective date of the conversion of the transit authority established under the Transit Authority Law into the regional metropolitan transit authority.

(12) Property tax levies (a) for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, (b) for preexisting lease-purchase contracts approved prior to July 1, 1998, (c) for bonds as defined in section 10-134 approved according to law and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, (d) for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport, and (e) to pay for cancer benefits provided on or after January 1, 2022, pursuant to the Firefighter Cancer Benefits Act are not included in the levy limits established by this section.

(13) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other

provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(14) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

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

(16) For school districts that file a binding resolution on or before May 9, 2008, with the county assessors, county clerks, and county treasurers for all counties in which the school district has territory pursuant to subsection (7) of section 79-458, if the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, are in excess of the greater of (a) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, all school district levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, shall be considered unauthorized levies under section 77-1606.

**Sec. 397.** Section 81-101, Reissue Revised Statutes of Nebraska, is amended to read:

81-101 The civil administration of the laws of the state is vested in the Governor. For the purpose of aiding the Governor in the execution and administration of the laws, the executive and administrative work shall be divided into the following agencies: (1) Department of Agriculture; (2) Department of Labor; (3) Department of Transportation; (4) Department of Water, Energy, and Environment; (5) Department of Banking and Finance; (6) Department of Insurance; (7) Department of Motor Vehicles; (8) Department of Administrative Services; (9) Department of Economic Development; (10) Department of Correctional Services; (11) Nebraska State Patrol; and (12) Department of Health and Human Services.

**Sec. 398.** Section 81-102, Reissue Revised Statutes of Nebraska, is amended to read:

81-102 The Governor shall appoint heads for the various agencies listed in section 81-101, subject to confirmation by a majority vote of the members elected to the Legislature. Such appointments shall be submitted to the Legislature within sixty calendar days following the first Thursday after the first Tuesday in each odd-numbered year. The officers shall be designated as follows: (1) The Director of Agriculture for the Department of Agriculture; (2) the Commissioner of Labor for the Department of Labor; (3) the Director-State Engineer for the Department of Transportation; (4) the Director of Water, Energy, and Environment for the Department of Water, Energy, and Environment; (5) the Director of Banking and Finance for the Department of Banking and Finance; (6) the Director of Insurance for the Department of Insurance; (7) the Director of Motor Vehicles for the Department of Motor Vehicles; (8) the Director of Administrative Services for the Department of Administrative Services; (9) the Director of Correctional Services for the Department of Correctional Services; (10) the Director of Economic Development for the Department of Economic Development; (11) the Superintendent of Law Enforcement and Public Safety for the Nebraska State Patrol; (12) the Property Tax Administrator as the chief administrative officer of the property assessment division of the Department of Revenue; and (13) the chief executive officer for the Department of Health and Human Services. Whoever shall be so nominated by the Governor and shall fail to receive the number of votes requisite for confirmation, shall not be subject to nomination or appointment for this or any other appointive state office requiring confirmation by the Legislature during the period for which his or her appointment was sought. In case of a vacancy in any of such offices during the recess of the Legislature, the Governor shall make a temporary appointment until the next meeting of the Legislature, when he or she shall nominate some person to fill such office. Any person so nominated who is confirmed by the Legislature, shall hold his or her office during the remainder of the term if a specific term has been provided by law, otherwise

during the pleasure of the Governor subject to the provisions of this section; except any such officers may be removed by the Governor pursuant to Article IV of the Constitution of Nebraska.

**Sec. 399.** Section 81-2,294, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,294 (1) The Director of Agriculture shall appoint a committee of experts, not to exceed ten persons, to advise the Department of Agriculture on the development of the assessment matrix described in subsection (2) of this section. Experts shall include representation from county board members, county zoning administrators, livestock production agriculture, the University of Nebraska, and other experts as may be determined by the director. The committee shall review the matrix annually and recommend to the department changes as needed.

(2) The Department of Agriculture shall, in consultation with the committee created under subsection (1) of this section, develop an assessment matrix which may be used by county officials to determine whether to approve or disapprove a conditional use permit or special exception application. The matrix shall be developed within one year after August 30, 2015. In the development of the assessment matrix, the department shall:

(a) Consider matrices already developed by the counties and other states;

(b) Design the matrix to produce quantifiable results based on the scoring of objective criteria according to an established value scale. Each criterion shall be assigned points corresponding to the value scale. The matrix shall consider risks and factors mitigating risks if the livestock operation were constructed according to the application;

(c) Assure the matrix is a practical tool for use by persons when completing permit applications and by county officials when scoring conditional use permit or special exception applications. To every extent feasible, the matrix shall include criteria that may be readily scored according to ascertainable data and upon which reasonable persons familiar with the location of a proposed construction site would not ordinarily disagree; and

(d) Provide for definite point selections for all criteria included in the matrix and provide for a minimum threshold total score required to receive approval by county officials.

(3) The Department of Agriculture may develop criteria in the matrix which include factors referencing the following:

(a) Size of operation;

(b) Type of operation;

(c) Whether the operation has received or is in the process of applying for a permit from the Department of Water, Energy, and Environment, if required by law;

(d) Environmental practices adopted by the operation operator which may exceed those required by the Department of Water, Energy, and Environment;

(e) Odor control practices;

(f) Consideration of proximity of a livestock operation to neighboring residences, public use areas, and critical public areas;

(g) Community support and communication with neighbors and other community members;

(h) Manure storage and land application sites and practices;

(i) Traffic;

(j) Economic impact to the community; and

(k) Landscape and aesthetic appearance.

(4) In developing the matrix, the Department of Agriculture shall consider whether the proposed criteria are:

(a) Protective of public health or safety;

(b) Practical and workable;

(c) Cost effective;

(d) Objective;

(e) Based on available scientific information that has been subjected to peer review;

(f) Designed to promote the growth and viability of animal agriculture in this state;

(g) Designed to balance the economic viability of farm operations with protecting natural resources and other community interests; and

(h) Usable by county officials.

**Sec. 400.** Section 81-502, Reissue Revised Statutes of Nebraska, is amended to read:

81-502 (1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire; and

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed foster care facilities or applicants for licenses for foster care facilities, upon request by the Department of Health and Human Services, pursuant to section 71-1903;

(iii) Upon request of the Department of Health and Human Services, licensed providers of programs or applicants for licenses to provide such programs pursuant to section 71-1913 and licensed residential child-caring agencies or applicants for such licensure pursuant to section 71-1934. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other health care facilities which are licensed under the Health Care Facility Licensure Act or applicants for licenses for such facilities or institutions, upon request by the Department of Health and Human Services, pursuant to section 71-441; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Water, Energy, and Environment,

pursuant to section 81-15,291.

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to 81-538, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

(3) The State Fire Marshal may delegate the authority set forth in this section and section 81-503.01 to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

**Sec. 401.** Section 81-829.05, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.05 (1) For purposes of this section:

(a) Chemical facility has the same meaning as in 6 C.F.R. 27.105;

(b) Federal agency means the Cybersecurity and Infrastructure Security Agency of the United States Department of Homeland Security;

(c) Federal standards means the federal Chemical Facility Anti-Terrorism Standards under 6 C.F.R. part 27, as such standards existed on July 1, 2023; and

(d) Program means the voluntary and publicly available chemical security program provided by the federal agency as an alternative to the federal standards.

(2) The Legislature finds that:

(a) The federal standards were created after the September 11, 2001, terrorist attacks to identify and regulate high-risk chemical facilities to

ensure security measures are in place to reduce the risk of certain dangerous chemicals being weaponized by terrorists;

(b) The United States Congress allowed the statutory authority for continuing regulation of the federal standards to expire on July 27, 2023;

(c) With the expiration of such statutory authority and without reauthorization by Congress, the federal agency can no longer enforce compliance with the federal standards;

(d) The lack of enforcement means that chemical facilities will no longer be required to report their chemicals of interest, submit to inspections, provide compliance assistance, or implement any security plan or program; and

(e) The federal agency has encouraged chemical facilities to maintain security measures and offers a voluntary and publicly available alternative chemical security program that provides facilities that possess dangerous chemicals no-cost services and tools to identify risks and improve chemical security.

(3) Beginning on July 19, 2024, a chemical facility shall utilize the federal agency's program if such chemical facility was required on or before July 27, 2023, to have a chemical facility security program pursuant to 6 C.F.R. 27.200 et seq., as such regulations existed on such date.

(4) The Nebraska Emergency Management Agency and the Department of Water, Energy, and Environment shall publish the requirements of this section and post a link to the program on their agency websites.

(5) This section is preempted when the federal standards are in effect if Congress reauthorizes such federal standards.

**Sec. 402.** Section 81-1108.55, Reissue Revised Statutes of Nebraska, is amended to read:

81-1108.55 All purchases, leases, or contracts which by law are required to be based on competitive bids pursuant to section 81-1108.16 shall be made to the lowest responsible bidder, taking into consideration the best interests of the state, the quality or performance of the property proposed to be supplied, its conformity with specifications, the purposes for which required, and the



times of delivery. In determining the lowest responsible bidder, in addition to price, the following elements shall be given consideration:

(1) The ability, capacity, and skill of the bidder to perform the contract required;

(2) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(3) Whether the bidder can perform the contract within the time specified;

(4) The quality of performance of previous contracts;

(5) The previous and existing compliance by the bidder with laws relating to the contract;

(6) The life-cost of the property in relation to the purchase price and specific use of the item;

(7) The performance of the property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;

(8) Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;

(9) The information furnished by each bidder, when deemed applicable by the State Building Administrator, concerning life-cycle costs between alternatives for all classes of equipment, evidence of expected life, repair and maintenance costs, and energy consumption on a per-year basis; and

(10) Such other information as may be secured having a bearing on the decision to award the contract.

Reports regarding procurements made pursuant to this section shall be provided to the Department of Water, Energy, and Environment. Such reports shall be in the form and contain such information as the Department of Water, Energy, and Environment may require.

All political subdivisions may follow the procurement principles set forth in this section if they are deemed applicable by the official authorized to make purchases for such political subdivision.

**Sec. 403.** Section 81-1316, Reissue Revised Statutes of Nebraska, is

amended to read:

81-1316 (1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;
- (o) All personnel of the University of Nebraska;
- (p) All personnel of the Coordinating Commission for Postsecondary Education;
- (q) All personnel of the Governor's Policy Research Office;
- (r) All personnel of the Commission on Public Advocacy;
- (s) All agency heads;
- (t)(i) The Director of Behavioral Health of the Division of Behavioral Health; (ii) the Director of Children and Family Services of the Division of Children and Family Services; (iii) the Director of Developmental Disabilities of the Division of Developmental Disabilities; (iv) the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care; and (v) the Director of Public Health of the Division of Public Health;

(u) The chief medical officer established under section 81-3115, the Administrator of the Office of Juvenile Services, and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Central Nebraska Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans' Home, and each youth rehabilitation and treatment center;

(v) The chief executive officers of all facilities operated by the Department of Correctional Services and the medical director for the department appointed pursuant to section 83-4,156;

(w) All personnel employed as pharmacists, physicians, psychiatrists, or psychologists by the Department of Correctional Services;

(x) All personnel employed as pharmacists, physicians, psychiatrists, psychologists, service area administrators, or facility operating officers of the Department of Health and Human Services or the Department of Veterans' Affairs;

(y) Deputies and examiners of the Department of Banking and Finance and the Department of Insurance as set forth in sections 8-105 and 44-119, except for those deputies and examiners who remain in the State Personnel System;

(z) All personnel of the Tax Equalization and Review Commission;

(aa) The associate director of the Conservation Division of the Nebraska State Historical Society and all personnel employed as a Conservator I or Conservator II of the Conservation Division of the Nebraska State Historical Society;

(bb) Assistant directors and deputies of the Nebraska Public Employees Retirement Systems; and

(cc) The Chief Water Officer, assistant directors, and deputies of the Department of Water, Energy, and Environment.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency

Number of Noncovered

Employees	Positions
less than 25	0
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11
4001 to 5000	40
over 5000	50

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head. An agency with over five thousand employees shall provide notice in writing to the Health and Human Services Committee of the Legislature when forty noncovered positions have been filled by the agency head pursuant to this subsection.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the changes become operative without their prior written agreement. A state employee's career protections or coverage by personnel rules and regulations shall not be revoked by redesignation of the employee's position as a noncovered position without the prior written agreement of such employee.

**Sec. 404.** Section 81-1502, Reissue Revised Statutes of Nebraska, is amended to read:

81-1502 For purposes of the Environmental Protection Act, unless the context otherwise requires:

(1) Air contaminant or air contamination shall mean the presence in the

outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere;

(2) Air pollution shall mean the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant, or animal life, property, or the conduct of business;

(3) Chairperson shall mean the chairperson of the Environmental Quality Council and council shall mean the Environmental Quality Council;

(4) Complaint shall mean any charge, however informal, to or by the council, that any person or agency, private or public, is polluting the air, land, or water or is violating the Environmental Protection Act or any rule or regulation of the department in respect thereof;

(5) Control and controlling shall include prohibition and prohibiting as related to air, land, or water pollution;

(6) Department shall mean the Department of Water, Energy, and Environment, which department is hereby created;

(7) Director shall mean the Director of Water, Energy, and Environment, which position is hereby established;

(8) Disposal system shall mean a system for disposing of wastes, including hazardous wastes, either by surface or underground methods, and includes sewerage systems and treatment works, disposal wells and fields, and other systems;

(9) Emissions shall mean releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof;

(10) Person shall mean any: Individual; partnership; limited liability company; association; public or private corporation; trustee; receiver; assignee; agent; municipality or other governmental subdivision; public agency; other legal entity; or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or other legal entity;

(11) Rule or regulation shall mean any rule or regulation of the department;

(12) Sewerage system shall mean pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

(13) Treatment works shall mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes;

(14) Wastes shall mean sewage, industrial waste, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any air, land, or waters of the state;

(15) Refuse shall mean putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial wastes;

(16) Garbage shall mean rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by rendering plants;

(17) Rubbish shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety;

(18) Junk shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material;

(19) Land pollution shall mean the presence upon or within the land resources of the state of one or more contaminants or combinations of contaminants, including, but not limited to, refuse, garbage, rubbish, or junk, in such quantities and of such quality as will or are likely to (a) create a nuisance, (b) be harmful, detrimental, or injurious to public health, safety,

or welfare, (c) be injurious to plant and animal life and property, or (d) be detrimental to the economic and social development, the scenic beauty, or the enjoyment of the natural attractions of the state;

(20) Water pollution shall mean the manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of water;

(21) Waters of the state shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state;

(22) Point source shall mean any discernible confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft from which pollutants are or may be discharged;

(23) Effluent limitation shall mean any restriction, including a schedule of compliance, established by the council on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into waters of the state;

(24) Schedule of compliance shall mean a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard;

(25) Hazardous waste shall mean a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or (b) pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed;

(26) Solid waste shall mean any garbage, refuse, or sludge from a waste

treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations and from community activities. Solid waste shall not include slag, a product that is a result of the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material; solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.;

(27) Storage, when used in connection with hazardous waste, shall mean the containment of hazardous waste, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous waste;

(28) Manifest shall mean the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(29) Processing shall mean to treat, detoxify, neutralize, incinerate, biodegrade, or otherwise process a hazardous waste to remove such waste's harmful properties or characteristics for disposal in accordance with regulations established by the council;

(30) Well shall mean a bored, drilled, or driven shaft or a dug hole, the depth of which is greater than the largest surface dimension of such shaft or hole;

(31) Injection well shall mean a well into which fluids are injected;

(32) Fluid shall mean a material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or other form or state;

(33) Mineral production well shall mean a well drilled to promote extraction of mineral resources or energy, including, but not limited to, a well designed for (a) mining of sulfur by the Frasch process, (b) solution



mining of sodium chloride, potash, phosphate, copper, uranium, or any other mineral which can be mined by this process, (c) in situ combustion of coal, tar sands, oil shale, or any other fossil fuel, or (d) recovery of geothermal energy for the production of electric power. Mineral production well shall not include any well designed for conventional oil or gas production, for use of fluids to promote enhanced recovery of oil or natural gas, or for injection of hydrocarbons for storage purposes;

(34) Mineral exploration hole shall mean a hole bored, drilled, driven, or dug in the act of exploring for a mineral other than oil and gas;

(35) Solution mining shall mean the use of an injection well and fluids to promote the extraction of mineral resources;

(36) Uranium shall mean tri-uranium oct-oxide;

(37) Solid waste management facility shall mean a facility as defined in section 13-2010; and

(38) Livestock waste control facility shall have the same meaning as in section 54-2417.

**Sec. 405.** Section 81-1503, Reissue Revised Statutes of Nebraska, is amended to read:

81-1503 (1) The Environmental Quality Council is hereby created. The council shall consist of seventeen members to be appointed by the Governor with the advice and consent of the Legislature as follows:

- (a) One representative of the food products manufacturing industry;
- (b) One representative of conservation;
- (c) One representative of the agricultural processing industry;
- (d) One representative of the automotive or petroleum industry;
- (e) One representative of the chemical industry;
- (f) One representative of heavy industry;
- (g) One representative of the power generating industry;
- (h) One representative of agriculture actively engaged in crop production;
- (i) One representative of labor;
- (j) One professional engineer experienced in control of air and water

pollution and solid wastes;

(k) One physician knowledgeable in the health aspects of air, water, and land pollution;

(l) One representative from county government;

(m) Two representatives from municipal government, one of whom shall represent cities other than those of the primary or metropolitan class;

(n) One representative of the livestock industry;

(o) One representative of minority populations; and

(p) One biologist.

(2) Members shall serve for terms of four years. All appointments shall be subject to confirmation by the Legislature when initially made. As the term of an appointee to the council expires, the succeeding appointee shall be a representative of the same segment of the public as the previous appointee. In the case of appointees to vacancies occurring from unexpired terms, each successor shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed. All members shall be citizens and residents of the State of Nebraska.

(3) Members may be removed by the Governor for inefficiency, neglect of duty, or misconduct in office but only after delivering to the member a copy of the charges and affording him or her an opportunity to be publicly heard in person or by counsel, in his or her own defense, upon not less than ten days' notice. Such hearing shall be held before the Governor. When a member is removed, the Governor shall file, in the office of the Secretary of State, a complete statement of all charges made against such member and the findings thereon, together with a complete record of the proceedings.

(4) The council shall elect from its members a chairperson and a vice-chairperson, who shall hold office at the pleasure of the council. The vice-chairperson shall serve as chairperson in case of the absence or disability of the chairperson. The director shall serve as secretary of the council and shall keep all records of meetings of and actions taken by the council. He or she

shall be promptly advised as to such actions by the chairperson.

(5) The members of the council, while engaged in the performance of their official duties, shall receive a per diem of forty dollars while so serving, including travel time. In addition, members of the council shall receive reimbursement for expenses as provided in sections 81-1174 to 81-1177.

(6) The council shall hold at least two regular meetings each year, at a time and place fixed by the council and shall keep a record of its proceedings which shall be open to the public for inspection. Special meetings may be called by the chairperson. Such special meetings must be called by him or her upon receipt of a written request signed by two or more members of the council. Written notice of the time and place of all meetings shall be mailed in advance to the office of each member of the council by the secretary. A majority of the members of the council shall constitute a quorum.

(7) The Governor shall appoint the Director of Water, Energy, and Environment who shall be experienced in air, water, and land pollution control and who may be otherwise an employee of state government. The director shall be responsible for administration of the department and all standards, rules, and regulations adopted pursuant to Chapter 81, article 15, the Integrated Solid Waste Management Act, and the Livestock Waste Management Act. All such standards, rules, and regulations shall be adopted by the council after consideration of the recommendations of the director. All grants to political subdivisions under the control of the department shall be made by the director in accordance with priorities established by the council, unless otherwise directed by statute. A majority of the members of the council shall constitute a quorum for the transaction of business. The affirmative vote of a majority of all members of the council shall be necessary for the adoption of standards, rules, and regulations.

(8) Before the director enters upon the duties of his or her office, he or she shall take and subscribe to the constitutional oath of office and shall, in addition thereto, swear and affirm that he or she holds no other public office nor any position under any political committee or party, that he or she has not

during the two years immediately prior to his or her appointment received a significant portion of his or her income directly or indirectly from permitholders or applicants for a permit under the Environmental Protection Act, and that he or she will not receive such income during his or her term as director, except that such requirements regarding income prior to the term of office shall not apply to employees of any agency of the State of Nebraska or any political subdivision which may be a permitholder under the Environmental Protection Act. Such oath and affirmation shall be filed with the Secretary of State.

**Sec. 406.** Section 81-1537, Reissue Revised Statutes of Nebraska, is amended to read:

81-1537 Department shall mean the Department of Water, Energy, and Environment.

**Sec. 407.** Section 81-1540, Reissue Revised Statutes of Nebraska, is amended to read:

81-1540 Director shall mean the Director of Water, Energy, and Environment.

**Sec. 408.** Section 81-1561, Reissue Revised Statutes of Nebraska, is amended to read:

81-1561 (1) The Tax Commissioner shall deduct and withhold from the litter fee collected a fee sufficient to reimburse himself or herself for the cost of collecting and administering the litter fee and shall deposit such collection fee in the Litter Fee Collection Fund which is hereby created. The Litter Fee Collection Fund shall be appropriated to the Department of Revenue. Any money in the Litter Fee Collection Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The Tax Commissioner shall remit the balance of the litter fee collections to the Department of Water, Energy, and Environment. The department shall allocate and distribute funds from the Nebraska Litter Reduction and Recycling Fund in percentage amounts to be determined by the council on an

annual basis, after a public hearing on a date to be determined by the council, for the following activities:

(a) Programs of public education, motivation, and participation aimed at creating an ethic conducive to the reduction of litter, establishing an attitude against littering and a desire for a clean environment, and securing greater awareness of and compliance with antilitter laws. Such programs shall include:

(i) The distribution of informative materials to elementary and secondary schools;

(ii) The purchase and erection of roadside signs;

(iii) The organization and operation of cleanup drives conducted by local agencies and organizations using volunteer help;

(iv) Grants to state and local government units and agencies and private organizations for developing and conducting antilitter programs; and

(v) Any other public information method selected by the department, including the use of media;

(b) Cleanup of public highways, waterways, recreation lands, urban areas, and public places within the state, including, but not limited to:

(i) Grants to cities and counties for payment of personnel employed in the pickup of litter;

(ii) Grants for programs aimed at increasing the use of youth and unemployed persons in seasonal and part-time litter pickup programs and to establish work release and other programs to carry out the purposes of the Nebraska Litter Reduction and Recycling Act;

(iii) Grants to public and private agencies and persons to conduct surveys of amounts and composition of litter and rates of littering; and

(iv) Grants to public and private agencies and persons for research and development in the fields of litter reduction, removal, and disposal, including the evaluation of behavioral science techniques in litter control and the development of new equipment, and to implement such research and development when appropriate; and

(c) New or improved community recycling and source separation programs, including, but not limited to:

(i) Expansion of existing and creation of new community recycling centers;

(ii) Expansion of existing and creation of new source separation programs;

(iii) Research and evaluation of markets for the materials and products recovered in source separation and recycling programs; and

(iv) Providing advice and assistance on matters relating to recycling and source separation, including information and consultation on available technology, operating procedures, organizational arrangements, markets for materials and products recovered in recycling and source separation, transportation alternatives, and publicity techniques.

**Sec. 409.** Section 81-15,118, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,118 The Legislature finds that the number of leaking underground storage tanks throughout the state is increasing and that there exists a serious threat to the health and safety of citizens because substances contained in leaking storage tanks are often potential ground water contaminants and major fire and explosive hazards.

For the reasons stated in this section, the Legislature deems it necessary to provide a program of storage tank registration and inspection as a preventative measure and a comprehensive leak cleanup program as a responsive measure. Primary responsibility for the Petroleum Products and Hazardous Substances Storage and Handling Act shall be with the Department of Water, Energy, and Environment. However, preventative measures described in such act shall also be carried out by the State Fire Marshal. The State Fire Marshal's actions shall be pursuant to an interagency agreement with the department.

**Sec. 410.** Section 81-15,120, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,120 Any farm or residential tank or tank used for storing heating oil as defined in subdivisions (10)(a) and (b) of section 81-15,119 shall be registered with the State Fire Marshal. The registration shall be accompanied

by a one-time fee of five dollars and shall be valid until the State Fire Marshal is notified that a tank so registered has been permanently closed. Such registration shall specify the ownership of, location of, and substance stored in the tank to be registered. The State Fire Marshal shall remit the fee to the State Treasurer for credit to the Petroleum Products and Hazardous Substances Storage and Handling Fund which is hereby created as a cash fund. The fund shall also consist of any money appropriated to the fund by the state. The fund shall be administered by the Department of Water, Energy, and Environment to carry out the purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act, including the provision of matching funds required by Public Law 99-499 for actions otherwise authorized by the act. Any money in such fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Sec. 411.** Section 81-15,124, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,124 Any reported or suspected release of a regulated substance from any tank shall be investigated consistent with principles of risk-based corrective action by the State Fire Marshal and the Department of Water, Energy, and Environment. In the event that the State Fire Marshal or the department finds an adverse effect caused by a release of a regulated substance from a tank:

(1) The State Fire Marshal shall (a) determine the immediate danger presented by the release, (b) take all steps necessary to assure immediate public safety, and (c) assist the department in determining the source of the release and taking all steps necessary to ensure that the release is halted;

(2) By order of the department, the owner or operator of the tank causing the release shall, after securing the source of the release, develop a plan for remedial action to be approved by the department. The department shall inform the owner or operator of its approval or disapproval of a plan for remedial action within one hundred twenty days after receipt of a remedial action plan

which contains all required information. If after one hundred twenty days the department fails to either deny, approve, or amend the remedial action plan submitted, the proposed plan shall be deemed approved; and

(3) The approved remedial action plan shall then be carried out by the owner or operator of the tank causing the release. All expenses incurred during the remedial action shall be paid by the owner or operator subject to reimbursement pursuant to the Petroleum Release Remedial Action Act.

If it is determined that the source of the release is unknown or that the owner or operator of the facility causing the release is unknown or unavailable, a remedial action plan shall be developed by or under the direction of the department. Such remedial action plan shall be developed and carried out by the department with money from the Petroleum Products and Hazardous Substances Storage and Handling Fund if funds are available. If at a later date the owner or operator of the facility which caused the release is determined, he or she shall be responsible for remedial action costs incurred on his or her behalf subject to reimbursement pursuant to the Petroleum Release Remedial Action Act. Any money received from such person shall be deposited in the Petroleum Products and Hazardous Substances Storage and Handling Fund.

**Sec. 412.** Section 81-15,124.04, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,124.04 The Department of Water, Energy, and Environment shall provide briefing on the use by the department of risk-based corrective action. The briefing shall be directed toward comprehension and knowledge of the use by the department of risk-based corrective action, and a fee may be charged for attending the briefing which shall be remitted to the State Treasurer for credit to the Petroleum Release Remedial Action Cash Fund. The department may contract for providing such briefing and shall maintain and make available to the public a list of attendees.

**Sec. 413.** Section 81-15,124.05, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,124.05 (1) If a remedial action plan submitted by a responsible



person as defined in section 66-1514 is approved or deemed to be approved by the Department of Water, Energy, and Environment pursuant to subdivision (2) of section 81-15,124 and has been carried out, the department may issue to the responsible person a certificate of completion stating that no further remedial action needs to be taken at the site relating to any contamination for which remedial action has already been taken in accordance with the approved remedial action plan. The department shall condition the certificate of completion upon compliance with any monitoring, institutional, or technological controls that may be necessary and which were relied upon by the responsible person to demonstrate compliance with the remedial action plan. Any certificate of completion issued pursuant to this section shall be in a form which can be filed for record in the real estate records of the county in which the remedial action took place. The responsible person shall file the certificate of completion and notify the department within ten days after issuance as to the date and location of the real estate filing. If the department issues a certificate of completion to a responsible person under this section, a covenant not to sue shall arise by operation of law subject to subsection (2) of this section. The covenant not to sue releases the responsible person from liability to the state and from liability to perform additional environmental assessment, remedial activity, or response action with regard to the release of a petroleum product for which the responsible person has complied with the requirements of this subsection. The covenant not to sue shall be voided if the responsible person fails to conduct additional remedial action as required under subsection (2) of this section, if a certificate of completion is revoked by the department under subsection (3) of this section, or if the responsible person fails to comply with the monitoring, institutional, or technological controls, if any, upon which the certificate of completion is conditioned.

(2) A certificate of completion issued by the department under subsection (1) of this section shall require the responsible person to conduct additional remedial action in the event that any monitoring conducted at or near the real property or other circumstances indicate that (a) contamination is reoccurring,

(b) additional contamination is present for which remedial action was not taken according to the remedial action plan, or (c) contamination from the site presents a threat to human health or the environment and was not addressed in the remedial action plan.

(3) A certificate of completion shall be revoked if the department demonstrates by a preponderance of the evidence that any approval provided under this section was obtained by fraud or material misrepresentation, knowing failure to disclose material information, or false certification to the department. The department shall file a copy of the notice of revocation of any certificate of completion in the real estate records of the county in which the remedial action took place within ten days after such revocation.

(4) If a responsible person transfers property to an affiliate in order for that affiliate to obtain a benefit to which the transferor would not otherwise be eligible under this section or to avoid an obligation under this section, the affiliate shall be subject to the same obligations and obtain the same level of benefits as those available to the transferor under this section.

(5)(a) A covenant not to sue arising under subsection (1) of this section, unless voided pursuant to such subsection, shall bar suit against any person who acquires title to property to which a certificate of completion applies for all claims of the state or any other person in connection with petroleum products which were the subject of an approved remedial action plan and (b) a person who purchased a site before May 31, 2001, is released, upon the issuance of a certificate of completion under this section or upon the issuance of a no further action letter on or after May 31, 2001, pursuant to section 81-15,186, from all liability to the state for cleanup of contamination that was released at the site covered by the certificate of completion or the no further action letter before the purchase date, except as provided in subsection (4) of this section, for releases or consequences that the person contributed to or caused, for failure by such person to comply with the monitoring, institutional, or technological controls, if any, upon which the certificate of completion is conditioned, or in the event the certificate of completion is revoked by the

department under subsection (3) of this section.

(6) Any person entitled to the protections of the covenant not to sue or eligible to be released from liability pursuant to the issuance of a certificate of completion or a no further action letter under subsection (5) of this section who is ordered by the department to take remedial action shall be eligible for reimbursement as a responsible person pursuant to section 66-1525 and shall not be required to pay the first cost or percent of the remaining cost as provided in subsection (1) of section 66-1523 unless such person contributed to or caused the release or failed to comply with the monitoring, institutional, or technological controls, if any, imposed under subsection (1) of this section.

**Sec. 414.** Section 81-15,125, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,125 Any person violating the Petroleum Products and Hazardous Substances Storage and Handling Act or the rules, regulations, or orders of the State Fire Marshal or the Department of Water, Energy, and Environment adopted and promulgated or issued pursuant to such act shall be subject to a civil fine of not more than five thousand dollars for each offense and, in the case of a continuing violation, each day of violation shall constitute a separate offense. In assessing the amount of the fine, the court shall consider the size of the operation and the degree and extent of the pollution.

**Sec. 415.** Section 81-15,126, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,126 The Department of Water, Energy, and Environment or the State Fire Marshal may apply to the district court of the county where the violation is occurring or about to occur for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the Petroleum Products and Hazardous Substances Storage and Handling Act or the rules, regulations, or orders adopted and promulgated under the act. The court shall have jurisdiction to grant relief upon good cause shown. Relief may be granted notwithstanding the existence of any other

remedy at law and shall be granted without bond.

**Sec. 416.** Section 81-15,127, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,127 (1) Any person who deposits regulated substances in a tank shall reasonably notify the owner or operator of such tank of the owner's or operator's registration requirements pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act.

(2) The Department of Water, Energy, and Environment shall design and make available a printed notice of registration for owners of tanks to any person who deposits regulated substances in a tank.

**Sec. 417.** Section 81-15,129, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,129 As used in the Wastewater Treatment Operator Certification Act, unless the context otherwise requires:

(1) Certificate shall mean a certificate of competency issued by the director or his or her duly authorized representative certifying that the operator has met the requirements for the specified operator classification of the certification program;

(2) Council shall mean the Environmental Quality Council;

(3) Department shall mean the Department of Water, Energy, and Environment;

(4) Director shall mean the Director of Water, Energy, and Environment;

(5) Nationally recognized association of certification authorities shall mean an organization or organizations selected by the director which (a) serve as an information center for certification activities, (b) recommend minimum standards and guidelines for classification of wastewater treatment facilities and certification of operators, (c) facilitate reciprocity between state programs, (d) assist authorities in establishing new certification programs and updating existing ones, and (e) provide testing services;

(6) Operator shall mean any person who regularly makes recommendations or is responsible for process control decisions at a wastewater treatment

facility. Operator shall not include a person whose duties are limited solely to laboratory testing or maintenance or who exercises general or indirect supervision only;

(7) Voluntarily certified operator shall mean an operator who holds a certificate of competency described in section 81-15,133; and

(8) Wastewater treatment facility shall mean the structures, equipment, and processes required to collect, transport, and treat domestic or industrial wastes and to dispose of the effluent and sludge.

**Sec. 418.** Section 81-15,149, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,149 As used in the Wastewater Treatment Facilities Construction Assistance Act, unless the context otherwise requires:

(1) Clean Water Act means the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.;

(2) Construction means any of the following: Preliminary planning to determine the feasibility of wastewater treatment works or nonpoint source control systems; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures, or other necessary preliminary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of wastewater treatment works or nonpoint source control systems; or the inspection or supervision of any of the foregoing items;

(3) Council means the Environmental Quality Council;

(4) County means any county authorized to construct a sewerage disposal system and plant or plants pursuant to the County Industrial Sewer Construction Act;

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

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

(7) Eligible financial institution means a bank that agrees to participate in the linked deposit program and which is chartered to conduct banking in this state pursuant to the Nebraska Banking Act, is chartered to conduct banking by

another state and authorized to do business in this state, or is a national bank authorized to do business in this state;

(8) Fund means the Wastewater Treatment Facilities Construction Loan Fund;

(9) Linked deposit program means the Wastewater Treatment Facilities Construction Assistance Act Linked Deposit Program established in accordance with section 81-15,151.03;

(10) Municipality means any city, town, village, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes;

(11) Nonpoint source control systems means projects which establish the use of methods, measures, or practices to control the pollution of surface waters and ground water that occurs as pollutants are transported by water from diffuse or scattered sources. Such projects include, but are not limited to, structural and nonstructural controls and operation and maintenance procedures applied before, during, and after pollution-producing activities. Sources of nonpoint source pollution may include, but are not limited to, agricultural, forestry, and urban lands, transportation corridors, stream channels, mining and construction activities, animal feeding operations, septic tank systems, underground storage tanks, landfills, and atmospheric deposition;

(12) Operate and maintain means all necessary activities including the normal replacement of equipment or appurtenances to assure the dependable and economical function of a wastewater treatment works or nonpoint source control systems in accordance with its intended purpose; and

(13) Wastewater treatment works means the structures, equipment, processes, and land required to collect, transport, and treat domestic or industrial wastes and to dispose of the effluent and sludges.

**Sec. 419.** Section 81-15,159, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,159 (1) The Legislature hereby finds and declares that:

(a) Some landfills operating with or without a permit in Nebraska exhibit numerous operational and management practices which are inconsistent with

proper landfill management and permit requirements, and the owners and operators of such landfills should be encouraged to cooperate and work with the Department of Water, Energy, and Environment to ensure that the air, land, and water of this state are not polluted;

(b) Some landfills in Nebraska are reaching capacity and the siting of a new location can be a financially expensive and socially disruptive process, and because of this situation all Nebraska citizens and businesses are encouraged to implement waste reduction measures that will result in a reduction of waste entering landfills by at least twenty-five percent;

(c) Recycling and waste reduction are necessary components of any well-managed waste management system and can extend the lifespan of a landfill and provide alternative waste management options; and

(d) The state can encourage recycling by the example of its own purchase and use of recycled and recyclable materials. The state can also encourage recycling and waste reduction by the creation of funding grants which support existing and future waste management systems.

(2) It is the intent of the Legislature that the state, as a major consumer and an example for others, should assist resource recovery by making a concerted effort to use recyclable and recycled products and encourage other levels of government and the private sector to follow its example. When purchasing products, materials, or supplies for use by the State of Nebraska, the Department of Administrative Services, the University of Nebraska, and any other state agency making such purchases shall give preference to and purchase products, materials, and supplies which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use. Preference shall also be given to the purchase of corn-based biodegradable plastics and road deicers, depending on the availability and suitability of such products. Such preference shall not operate when it would result in the purchase of products, materials, or supplies which are of inadequate quality or substantially higher cost.

**Sec. 420.** Section 81-15,159.01, Reissue Revised Statutes of Nebraska, is

amended to read:

81-15,159.01 (1) The Department of Water, Energy, and Environment shall conduct a study to examine the status of solid waste management programs operated by the department and make recommendations to modernize and revise such programs. The study shall include, but not be limited to: (a) Whether existing state programs regarding litter and waste reduction and recycling should be amended or merged; (b) a needs assessment of the recycling and composting programs in the state, including the need for infrastructure development operating standards, market development, coordinated public education resulting in behavior change, and incentives to increase recycling and composting; (c) methods to partner with political subdivisions, private industry, and private, nonprofit organizations to most successfully address waste management issues in the state; (d) recommendations regarding existing funding sources and possible new revenue sources at the state and local level to address existing and emerging solid waste management issues; and (e) revisions to existing grant programs to address solid waste management issues in a proactive manner.

(2) The Director of Water, Energy, and Environment shall establish an advisory committee to advise the department regarding the study described in this section. The members of the advisory committee shall be appointed by the director and shall include no more than nine members. The director shall designate a chairperson of the advisory committee. The members shall receive no compensation for their services.

(3) In addition to the advisory committee, the department may hire consultants and special experts to assist in the study described in this section. After completion of the study, the department shall submit a report, including recommendations, to the Executive Board of the Legislative Council and the chairpersons of the Natural Resources Committee, the Urban Affairs Committee, and the Appropriations Committee of the Legislature no later than December 15, 2017. The report shall be submitted electronically.

**Sec. 421.** Section 81-15,159.02, Reissue Revised Statutes of Nebraska, is



amended to read:

81-15,159.02 For purposes of the Waste Reduction and Recycling Incentive Act:

(1) Council means the Environmental Quality Council;

(2) Department means the Department of Water, Energy, and Environment;

(3) Director means the Director of Water, Energy, and Environment;

(4) Scrap tire or waste tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;

(5) Tire means any tire made of rubber or other resilient material and normally used on any vehicle;

(6) Tire-derived product means the usable product produced from a scrap tire. Tire-derived product does not include crumb rubber or chipped tires not intended for a direct end use and does not include baled tires or tire-derived fuel; and

(7) Tire retailer means a person, business, or other entity which engages in the retail sale of tires in any quantity for any use or purpose by the purchaser other than for resale.

**Sec. 422.** Section 81-15,166, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,166 The Department of Water, Energy, and Environment, with the advice and consent of the Environmental Quality Council, shall contract for the preparation of a comprehensive solid waste management plan. Such plan shall be contracted for and prepared on or before December 15, 1991.

It is the intent of the Legislature that in preparation of the plan the state consider the following hierarchy of criteria: (1) Volume reduction at the source; (2) recycling, reuse, and vegetative waste composting; (3) incineration with energy resource recovery; (4) incineration for volume reduction; and (5) land disposal.

It is the intent of the Legislature that the plan be used as a guide to assist political subdivisions in the planning and implementation of their individual, joint, or regional solid waste management systems. The

comprehensive solid waste management plan shall not supersede or impair plans, agreements, or contracts initiated by political subdivisions prior to December 15, 1991.

The Environmental Quality Council shall adopt and promulgate rules and regulations for solid waste management options which comply with Environmental Protection Agency rules and guidelines, including rules and guidelines promulgated pursuant to the 1984 Hazardous and Solid Waste Amendments to Subtitle D of the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.

**Sec. 423.** Section 81-15,170, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,170 The Nebraska Environmental Trust Board is hereby created as an entity of the executive branch. The board shall consist of the Director of Water, Energy, and Environment, the Chief Water Officer, the Director of Agriculture, the secretary of the Game and Parks Commission, the chief executive officer of the Department of Health and Human Services or his or her designee, and nine citizens appointed by the Governor with the approval of a majority of the Legislature. The citizen members shall begin serving immediately following notice of nomination and prior to approval by the Legislature. The citizen members shall represent the general public and shall have demonstrated competence, experience, and interest in the environment of the state. Two of the citizen appointees shall also have experience with private financing of public-purpose projects. Three appointees shall be chosen from each of the three congressional districts. The board shall hire an executive director who shall hire and supervise other staff members as may be authorized by the board. The executive director shall serve at the pleasure of the board and be solely responsible to it. The Game and Parks Commission shall provide administrative support, including, but not limited to, payroll and accounting functions, to the board.

**Sec. 424.** Section 81-15,175, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,175 (1) The board may make an annual allocation each fiscal year from the Nebraska Environmental Trust Fund to the Nebraska Environmental Endowment Fund as provided in section 81-15,174.01. The board shall make annual allocations from the Nebraska Environmental Trust Fund and may make annual allocations each fiscal year from the Nebraska Environmental Endowment Fund for projects which conform to the environmental categories of the board established pursuant to section 81-15,176 and to the extent the board determines those projects to have merit. The board shall establish a calendar annually for receiving and evaluating proposals and awarding grants. To evaluate the economic, financial, and technical feasibility of proposals, the board may establish subcommittees, request or contract for assistance, or establish advisory groups. Private citizens serving on advisory groups shall be reimbursed for expenses pursuant to sections 81-1174 to 81-1177.

(2) The board shall establish rating systems for ranking proposals which meet the board's environmental categories and other criteria. The rating systems shall include, but not be limited to, the following considerations:

- (a) Conformance with categories established pursuant to section 81-15,176;
- (b) Amount of funds committed from other funding sources;
- (c) Encouragement of public-private partnerships;
- (d) Geographic mix of projects over time;
- (e) Cost-effectiveness and economic impact;
- (f) Direct environmental impact;
- (g) Environmental benefit to the general public and the long-term nature of such public benefit; and

(h) Applications submitted by the Department of Water, Energy, and Environment pursuant to subsection (7) of section 61-218 shall be awarded fifty priority points in the ranking process for the 2011 grant application if the Legislature has authorized annual transfers of three million three hundred thousand dollars to the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund in fiscal year

2013-14. Priority points shall be awarded if the proposed programs set forth in the grant application are consistent with the purposes of reducing consumptive uses of water, enhancing streamflows, recharging ground water, or supporting wildlife habitat in any river basin determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(3) A grant awarded under this section pursuant to an application made under subsection (7) of section 61-218 shall be paid out in the following manner:

(a) The initial three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than fifteen business days after the date that the grant is approved by the board;

(b) The second three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2013; and

(c) The third three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2014, if the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund to the Water Resources Cash Fund for fiscal year 2013-14.

(4) It is the intent of the Legislature that the Department of Water, Energy, and Environment apply for an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2014-15, a three-year grant that would begin in fiscal year 2017-18, and a three-year grant that would begin in fiscal year 2020-21 and such application shall be awarded fifty priority points in the ranking process as set forth in subdivision (2)(h) of this section if the following criteria are met:

(a) The Natural Resources Committee of the Legislature has examined options for water funding and has submitted a report electronically to the Clerk of the Legislature and the Governor by December 1, 2012, setting forth:

(i) An outline and priority listing of water management and funding needs in Nebraska, including instream flows, residential, agricultural, recreational, and municipal needs, interstate obligations, water quality issues, and natural habitats preservation;

(ii) An outline of statewide funding options which create a dedicated, sustainable funding source to meet the needs set forth in the report; and

(iii) Recommendations for legislation;

(b) The projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section have resulted in enhanced streamflows, reduced consumptive uses of water, recharged ground water, supported wildlife habitat, or otherwise contributed towards conserving, enhancing, and restoring Nebraska's ground water and surface water resources. On or before July 1, 2014, the department shall submit electronically a report to the Natural Resources Committee of the Legislature providing demonstrable evidence of the benefits accrued from such projects and activities; and

(c) In addition to the grant reporting requirements of the trust, on or before July 1, 2014, the department provides to the board a report which includes documentation that:

(i) Expenditures from the Water Resources Cash Fund made to natural resources districts have met the matching fund requirements provided in subdivision (5)(a) of section 61-218;

(ii) Ten percent or less of the matching fund requirements has been provided by in-kind contributions for expenses incurred for projects enumerated in the grant application. In-kind contributions shall not include land or land rights; and

(iii) All other projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section were matched not less than forty percent of the project or activity cost by other funding sources.

(5) The board may establish a subcommittee to rate grant applications. If the board uses a subcommittee, the meetings of such subcommittee shall be

subject to the Open Meetings Act. The subcommittee shall (a) use the rating systems established by the board under subsection (2) of this section, (b) assign a numeric value to each rating criterion, combine these values into a total score for each application, and rank the applications by the total scores, (c) recommend an amount of funding for each application, which amount may be more or less than the requested amount, and (d) submit the ranked list and recommended funding to the board for its approval or disapproval.

(6) The board may commit funds to multiyear projects, subject to available funds and appropriations. No commitment shall exceed three years without formal action by the board to renew the grant or contract. Multiyear commitments may be exempt from the rating process except for the initial application and requests to renew the commitment.

(7) The board shall adopt and promulgate rules and regulations and publish guidelines governing allocations from the fund. The board shall conduct annual reviews of existing projects for compliance with project goals and grant requirements.

(8) Every five years the board may evaluate the long-term effects of the projects it funds. The evaluation may assess a sample of such projects. The board may hire an independent consultant to conduct the evaluation and may report the evaluation findings to the Legislature and the Governor. The report submitted to the Legislature shall be submitted electronically.

**Sec. 425.** Section 81-15,177, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,177 (1) There is hereby established the Solid Waste Landfill Closure Assistance Fund which shall be a cash fund administered by the Department of Water, Energy, and Environment. The fund shall be used:

(a) To provide grants for landfill site closing assessment, closure, monitoring, and remediation costs related to landfills existing or already closed on July 15, 1992; and

(b) To provide funds to the department for expenses incurred in carrying out its duties under sections 81-15,178 and 81-15,179.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The Environmental Quality Council shall adopt and promulgate rules and regulations regarding the form and procedure for applications for grants from the fund, procedures for determining claims for payment or reimbursement, procedures for determining the amount and type of costs that are eligible for payment or reimbursement from the fund, procedures for determining priority among applicants, procedures for auditing persons who have received payments from the fund, and other provisions necessary to carry out sections 81-15,178 and 81-15,179.

**Sec. 426.** Section 81-15,178, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,178 In order for an applicant to receive funding from the Solid Waste Landfill Closure Assistance Fund, the applicant shall:

(1) Agree to use the funds for landfill site closing assessment, closure, monitoring, or remediation costs relating to landfills existing or already closed on July 15, 1992;

(2) Provide the Department of Water, Energy, and Environment with documentation regarding the landfill closure site, including, when appropriate, information indicating that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands;

(3) Provide a plan for the proposed project, including appropriate engineering, economic, and financial feasibility data and other data and information, including estimated costs, as may be required by the department; and

(4) Demonstrate the anticipated environmental and ecological benefits resulting from the proposed project.

**Sec. 427.** Section 81-15,179, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,179 Upon receipt of an application for funds from the Solid Waste Landfill Closure Assistance Fund, the Department of Water, Energy, and Environment shall evaluate and investigate all aspects of the proposed project and the proposed schedule for completion, determine eligibility and priority of the project for funding, and make appropriate grants from the fund pursuant to rules and regulations adopted and promulgated by the Environmental Quality Council. If the department determines that an application is unsatisfactory or does not contain adequate information, the department shall return the application to the applicant and may make recommendations to the applicant which the department considers necessary to make the plan or the application satisfactory.

**Sec. 428.** Section 81-15,180, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,180 The Superfund Cost Share Cash Fund is created. The Department of Water, Energy, and Environment shall remit grants and gifts received by the department for purposes of providing cost share for remediation of superfund sites to the State Treasurer for credit to the fund. The department shall administer the Superfund Cost Share Cash Fund to pay for nonfederal costs, including costs for in-kind services, required as cost share for remediation of superfund sites. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Superfund Cost Share Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Sec. 429.** Section 81-15,183, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,183 (1) The Remedial Action Plan Monitoring Fund is created. The fund shall be administered by the Department of Water, Energy, and Environment. Revenue from the following sources shall be credited to the fund:

(a) Application fees collected under the Remedial Action Plan Monitoring Act;



(b) Deposits for costs associated with administration of the act, including review, oversight, and guidance;

(c) Gifts, grants, reimbursements, or appropriations from any source intended to be used for purposes of the act; and

(d) Investment interest attributable to the fund.

(2) The fund shall be used by the department to:

(a) Review applications and provide technical review, oversight, guidance, and other activities associated with remedial action plans for land pollution or water pollution;

(b) Fund activities performed by the department to address immediate or emergency threats to human health and the environment related to property under the act; and

(c) Administer and enforce the act.

(3) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

**Sec. 430.** Section 81-15,184, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,184 (1) Any entity which voluntarily chooses to make application for monitoring of remedial action plans for property where land pollution or water pollution exists shall:

(a) Submit an application on a form approved by the Department of Water, Energy, and Environment;

(b) Provide the department with a nonrefundable application fee of two thousand dollars; and

(c) Execute a written agreement to provide reimbursement of all department direct and indirect costs related to technical review, oversight, guidance, and other activities associated with the remedial action plan. As part of the voluntary agreement, the department shall require the applicant to post a deposit of three thousand dollars to be used by the department to cover all costs. The department shall not commence technical review, oversight, guidance,

or other activities associated with the remedial action plan until the voluntary agreement is executed and a complete remedial action plan has been submitted. If the costs of the department exceed the initial deposit, an additional amount agreed upon by the department and the applicant may be required prior to proceeding. After the mutual termination of the voluntary agreement, any balance of funds paid under this subdivision shall be refunded.

(2) The department shall review and approve or deny all applications and notify the applicant in writing. If the application is denied, the notification shall state the reason for the denial. If the department determines that an application does not contain adequate information, the department shall return the application to the applicant. The applicant has sixty days to resubmit the required information or the application will be deemed denied.

(3) Within ninety days of approval of the application and voluntary agreement, the applicant shall provide a complete remedial action plan for the proposed project that conforms to all federal and state environmental standards and substantive requirements, including:

(a) Documentation regarding the investigation of land pollution or water pollution including, when appropriate, information indicating that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands;

(b) A remedial action work plan which describes the remedial action measures to be taken to address the land or water pollution; and

(c) Project monitoring reports, appropriate engineering, scientific, and financial feasibility data, and other data and information as may be required by the department.

**Sec. 431.** Section 81-15,185, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,185 Upon receipt of a voluntary remedial action plan for land pollution or water pollution pursuant to section 81-15,184, the Department of Water, Energy, and Environment shall review and approve or disapprove the plan and notify the applicant in writing. If the plan is disapproved, the

notification shall state the reason for the disapproval and provide a reasonable opportunity to resubmit the plan.

**Sec. 432.** Section 81-15,185.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,185.01 The Department of Water, Energy, and Environment shall issue public notice of its intent to approve a voluntary remedial action plan pursuant to section 81-15,185 in a local newspaper of general circulation in the area affected and make the remedial action plan available to the public. The public shall have thirty days from the date of publication during which any person may submit written comments to the department regarding the proposed remedial action. Such person may also request or petition the Director of Water, Energy, and Environment, in writing, for a hearing and state the nature of the issues to be raised. The director shall hold a public hearing if the comments, request, or petition raise legal, policy, or discretionary questions of general application and significant public interest exists.

**Sec. 433.** Section 81-15,185.02, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,185.02 (1) The applicant may unilaterally terminate a voluntary remedial action plan approved pursuant to section 81-15,185 prior to completion of investigative and remedial activities if the applicant leaves the property in no worse condition, from a human health and environment perspective, than when the applicant initiated voluntary remedial action and the applicant reimburses the Department of Water, Energy, and Environment for all outstanding costs.

(2) The department may terminate a voluntary remedial action plan if the applicant:

(a) Violates any terms or conditions of the plan or fails to fulfill any obligations of the plan, including submission of an acceptable remedial action plan within a reasonable period of time;

(b) Fails to address an immediate and significant risk of harm to public health and the environment in a timely and effective manner; or

(c) Fails to initiate the plan within six months after approval by the department or to complete the plan within twenty-four months after approval by the department, excluding long-term operation, maintenance, and monitoring, unless the department grants an extension of time.

(3) The department shall notify the applicant in writing of the intention to terminate the voluntary remedial action plan and include the reason for the termination and a summary of any unreimbursed costs of the department that are due.

**Sec. 434.** Section 81-15,185.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,185.03 (1) Within sixty days after completion of a voluntary remedial action plan approved pursuant to section 81-15,185, the applicant shall provide the Department of Water, Energy, and Environment with a final remedial action report and assurance that the plan has been fully implemented. Department approval of a voluntary remedial action plan shall be void upon failure to comply with the approved plan or willful submission of false, inaccurate, or misleading information by the applicant.

(2) Voluntary remedial action plans approved under section 81-15,185 are not enforceable unless the department can demonstrate that the applicant has failed to fully implement the approved plan. The department may require further action if such action is authorized by other state statutes administered by the department.

**Sec. 435.** Section 81-15,186, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,186 If the requirements of the Remedial Action Plan Monitoring Act are met and the applicant has remitted all applicable fees, the Department of Water, Energy, and Environment may issue to the applicant a letter stating that no further action need be taken at the site related to any contamination for which remedial action has been taken in accordance with the approved remedial action plan. Such letter shall provide that the department may require the person to conduct additional remedial action in the event that any monitoring

conducted at or near the real property or other circumstances indicate that (1) contamination is reoccurring, (2) additional contamination is present which was not identified pursuant to section 81-15,184, or (3) additional contamination is present for which remedial action was not taken according to the remedial action plan. As a condition of issuance, the department may require payment of ongoing direct and indirect costs of oversight of any ongoing long-term operation, maintenance, and monitoring.

**Sec. 436.** Section 81-15,213, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,213 (1) The Nebraska Emergency Management Agency shall supervise and coordinate emergency planning and training under section 305 of Title III and shall oversee and distribute all funds received under section 305 of Title III and section 81-15,214.

(2) The Department of Water, Energy, and Environment shall receive emergency notification and facility reports and establish procedures for receiving and processing requests from the public for information as required to be provided under the Nebraska Emergency Planning and Community Right to Know Act. The director or his or her designee shall serve as commission coordinator for information.

**Sec. 437.** Section 81-15,229, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,229 (1) Each emergency plan, material safety data sheet, list of chemicals, inventory form, toxic chemical release form, and followup emergency notice shall be made available to the general public, consistent with section 322 of Title III, during normal working hours at the location or locations designated by the Department of Water, Energy, and Environment, the commission, or a local emergency planning committee, as appropriate. Upon request by an owner or operator of a facility subject to the requirements of section 81-15,224, the Department of Water, Energy, and Environment, the commission, or the appropriate committee shall withhold from disclosure under this section the location of any specific chemical required by section 81-15,225 to be contained

in an inventory form as tier II information.

(2) Each local emergency planning committee shall annually publish a notice in local newspapers that the emergency plan, material safety data sheets, and inventory forms have been submitted under this section. The notice shall state that followup emergency notices may subsequently be issued. Such notice shall announce that members of the public who wish to review any such plan, sheet, form, or followup notice may do so at the location designated under subsection (1) of this section.

**Sec. 438.** Section 81-15,235, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,235 The Nebraska Emergency Management Agency shall as necessary adopt and promulgate rules and regulations to carry out its responsibilities under the Nebraska Emergency Planning and Community Right to Know Act. The Environmental Quality Council shall adopt and promulgate rules and regulations necessary for the Department of Water, Energy, and Environment to carry out its responsibilities under the act.

**Sec. 439.** Section 81-15,242, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,242 Department means the Department of Water, Energy, and Environment.

**Sec. 440.** Section 81-15,243, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,243 Director means the Director of Water, Energy, and Environment.

**Sec. 441.** Section 81-15,260, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,260 The Volkswagen Settlement Cash Fund is created. The fund shall be administered by the Department of Water, Energy, and Environment. All sums of money received from the Volkswagen Settlement shall be deposited in the fund. The department shall expend the fund in accordance with the department use plan. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and

the Nebraska State Funds Investment Act. The balance of any account established to receive and expend revenue from the Volkswagen Settlement shall be transferred to the Volkswagen Settlement Cash Fund.

**Sec. 442.** Section 81-15,262, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,262 The Legislature finds that:

(1) Best practices in environmental safety and protection recognize that the regulation of water supply and disposal infrastructure are connected;

(2) The proper design, construction, and monitoring of water and wastewater uses is critical for the safety and sustainability of communities in the State of Nebraska;

(3) The regulation of mobile homes, recreation camps, and swimming pools provide fundamental environmental safety for persons who use them; and

(4) Consolidating the administration of state environmental safety programs and the environmental and water programs of the United States Environmental Protection Agency delegated to the State of Nebraska into the Department of Water, Energy, and Environment will better serve the communities in the State of Nebraska.

**Sec. 443.** Section 81-15,263, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,263 For purposes of the Environmental Safety Act:

(1) Department means the Department of Water, Energy, and Environment; and

(2) Director means the Director of Water, Energy, and Environment.

**Sec. 444.** Section 81-15,292, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,292 (1) The department shall collect a fee of not less than sixty nor more than one hundred dollars, as determined by regulation, for each inspection of private water supply or private sewage disposal facilities requested of and made by the department in order for the person requesting the inspection to qualify for any type of commercial loan, guarantee, or other type of payment or benefit from any commercial agency or enterprise to the person

applying for or receiving the same or to meet the requirements of any federal governmental agency, including, but not limited to, the Rural Development Agency of the United States Department of Agriculture, the Federal Housing Administration, and the United States Department of Veterans Affairs, that such an inspection be conducted as a condition of applying for or receiving any type of grant, loan, guarantee, or other type of payment or benefit from such agency to the person applying for or receiving the same. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Environmental Safety Cash Fund.

(2) The Director of Water, Energy, and Environment shall adopt and promulgate rules and regulations determining the fee required pursuant to this section.

(3) All rules and regulations adopted and promulgated prior to July 1, 2021, under this section shall continue to be effective to the extent not in conflict with the changes made by Laws 2021, LB148, until amended or repealed by the department.

**Sec. 445.** Section 81-15,299, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,299 There is hereby created the Environmental Safety Cash Fund which shall be used to pay the expenses of the Department of Water, Energy, and Environment related to issuance and renewal of licenses and permits and annual inspections, including sections 81-15,268, 81-15,272, 81-15,282, and 81-15,292. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the Health and Human Services Cash Fund pursuant to sections 81-15,268, 81-15,272, 81-15,282, and 81-15,292, as such sections existed prior to July 1, 2021, to the Environmental Safety Cash Fund on July 1, 2021.

**Sec. 446.** Section 81-15,300, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,300 There is hereby created the Engineering Plan Review Cash Fund



which shall be used to pay the expenses of the Department of Water, Energy, and Environment related to engineering reviews of plans and specifications, including those under subsection (3) of section 81-15,268 and subsection (2) of section 81-15,282. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. The State Treasurer shall transfer any money in the Health and Human Services Cash Fund pursuant to subsection (3) of section 81-15,268 and subsection (2) of section 81-15,282, as such sections existed prior to July 1, 2021, to the Engineering Plan Review Cash Fund on July 1, 2021.

**Sec. 447.** Section 81-15,302, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,302 For purposes of the Nebraska Environmental Response Act:

(1) Cleanup means all actions necessary to contain, collect, secure, control, identify, prevent, mitigate, analyze, treat, disperse, remove, or dispose of a pollutant necessary to restore the environment to the extent practicable and to minimize the harmful effects from the release in conformance with applicable federal and state environmental standards and substantive requirements;

(2) Cleanup costs means all costs incurred by the state, a political subdivision of the state, an agent of the state, or any other person participating, with the approval of the department, in the prevention, mitigation, or cleanup of a release of a pollutant, including a proportionate share of those costs necessary to maintain the services authorized in the act. Costs include oversight of the cleanup, staff time, and materials and supplies used to secure and mitigate the release of pollutants;

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

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

(5) Environmental lien means a lien for cleanup costs;

(6) Person has the same meaning as provided in section 81-1502;

(7) Pollutant means one or more substances or combinations of substances

that alter the natural physical, chemical, or biological properties of any air, land, or waters of the state in such quantities that are harmful, detrimental, or injurious to plant or animal life, property, or the public health, safety, or welfare;

(8) Release means any emission, discharge, spill, leak, pumping, pouring, escaping, emptying, or dumping of a pollutant into or onto the air, land, or waters of the state, except when performed in compliance with the conditions of a federal or state environmental permit; and

(9) Waters of the state has the same meaning as provided in section 81-1502.

**Sec. 448.** Section 81-15,312, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,312 It is the intent of the Legislature to appropriate one million dollars for fiscal year 2024-25 from the General Fund to the Department of Water, Energy, and Environment to fund the installation of real-time nitrate sensors in monitoring wells statewide to prioritize nitrate management and reduction.

**Sec. 449.** Section 81-1604, Reissue Revised Statutes of Nebraska, is amended to read:

81-1604 (1) The Legislature finds that:

(a) Comprehensive planning enables the state to address its energy needs, challenges, and opportunities and enhances the state's ability to prioritize energy-related policies, activities, and programs; and

(b) Meeting the state's need for clean, affordable, and reliable energy in the future will require a diverse energy portfolio and a strategic approach, requiring engagement of all energy stakeholders in a comprehensive planning process.

(2) The Department of Water, Energy, and Environment shall develop an integrated and comprehensive strategic state energy plan and review such plan periodically as the department deems necessary. The department may organize technical committees of individuals with expertise in energy development for

purposes of developing the plan. If the department forms an advisory committee pursuant to subdivision (58) of section 81-1504 for purposes of such plan, the chairperson of the Appropriations Committee of the Legislature, the chairperson of the Natural Resources Committee of the Legislature, and three members of the Legislature selected by the Executive Board of the Legislative Council shall be nonvoting, ex officio members of such advisory committee.

(3) The strategic state energy plan shall include short-term and long-term objectives that will ensure a secure, reliable, and resilient energy system for the state's residents and businesses; a cost-competitive energy supply and access to affordable energy; the promotion of sustainable economic growth, job creation, and economic development; and a means for the state's energy policy to adapt to changing circumstances.

(4) The strategic state energy plan shall include, but not be limited to:

(a) A comprehensive analysis of the state's energy profile, including all energy resources, end-use sectors, and supply and demand projections;

(b) An analysis of other state energy plans and regional energy activities which identifies opportunities for streamlining and partnerships; and

(c) An identification of goals and recommendations related to:

(i) The diversification of the state's energy portfolio in a way that balances the lowest practicable environmental cost with maximum economic benefits;

(ii) The encouragement of state and local government coordination and public-private partnerships for future economic and investment decisions;

(iii) The incorporation of new technologies and opportunities for energy diversification that will maximize Nebraska resources and support local economic development;

(iv) The interstate and intrastate promotion and marketing of the state's renewable energy resources;

(v) A consistent method of working with and marketing to energy-related businesses and developers;

(vi) The advancement of transportation technologies, alternative fuels,

and infrastructure;

(vii) The development and enhancement of oil, natural gas, and electricity production and distribution;

(viii) The development of a communications process between energy utilities and the department for responding to and preparing for regulations having a statewide impact; and

(ix) The development of a mechanism to measure the plan's progress.

**Sec. 450.** Section 81-1606, Reissue Revised Statutes of Nebraska, is amended to read:

81-1606 The Department of Water, Energy, and Environment shall develop and maintain a program of collection, compilation, and analysis of energy statistics and information. Existing information reporting requests, maintained at the state and federal levels, shall be utilized whenever possible in any data collection required regarding state energy policy pursuant to this section, subdivisions (35) through (58) of section 81-1504, or section 81-1604 or 81-1607. A central state repository of energy data shall be developed and coordinated with other governmental data-collection and record-keeping programs. The department shall, on at least an annual basis, with monthly compilations, submit to the Governor and the Clerk of the Legislature a report identifying state energy consumption by fuel type and by use to the extent that such information is available. The report submitted to the Clerk of the Legislature shall be submitted electronically. Nothing in this section shall be construed as permitting or authorizing the revealing of confidential information. For purposes of this section confidential information shall mean any process, formula, pattern, decision, or compilation of information which is used, directly or indirectly, in the business of the producer, refiner, distributor, transporter, or vendor, and which gives such producer, refiner, distributor, transporter, or vendor an advantage or an opportunity to obtain an advantage over competitors who do not know or use it.

**Sec. 451.** Section 81-1607, Reissue Revised Statutes of Nebraska, is amended to read:

81-1607 (1) On or before February 15 of each year, the Director of Water, Energy, and Environment shall transmit to the Governor and the Clerk of the Legislature a comprehensive report designed to identify emerging trends related to energy supply, demand, and conservation and to specify the level of statewide energy need within the following sectors: Agricultural, commercial, residential, industrial, transportation, utilities, government, and any other sector that the director determines to be useful. The report submitted to the Clerk of the Legislature shall be submitted electronically.

(2) The report shall include, but not be limited to:

(a) An assessment of the state's energy resources, including examination of the current energy supplies and any feasible alternative sources;

(b) The estimated reduction in annual energy consumption resulting from various energy conservation measures;

(c) The status of the ongoing studies of the Department of Water, Energy, and Environment pursuant to subdivisions (35) through (58) of section 81-1504;

(d) Recommendations to the Governor and the Legislature for administrative and legislative actions to accomplish the purposes of this section and section 81-1606; and

(e) The use of funds disbursed during the previous year under sections 81-1635 to 81-1641. The use of such funds shall be reported each year until the funds are completely disbursed and all contractual obligations have expired or otherwise terminated.

**Sec. 452.** Section 81-1609, Reissue Revised Statutes of Nebraska, is amended to read:

81-1609 As used in sections 81-1608 to 81-1626, unless the context otherwise requires:

(1) Department means the Department of Water, Energy, and Environment;

(2) Contractor means the person or entity responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building;

(3) Architect or engineer means any person licensed as an architect or

professional engineer under the Engineers and Architects Regulation Act;

(4) Building means any new structure, renovated building, or addition which is used or intended for supporting or sheltering any use or occupancy, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of three and four-tenths British Thermal Units per hour or one watt per square foot;

(5) Residential building means a building three stories or less that is used primarily as one or more dwelling units;

(6) Renovation means alterations on an existing building which will cost more than fifty percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included;

(7) Addition means an extension or increase in the height, conditioned floor area, or conditioned volume of a building or structure;

(8) Floor area means the total area of the floor or floors of a building, expressed in square feet, which is within the exterior faces of the shell of the structure which is heated or cooled;

(9) Nebraska Energy Code means the 2018 International Energy Conservation Code published by the International Code Council;

(10) Traditional energy sources means electricity, petroleum-based fuels, uranium, coal, and all nonrenewable forms of energy; and

(11) Equivalent or equivalent code means standards that meet or exceed the requirements of the Nebraska Energy Code.

**Sec. 453.** Section 81-1611, Reissue Revised Statutes of Nebraska, is amended to read:

81-1611 The Legislature hereby adopts the 2018 International Energy Conservation Code published by the International Code Council as the Nebraska Energy Code. The Director of Water, Energy, and Environment may adopt regulations specifying alternative standards for building systems, techniques, equipment designs, or building materials that shall be deemed equivalent to the

Nebraska Energy Code. Regulations specifying alternative standards may be deemed equivalent to the Nebraska Energy Code and may be approved for general or limited use if the use of such alternative standards would not result in energy consumption greater than would result from the strict application of the Nebraska Energy Code.

**Sec. 454.** Section 81-1612, Reissue Revised Statutes of Nebraska, is amended to read:

81-1612 The Director of Water, Energy, and Environment may adopt and promulgate rules and regulations for implementation and administration of sections 81-1608 to 81-1626. Rules, regulations, or amendments thereto shall be adopted pursuant to the Administrative Procedure Act.

**Sec. 455.** Section 81-1625, Reissue Revised Statutes of Nebraska, is amended to read:

81-1625 If the Director of Water, Energy, and Environment or the local code authority finds, within two years from the date a building is first occupied, that the building, at the time of construction, did not comply with the Nebraska Energy Code or equivalent code adopted by a county, city, or village in effect at such time, the director or code authority may order the owner or prime contractor to take those actions necessary to bring the building into compliance. This section does not limit the right of the owner to bring civil action against the contractor, architect, or engineer for the cost of bringing the building into compliance.

**Sec. 456.** Section 81-1635, Reissue Revised Statutes of Nebraska, is amended to read:

81-1635 There is hereby established in the state treasury a fund, to be known as the Nebraska Energy Settlement Fund and referred to in sections 81-1635 to 81-1641 as the fund, to be administered by the Department of Water, Energy, and Environment as the representative of the Governor. The fund shall consist of (1) money received by the State of Nebraska after February 15, 1986, from awards or allocations to the State of Nebraska on behalf of consumers of petroleum products as a result of judgments or settlements for overcharges to

consumers of petroleum products sold during the period of time in which federal price controls on such products were in effect and (2) any investment interest earned on the fund. The Department of Administrative Services may for accounting purposes create subfunds of the fund to segregate awards or allocations received pursuant to different orders or settlements. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No money shall be transferred or disbursed from the fund except pursuant to sections 81-1635 to 81-1641.

**Sec. 457.** Section 81-1636, Reissue Revised Statutes of Nebraska, is amended to read:

81-1636 The Governor or the Department of Water, Energy, and Environment as representative of the Governor shall develop a plan for the disbursement of the money credited to the fund for submission to the United States Department of Energy. The plan shall be in accordance with the specifications and guidelines of the applicable federal court order and any applicable federal law or regulations.

**Sec. 458.** Section 81-1637, Reissue Revised Statutes of Nebraska, is amended to read:

81-1637 (1) The Governor shall submit electronically a predisbursement plan to the Legislature if in session or the Executive Board of the Legislative Council if the Legislature is not in session.

(2) The predisbursement plan shall generally outline the uses and beneficiaries of proposed disbursements from the fund, as well as the expected benefits to the state as a whole.

(3) The predisbursement plan shall also include a policy statement which shall indicate (a) a perception of the current and anticipated trends regarding energy availability, costs, and needs in the state, (b) assumptions regarding the impacts on energy needs of the state of current and anticipated state and federal policies and market forces affecting energy use, and (c) generally, how the types of projects to be selected will address those trends and assumptions.



(4) The Legislature may hold a public hearing within thirty days after receipt of the predisbursement plan to solicit testimony on such plan. The Legislature may, no later than fifteen days following such hearing, make recommendations to the Department of Water, Energy, and Environment concerning the plan. No disbursement of or obligation to disburse any money in the fund shall be made after July 9, 1988, until forty-five days after the predisbursement plan referring to such disbursement has been submitted to the Legislature or the Executive Board of the Legislative Council, as the case may be.

**Sec. 459.** Section 81-1638, Reissue Revised Statutes of Nebraska, is amended to read:

81-1638 (1) The Department of Water, Energy, and Environment shall, as the representative of and under the direction of the Governor, be the administrative agency for the selection of projects pursuant to section 81-1636, allocation of funds to the projects, and monitoring of the uses of the funds so allocated.

(2) The department shall contract with any and all grantees of funds in and recipients of loans from the fund. The contracts shall include provisions for reporting on and accounting for the use of the funds by the grantee or loan recipient to the department, and any contracts or agreements entered into before appropriations are made by the Legislature shall recite that they are subject to appropriations of the fund by the Legislature.

(3) Any political subdivision of this state may apply for, and shall be eligible to receive, a disbursement for a project pursuant to section 81-1636, including a disbursement of loan proceeds.

**Sec. 460.** Section 81-1640, Reissue Revised Statutes of Nebraska, is amended to read:

81-1640 The Department of Water, Energy, and Environment shall conduct a public hearing on the proposed uses of the fund in the manner and to the extent required by specifications and guidelines of the applicable federal court order and any applicable federal law or regulations.

**Sec. 461.** Section 81-3449, Reissue Revised Statutes of Nebraska, is amended to read:

81-3449 The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet of above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the

allowable height and building areas table in the state building code adopted in section 71-6403;

(4) Any public works project with contemplated expenditures for a completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;

(5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(6) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accrediting Board;

(7) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;

(8) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture if such employees are acting under the direct supervision of an architect;

(9) A public service provider or an organization who employs a licensee performing professional services for itself;

(10) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards offering to render the

professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the Engineers and Architects Regulation Act. The nonresident shall notify the board in writing that (a) he or she holds a National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services, (b) he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;

(11) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of the respective profession, if such qualified member does not represent himself or herself to be practicing architecture and does not represent himself or herself to be an architect;

(12) Financial institutions making disbursements of funds in connection with construction projects;

(13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Water, Energy, and Environment or for work related to livestock waste facilities that are not subject to a permit by the Department of Water, Energy, and Environment; and

(14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

**Sec. 462.** Section 81-3453, Reissue Revised Statutes of Nebraska, is amended to read:

81-3453 The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(2) The construction, remodeling, alteration, or renovation of a one-story commercial or industrial building or structure of less than five thousand square feet above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the building or structure are not included in the tabulation of finished space. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the allowable height and building areas table in the state building code adopted in section 71-6403;

(3) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons. Such exemption may be increased by rule and regulation of the board adopted pursuant to the Negotiated Rulemaking Act but shall not exceed the Type V, column B, limitations set forth by the

allowable height and building areas table in the state building code adopted in section 71-6403;

(4) Any public works project with contemplated expenditures for the completed project that do not exceed one hundred thousand dollars. The board shall adjust the dollar amount in this subdivision every fifth year. The first such adjustment after August 27, 2011, shall be effective on July 1, 2014. The adjusted amount shall be equal to the then current amount adjusted by the cumulative percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The amount shall be rounded to the next highest one-thousand-dollar amount;

(5) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(6) The teaching, including research and service, of engineering subjects in a college or university offering an ABET-accredited engineering curriculum of four years or more;

(7) A public service provider or an organization who employs a licensee performing professional services for itself;

(8) The practice by a qualified member of another legally recognized profession who is otherwise licensed or certified by this state or any political subdivision to perform services consistent with the laws of this state, the training, and the code of ethics of such profession, if such qualified member does not represent himself or herself to be practicing engineering and does not represent himself or herself to be a professional engineer;

(9) The work of an employee or a subordinate of a person holding a certificate of licensure or a temporary permit under the Engineers and Architects Regulation Act if the work is done under the direct supervision of a person holding a certificate of licensure or a temporary permit under the act;

(10) Those services ordinarily performed by subordinates under direct

supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(11) Financial institutions making disbursements of funds in connection with construction projects;

(12) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Water, Energy, and Environment or for work related to livestock waste facilities that are not subject to a permit by the Department of Water, Energy, and Environment;

(13) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;

(14) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;

(15) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply;

(16) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission; and

(17) Siting, layout, construction, and reconstruction of a private onsite wastewater treatment system with a maximum flow from the facility of one thousand gallons of domestic wastewater per day if such system meets all of the conditions required pursuant to the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act unless the siting, layout, construction, or reconstruction by an engineer is required by the Department of Water, Energy, and Environment, mandated by law or rules and regulations imposed upon the owner of the system, or required by the owner.

**Sec. 463.** Section 84-166, Reissue Revised Statutes of Nebraska, is amended to read:

84-166 Pursuant to the proclamation of a vital resource emergency issued as provided in section 84-164, the Governor by executive order may:

(1) Regulate the operating hours of vital resource consuming instrumentalities including state government, political subdivisions, private institutions, and business facilities to the extent that the regulation is not hazardous or detrimental to the health, safety, or welfare of the people of this state;

(2) Establish a system for the distribution of the supply of energy or vital resource;

(3) Curtail, regulate, or direct the public and private transportation and use of the vital resource which is in short supply, to the extent necessary, so long as such regulation is not hazardous or detrimental to the health, safety, or welfare of the people of this state;

(4) Delegate any administrative authority vested in him or her to the Department of Water, Energy, and Environment or any other state agency or its respective director; and

(5) Provide for the temporary transfer of directors, personnel, or functions of state departments and agencies for the purpose of carrying out any emergency measures taken pursuant to sections 84-162 to 84-167.

**Sec. 464.** Section 84-602.04, Reissue Revised Statutes of Nebraska, is amended to read:



84-602.04 (1) The State Treasurer shall develop and maintain a single, searchable website with information on state receipts, expenditures of state funds, and contracts which is accessible by the public at no cost to access as provided in this section. The website shall be hosted on a server owned and operated by the State of Nebraska or approved by the Chief Information Officer. The naming convention for the website shall identify the website as a state government website. The website shall not include the treasurer's name, the treasurer's image, the treasurer's seal, or a welcome message.

(2)(a) The website established, developed, and maintained by the State Treasurer pursuant to this section shall provide such information as will document the sources of all state receipts and the expenditure of state funds by all state entities.

(b) The State Treasurer shall, in appropriate detail, cause to be published on the website:

(i) The identity, principal location, and amount of state receipts received or expended by the State of Nebraska and all of its state entities;

(ii) The funding or expending state entity;

(iii) The budget program source;

(iv) The amount, date, purpose, and recipient of all expenditures of state funds; and

(v) Such other relevant information as will further the intent of enhancing the transparency of state government financial operations to its citizens and taxpayers. The website shall include data for fiscal year 2008-09 and each fiscal year thereafter, except that for any state entity that becomes subject to this section due to the changes made by Laws 2016, LB851, the website shall include data for such state entity for fiscal year 2016-17 and each fiscal year thereafter.

(3) The data shall be available on the website no later than thirty days after the end of the preceding fiscal year.

(4)(a) The website described in this section shall include a link to the website of the Department of Administrative Services. The department's website

shall contain:

(i) A database that includes a copy of each active contract that is a basis for an expenditure of state funds, including any amendment to such contract and any document incorporated by reference in such contract. For purposes of this subdivision, amendment means an agreement to modify a contract which has been reduced to writing and signed by each party to the contract, an agreement to extend the duration of a contract, or an agreement to renew a contract. The database shall be accessible by the public and searchable by vendor, by state entity, and by dollar amount. All state entities shall provide to the Department of Administrative Services, in electronic form, copies of such contracts for inclusion in the database beginning with contracts that are active on and after January 1, 2014, except that for any state entity that becomes subject to this section due to the changes made by Laws 2016, LB851, such state entity shall provide copies of such contracts for inclusion in the database beginning with contracts that are active on and after January 1, 2017; and

(ii) A database that includes copies of all expired contracts which were previously included in the database described in subdivision (4)(a)(i) of this section and which have not been disposed of pursuant to policies and procedures adopted under subdivision (4)(e) of this section. The database required under this subdivision shall be accessible by the public and searchable by vendor, by state entity, and by dollar amount.

(b) The following shall be redacted or withheld from any contract before such contract is included in a database pursuant to subdivision (4)(a) of this section:

(i) The social security number or federal tax identification number of any individual or business;

(ii) Protected health information as such term is defined under the federal Health Insurance Portability and Accountability Act of 1996, as such act existed on January 1, 2013;

(iii) Any information which may be withheld from the public under section

84-712.05; or

(iv) Any information that is confidential under state or federal law, rule, or regulation.

(c) The following contracts shall be exempt from the requirements of subdivision (4)(a) of this section:

(i) Contracts entered into by the Department of Health and Human Services that are letters of agreement for the purpose of providing specific services to a specifically named individual and his or her family;

(ii) Contracts entered into by the University of Nebraska or any of the Nebraska state colleges for the purpose of providing specific services or financial assistance to a specifically named individual and his or her family;

(iii) Contracts entered into by the Department of Veterans' Affairs under section 80-401 or 80-403 for the purpose of providing aid to a specifically named veteran and his or her family;

(iv) Contracts entered into by the Department of Water, Energy, and Environment for the purpose of providing financing from the Dollar and Energy Saving Loan program;

(v) Contracts entered into by the State Department of Education under sections 79-11,121 to 79-11,132 for the purpose of providing specific goods, services, or financial assistance on behalf of or to a specifically named individual;

(vi) Contracts entered into by the Commission for the Blind and Visually Impaired under the Commission for the Blind and Visually Impaired Act for the purpose of providing specific goods, services, or financial assistance on behalf of or to a specifically named individual;

(vii) Contracts of employment for employees of any state entity. The exemption provided in this subdivision shall not apply to contracts entered into by any state entity to obtain the services of an independent contractor; and

(viii) Contracts entered into by the Nebraska Investment Finance Authority for the purpose of providing a specific service or financial assistance,

including, but not limited to, a grant or loan, to a specifically named individual and his or her family.

(d) No state entity shall structure a contract to avoid any of the requirements of subdivision (4)(a) of this section.

(e) The Department of Administrative Services shall adopt policies and procedures regarding the creation, maintenance, and disposal of records pursuant to section 84-1212.02 for the contracts contained in the databases required under this section and the process by which state entities provide copies of the contracts required under this section.

(5) All state entities shall provide to the State Treasurer, at such times and in such form as designated by the State Treasurer, such information as is necessary to accomplish the purposes of the Taxpayer Transparency Act.

(6) Nothing in this section requires the disclosure of information which is considered confidential under state or federal law or is not a public record under section 84-712.05.

**Sec. 465.** Section 85-162.03, Reissue Revised Statutes of Nebraska, is amended to read:

85-162.03 In carrying out sections 85-162.01 to 85-162.05, the State Forester shall cooperate with (1) any agency or bureau of the United States, including, but not limited to, the Forest Service, the Natural Resources Conservation Service, the Farm Service Agency, the Bureau of Reclamation, the Corps of Engineers, and the Bureau of Outdoor Recreation, (2) any agency or bureau of the State of Nebraska or its political subdivisions, including, but not limited to, the Game and Parks Commission, the Department of Water, Energy, and Environment, the State Fire Marshal, the Department of Agriculture, the Adjutant General, the Department of Economic Development, and the Conservation and Survey Division of the University of Nebraska, and (3) any incorporated municipality of the state or any political subdivision of the state, including, but not limited to, rural fire districts, natural resources districts, and weed control districts.

**Sec. 466.** Section 86-570, Reissue Revised Statutes of Nebraska, is amended

to read:

86-570 (1) The Geographic Information Systems Council is hereby created and shall consist of:

(a) The Chief Information Officer or his or her designee, the chief executive officer or designee of the Department of Health and Human Services, and the director or designee of the Department of Water, Energy, and Environment, the Conservation and Survey Division of the University of Nebraska, and the Governor's Policy Research Office;

(b) The Director-State Engineer or designee;

(c) The State Surveyor or designee;

(d) The Clerk of the Legislature or designee;

(e) The secretary of the Game and Parks Commission or designee;

(f) The Property Tax Administrator or designee;

(g) One representative of federal agencies appointed by the Governor;

(h) One representative of the natural resources districts nominated by the Nebraska Association of Resources Districts and appointed by the Governor;

(i) One representative of the public power districts appointed by the Governor;

(j) Two representatives of the counties nominated by the Nebraska Association of County Officials and appointed by the Governor;

(k) One representative of the municipalities nominated by the League of Nebraska Municipalities and appointed by the Governor;

(l) Two members at large appointed by the Governor; and

(m) Such other members as nominated by the Nebraska Information Technology Commission and appointed by the Governor.

(2) The appointed members shall serve terms as determined by the Nebraska Information Technology Commission.

(3) The members shall be reimbursed for expenses as provided in sections 81-1174 to 81-1177.

**Sec. 467.** Section 88-550, Reissue Revised Statutes of Nebraska, is amended to read:

88-550 The Department of Water, Energy, and Environment and the commission shall, during the course of their regular inspections required by law, inspect warehouses for conditions which are or may be conducive to grain dust explosions. Such conditions shall include, but not be limited to, the presence at the warehouse of excessive grain dust, faulty equipment, or any other condition which could reasonably lead to an explosion if not corrected. The department and commission shall report any such condition to the State Fire Marshal as soon as practicable after each inspection.

**Sec. 468.** This act becomes operative on July 1, 2025.

**Sec. 469.** Original sections 2-408, 2-969, 2-1501, 2-1504, 2-1508, 2-1509, 2-1510, 2-1511, 2-1588, 2-1592, 2-1593, 2-1594, 2-1595, 2-2626, 2-3202, 2-3225, 2-3241, 2-3254, 2-3279, 2-3280, 2-4602, 2-4603, 2-4604, 2-4901, 13-1701, 13-2008, 13-2009, 13-2042.01, 16-6,106, 25-1062.01, 25-1064, 25-1920, 25-2159, 25-2160, 31-415, 31-509, 31-515, 31-516, 31-1003, 31-1015, 37-707, 37-708.01, 46-106, 46-122, 46-190, 46-192, 46-193, 46-1,155, 46-1,157, 46-205, 46-226, 46-226.01, 46-226.02, 46-226.03, 46-227, 46-229, 46-229.01, 46-229.02, 46-229.03, 46-229.04, 46-229.05, 46-229.06, 46-230, 46-231, 46-233, 46-233.01, 46-234, 46-235, 46-235.01, 46-235.02, 46-235.03, 46-235.04, 46-236, 46-237, 46-238, 46-240.01, 46-241, 46-242, 46-250, 46-252, 46-254, 46-256, 46-258, 46-261, 46-263.02, 46-273, 46-286, 46-288, 46-289, 46-290, 46-291, 46-292, 46-293, 46-294, 46-294.01, 46-294.02, 46-294.05, 46-297, 46-2,101, 46-2,104, 46-2,105, 46-2,108, 46-2,109, 46-2,110, 46-2,111, 46-2,112, 46-2,113, 46-2,114, 46-2,115, 46-2,116, 46-2,116.01, 46-2,116.02, 46-2,117, 46-2,118, 46-2,119, 46-2,120, 46-2,122, 46-2,123, 46-2,124, 46-2,125, 46-2,128, 46-2,130, 46-2,139, 46-302, 46-303, 46-304, 46-305, 46-312, 46-315, 46-514, 46-515, 46-516, 46-517, 46-518, 46-519, 46-521, 46-522, 46-524, 46-525, 46-526, 46-527, 46-528, 46-529, 46-530, 46-536, 46-541, 46-583, 46-601.01, 46-602, 46-604, 46-606, 46-609, 46-610, 46-613.01, 46-613.02, 46-637, 46-638, 46-639, 46-640, 46-641, 46-642, 46-644, 46-645, 46-648, 46-649, 46-653, 46-654, 46-655.01, 46-676, 46-677, 46-678, 46-679, 46-680, 46-682, 46-683, 46-683.01, 46-684, 46-685, 46-686, 46-686.01, 46-688, 46-691, 46-703, 46-704, 46-705, 46-706, 46-707, 46-709,

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81-3453, 84-166, 84-602.04, 85-162.03, 86-570, and 88-550, Reissue Revised  
Statutes of Nebraska, and sections 2-414, 2-415, 2-416, 2-1507, 19-1201,  
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**Sec. 470.** The following sections are outright repealed: Sections 2-1596, 2-1597, 2-1598, 2-1599, 2-15,100, 2-15,101, 2-15,103, 2-15,105, 2-15,106, 2-3277, 2-3278, 2-4201, 2-4202, 2-4203, 2-4204, 2-4205, 2-4206, 2-4207, 2-4208, 2-4209, 2-4210, 2-4211, 2-4212, 2-4213, 2-4214, 2-4215, 2-4216, 2-4217, 2-4218, 2-4219, 2-4220, 2-4221, 2-4222, 2-4223, 2-4224, 2-4225, 2-4226, 2-4227, 2-4228, 2-4229, 2-4230, 2-4231, 2-4232, 2-4233, 2-4234, 2-4235, 2-4236, 2-4237, 2-4238, 2-4239, 2-4240, 2-4241, 2-4242, 2-4243, 2-4244, 2-4245, 2-4246, 46-199, 71-3508.02, 81-15,254, 81-15,255, 81-15,256, 81-15,257, 81-15,258, 81-15,259, 81-15,293, 81-15,294, 81-15,295, 81-15,296, 81-15,297, and 81-15,298, Reissue Revised Statutes of Nebraska.

**Sec. 471.** Since an emergency exists, this act takes effect when passed and approved according to law.



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**PRESIDENT OF THE LEGISLATURE**

*THIS IS TO CERTIFY that the within LB 317 was passed by the One Hundred Ninth  
Legislature of Nebraska at its First Session on the ..... day  
of ..... 20.....*

\_\_\_\_\_  
**CLERK OF THE LEGISLATURE**

**Approved:**

..... 20....., ..... o'clock .....M.

\_\_\_\_\_  
**GOVERNOR**