

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 317

FINAL READING

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

Read first time January 16, 2025

Committee: Natural Resources

1 A BILL FOR AN ACT relating to the Department of Water, Energy, and
2 Environment; to amend sections 2-408, 2-969, 2-1501, 2-1504, 2-1508,
3 2-1509, 2-1510, 2-1511, 2-1588, 2-1592, 2-1593, 2-1594, 2-1595,
4 2-2626, 2-3202, 2-3225, 2-3241, 2-3254, 2-3279, 2-3280, 2-4602,
5 2-4603, 2-4604, 2-4901, 13-1701, 13-2008, 13-2009, 13-2042.01,
6 16-6,106, 25-1062.01, 25-1064, 25-1920, 25-2159, 25-2160, 31-415,
7 31-509, 31-515, 31-516, 31-1003, 31-1015, 37-707, 37-708.01, 46-106,
8 46-122, 46-190, 46-192, 46-193, 46-1,155, 46-1,157, 46-205, 46-226,
9 46-226.01, 46-226.02, 46-226.03, 46-227, 46-229, 46-229.01,
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12 46-235.03, 46-235.04, 46-236, 46-237, 46-238, 46-240.01, 46-241,
13 46-242, 46-250, 46-252, 46-254, 46-256, 46-258, 46-261, 46-263.02,
14 46-273, 46-286, 46-288, 46-289, 46-290, 46-291, 46-292, 46-293,
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16 46-2,105, 46-2,108, 46-2,109, 46-2,110, 46-2,111, 46-2,112,
17 46-2,113, 46-2,114, 46-2,115, 46-2,116, 46-2,116.01, 46-2,116.02,
18 46-2,117, 46-2,118, 46-2,119, 46-2,120, 46-2,122, 46-2,123,
19 46-2,124, 46-2,125, 46-2,128, 46-2,130, 46-2,139, 46-302, 46-303,
20 46-304, 46-305, 46-312, 46-315, 46-514, 46-515, 46-516, 46-517,
21 46-518, 46-519, 46-521, 46-522, 46-524, 46-525, 46-526, 46-527,
22 46-528, 46-529, 46-530, 46-536, 46-541, 46-583, 46-601.01, 46-602,

1 46-604, 46-606, 46-609, 46-610, 46-613.01, 46-613.02, 46-637,
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5 46-686.01, 46-688, 46-691, 46-703, 46-704, 46-705, 46-706, 46-707,
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8 46-726, 46-728, 46-729, 46-730, 46-731, 46-732, 46-733, 46-736,
9 46-737, 46-739, 46-740, 46-742, 46-743, 46-744, 46-745, 46-746,
10 46-748, 46-749, 46-750, 46-751, 46-753, 46-754, 46-755, 46-801,
11 46-802, 46-803, 46-804, 46-1001, 46-1004, 46-1005, 46-1011, 46-1023,
12 46-1102, 46-1108, 46-1109, 46-1204.01, 46-1207, 46-1217, 46-1222,
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20 57-1407, 57-1502, 57-1609, 57-1614, 57-1619, 58-202, 60-6,363,
21 60-6,364, 60-6,367, 60-6,368, 61-201, 61-202, 61-203, 61-204,
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23 70-669, 71-3508.04, 71-3524, 76-2,124, 77-3,112, 81-101, 81-102,
24 81-2,294, 81-502, 81-829.05, 81-1108.55, 81-1316, 81-1502, 81-1503,
25 81-1537, 81-1540, 81-1561, 81-15,118, 81-15,120, 81-15,124,
26 81-15,124.04, 81-15,124.05, 81-15,125, 81-15,126, 81-15,127,
27 81-15,129, 81-15,149, 81-15,159, 81-15,159.01, 81-15,159.02,
28 81-15,166, 81-15,170, 81-15,175, 81-15,177, 81-15,178, 81-15,179,
29 81-15,180, 81-15,183, 81-15,184, 81-15,185, 81-15,185.01,
30 81-15,185.02, 81-15,185.03, 81-15,186, 81-15,213, 81-15,229,
31 81-15,235, 81-15,242, 81-15,243, 81-15,260, 81-15,262, 81-15,263,

1 81-15,292, 81-15,299, 81-15,300, 81-15,302, 81-15,312, 81-1604,
2 81-1606, 81-1607, 81-1609, 81-1611, 81-1612, 81-1625, 81-1635,
3 81-1636, 81-1637, 81-1638, 81-1640, 81-3449, 81-3453, 84-166,
4 84-602.04, 85-162.03, 86-570, and 88-550, Reissue Revised Statutes
5 of Nebraska, and sections 2-414, 2-415, 2-416, 2-1507, 19-1201,
6 19-1202, 19-1203, 19-1204, 19-5706, 31-508, 37-806, 37-814,
7 46-1,164, 46-1,165, 46-296, 49-506, 49-617, 54-2940, 58-221, 61-206,
8 61-218, 61-222, 61-224, 61-226, 61-227, 61-228, 61-303, 61-305,
9 61-401, 61-403, 61-404, 61-405, 61-502, 61-520, 66-203, 66-204,
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11 66-1105, 66-1344, 66-1504, 66-1518, 66-1529.02, 66-2001, 66-2201,
12 66-2216, 69-2011, 69-2502, 70-1003, 71-2433, 71-3503, 71-5301,
13 71-5316, 71-5328, 71-6406, 72-804, 72-805, 76-2602, 76-2608,
14 77-27,150, 77-27,151, 77-27,152, 77-27,153, 77-27,154, 77-27,187.01,
15 77-27,236, and 77-3442, Revised Statutes Cumulative Supplement,
16 2024; to merge the Department of Natural Resources with the
17 Department of Environment and Energy; to rename the department, the
18 director, and certain funds; to change procedures for appointment of
19 the director; to create a new position; to provide, change,
20 transfer, and eliminate powers and duties; to provide exemptions
21 from the State Personnel System; to change and eliminate provisions
22 relating to irrigation districts and natural resources districts; to
23 eliminate provisions relating to the Conservation Corporation Act,
24 the Low-Level Radioactive Waste Disposal Act, the Nebraska Soil
25 Survey Fund, and the state water planning and review process; to
26 eliminate obsolete provisions; to change provisions relating to the
27 Water Sustainability Fund and the boundary lines of state game
28 refuges; to harmonize provisions; to provide an operative date; to
29 repeal the original sections; to outright repeal sections 2-1596,
30 2-1597, 2-1598, 2-1599, 2-15,100, 2-15,101, 2-15,103, 2-15,105,
31 2-15,106, 2-3277, 2-3278, 2-4201, 2-4202, 2-4203, 2-4204, 2-4205,

1 2-4206, 2-4207, 2-4208, 2-4209, 2-4210, 2-4211, 2-4212, 2-4213,
2 2-4214, 2-4215, 2-4216, 2-4217, 2-4218, 2-4219, 2-4220, 2-4221,
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4 2-4230, 2-4231, 2-4232, 2-4233, 2-4234, 2-4235, 2-4236, 2-4237,
5 2-4238, 2-4239, 2-4240, 2-4241, 2-4242, 2-4243, 2-4244, 2-4245,
6 2-4246, 46-199, 71-3508.02, 81-15,254, 81-15,255, 81-15,256,
7 81-15,257, 81-15,258, 81-15,259, 81-15,293, 81-15,294, 81-15,295,
8 81-15,296, 81-15,297, and 81-15,298, Reissue Revised Statutes of
9 Nebraska; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

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

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

24 **Sec. 2.** Any appropriation and salary limit provided in any
25 legislative bill enacted by the One Hundred Ninth Legislature, First
26 Session, to Agency No. 29, Department of Natural Resources, shall be null
27 and void, and any such amounts are hereby appropriated to Agency No. 84,
28 Department of Water, Energy, and Environment. Any financial obligations
29 of the Department of Natural Resources that remain unpaid as of June 30,
30 2025, and that are subsequently certified as valid encumbrances to the
31 accounting division of the Department of Administrative Services pursuant

1 to sections 81-138.01 to 81-138.04, shall be paid by the Department of
2 Water, Energy, and Environment from the unexpended balance of
3 appropriations existing in such program classifications on June 30, 2025.

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

27 **Sec. 4.** No suit, action, or other proceeding, judicial or
28 administrative, lawfully commenced prior to July 1, 2025, or which could
29 have been commenced prior to that date, by or against the Department of
30 Natural Resources or the Department of Environment and Energy, or any
31 director or any employee thereof in such director's or employee's

1 official capacity or in relation to the discharge of his or her official
2 duties, shall abate by reason of the transfer of duties and functions
3 from the Department of Natural Resources to the Department of Water,
4 Energy, and Environment or the Chief Water Officer or the renaming of the
5 Department of Environment and Energy as the Department of Water, Energy,
6 and Environment.

7 **Sec. 5.** On and after July 1, 2025, unless otherwise specified,
8 whenever any provision of law refers to the Department of Natural
9 Resources or the Department of Environment and Energy in connection with
10 duties and functions of the Department of Water, Energy, and Environment,
11 such law shall be construed as referring to the Department of Water,
12 Energy, and Environment or the Chief Water Officer, as determined by the
13 duties and functions assigned to each in statute.

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

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

22 2-408 For purposes of the Resilient Soils and Water Quality Act:

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

27 (2) Department means the Department of Water, Energy, and
28 Environment ~~Natural Resources~~; and

29 (3) Producer learning community means an agricultural producer-led,
30 nonprofit, voluntary membership organization dedicated to fostering
31 learning, skills, and abilities and the gathering and sharing of

1 knowledge for the purpose of carrying out the Resilient Soils and Water
2 Quality Act.

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

5 2-414 (1) The nitrogen reduction incentive program is created and
6 shall be administered by the Department of Water, Energy, and Environment
7 ~~Natural Resources~~. The department may collaborate with natural resources
8 districts to administer the program.

9 (2) The purposes of the program are to:

10 (a) Provide incentive payments to farmers; and

11 (b) Encourage farmers to (i) reduce the use of commercial fertilizer
12 and (ii) incorporate innovative technology into farming practices,
13 including the proper use of biological nitrogen products.

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

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

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

24 (6) The department shall:

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

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

30 (c) Consult with farmers and commercial entities in the agriculture
31 industry to determine a per-acre payment rate tied to the commercial

1 fertilizer rate reduction but not less than ten dollars per acre; and

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

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

7 (i) Five million dollars; or

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

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

12 **Sec. 9.** Section 2-415, Revised Statutes Cumulative Supplement, 2024,
13 is amended to read:

14 2-415 The Department of Water, Energy, and Environment ~~Natural~~
15 ~~Resources~~ may adopt and promulgate rules and regulations that adopt a
16 standard for labeled commercial fertilizer products to qualify for the
17 nitrogen reduction incentive program and may adopt and promulgate rules
18 and regulations to carry out the Nitrogen Reduction Incentive Act.

19 **Sec. 10.** Section 2-416, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 2-416 (1) The Nitrogen Reduction Incentive Cash Fund is created and
22 shall be administered by the Department of Water, Energy, and Environment
23 ~~Natural Resources~~ for purposes of the Nitrogen Reduction Incentive Act.
24 The Nitrogen Reduction Incentive Cash Fund may consist of transfers as
25 directed by the Legislature and gifts, grants, bequests, and money from
26 any public or private source.

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

31 (3) Any such grant applied for by the Department of Water, Energy,

1 ~~and Environment Natural Resources~~ that is awarded to the Department of
2 ~~Water, Energy, and Environment Natural Resources~~ or the State of Nebraska
3 shall be credited to the Nitrogen Reduction Incentive Cash Fund.

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

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

9 2-969 The Riparian Vegetation Management Task Force is created. The
10 Governor shall appoint the members of the task force. The members shall
11 include one surface water project representative from each river basin
12 that has ever been determined to be fully appropriated pursuant to
13 section 46-714 or 46-720 or is designated as overappropriated pursuant to
14 section 46-713 by the Chief Water Officer ~~Department of Natural~~
15 ~~Resources~~; one surface water project representative from a river basin
16 that has not been determined to be fully appropriated pursuant to section
17 46-714 or 46-720 or is not designated as overappropriated pursuant to
18 section 46-713 by the Chief Water Officer ~~Department of Natural~~
19 ~~Resources~~; one representative from the Department of Agriculture, the
20 Department of Water, Energy, and Environment ~~Environment and Energy~~, the
21 ~~Department of Natural Resources~~, the office of the State Forester, the
22 Game and Parks Commission, and the University of Nebraska; three
23 representatives selected from a list of at least ten individuals
24 nominated by the Nebraska Association of Resources Districts; two
25 representatives selected from a list of at least five individuals
26 nominated by the Nebraska Weed Control Association; one riparian
27 landowner from each of the state's congressional districts; and one
28 representative from the Nebraska Environmental Trust. In addition to such
29 members, any member of the Legislature may serve as a nonvoting, ex
30 officio member of the task force at his or her option. For administrative
31 and budgetary purposes only, the task force shall be housed within the

1 Department of Agriculture.

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

4 2-1501 As used in sections 2-1501 to 2-15,123, unless the context
5 otherwise requires:

6 (1) Commission means the Nebraska Natural Resources Commission;

7 (2) State means the State of Nebraska;

8 (3) Agency of this state means the government of this state and any
9 subdivision, agency, or instrumentality, corporate or otherwise, of the
10 government of this state;

11 (4) United States or agencies of the United States means the United
12 States of America, the Natural Resources Conservation Service of the
13 United States Department of Agriculture, and any other agency or
14 instrumentality, corporate or otherwise, of the United States of America;

15 (5) Government or governmental means the government of this state,
16 the government of the United States, and any subdivision, agency, or
17 instrumentality, corporate or otherwise, of either of them;

18 (6) Lands, easements, and rights-of-way means lands and rights or
19 interests in lands whereon channel improvements, channel rectifications,
20 or water-retarding or gully-stabilization structures are located,
21 including those areas for flooding and flowage purposes, spoil areas,
22 borrow pits, access roads, and similar purposes;

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

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

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

30 (10) Watercourse means any depression two feet or more below the
31 surrounding land serving to give direction to a current of water at least

1 nine months of the year, having a bed and well-defined banks and, upon
2 order of the commission, also includes any particular depression which
3 would not otherwise be within the definition of watercourse;

4 (11) Chief Water Officer means the Chief Water Officer of the
5 Department of Water, Energy, and Environment ~~Director means the Director~~
6 ~~of Natural Resources;~~

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

9 (13) Combined sewer overflow project means a municipal project to
10 reduce overflows from a combined sewer system pursuant to a long-term
11 control plan approved by the department ~~Department of Environment and~~
12 ~~Energy.~~

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

15 2-1504 (1) The Nebraska Natural Resources Commission is established.
16 The commission shall advise the department as requested by the Chief
17 Water Officer ~~director~~ and shall perform such other functions as are
18 specifically conferred on the commission by law. The commission shall
19 have no jurisdiction over matters pertaining to water rights.

20 (2) Each member of the commission shall be a resident of the State
21 of Nebraska and shall have attained the age of majority. The voting
22 members of the commission shall be:

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

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

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

13 (3) Members of the commission described in subdivision (2)(a) of
14 this section shall be selected for four-year terms at individual caucuses
15 of the natural resources district directors residing in the river basin
16 from which the member is selected. Such caucuses shall be held for each
17 basin within ten days following the first Thursday after the first
18 Tuesday of the year the term of office of the member from that basin
19 expires. The dates and locations for such caucuses shall be established
20 by the commission, and the commission shall provide notice to the public
21 by issuing press releases for publication in a newspaper of general
22 circulation in each county that comprises the river basin for which a
23 caucus election will be held. Terms of office of such members shall
24 follow the sequence originally determined by the river basin
25 representatives to the commission at their first meeting on the third
26 Thursday after the first Tuesday in January 1975. All river basin members
27 shall take office on the third Thursday after the first Tuesday in
28 January following their selection and any vacancy shall be filled for the
29 unexpired term by a caucus held within thirty days following the date
30 such vacancy is created. Each member of the commission representing a
31 river basin shall qualify by filing with the other members of the

1 commission an acceptance in writing of his or her selection.

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

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

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

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

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

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

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

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

10 **Sec. 14.** Section 2-1507, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 2-1507 (1) It is the intent of the Legislature that the Water
13 Sustainability Fund be equitably distributed statewide to the greatest
14 extent possible for the long term and give priority funding status to
15 projects which are the result of federal mandates.

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

28 (3) Any money in the Water Sustainability Fund may be allocated by
29 the commission to applicants in accordance with sections 2-1506 to
30 2-1513. Such money may be allocated in the form of grants or loans for
31 water sustainability programs, projects, or activities undertaken within

1 the state. The allocation of funds to a program, project, or activity in
2 one form shall not of itself preclude additional allocations in the same
3 or any other form to the same program, project, or activity. The
4 commission shall, when ranking and scoring applications for funding,
5 prioritize projects for drinking water improvements for any federally
6 recognized Indian tribe whose drinking water is under a no-drink order
7 from the United States Environmental Protection Agency.

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

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

26 (6) The commission shall utilize the resources and expertise of and
27 collaborate with the department ~~Department of Natural Resources~~, the
28 University of Nebraska, the ~~Department of Environment and Energy~~, the
29 Nebraska Environmental Trust Board, and the Game and Parks Commission on
30 funding and planning for water programs, projects, or activities.

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

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

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

7 2-1508 The commission shall rank and score applications for funding
8 based on criteria that demonstrate the extent to which a program,
9 project, or activity:

10 (1) Remediates or mitigates threats to drinking water;

11 (2) Meets the goals and objectives of an approved integrated
12 management plan or ground water management plan;

13 (3) Contributes to water sustainability goals by increasing aquifer
14 recharge, reducing aquifer depletion, or increasing streamflow;

15 (4) Contributes to multiple water supply management goals,
16 including, but not limited to, flood control, agricultural use, municipal
17 and industrial uses, recreational benefits, wildlife habitat,
18 conservation of water resources, and preservation of water resources;

19 (5) Maximizes the beneficial use of Nebraska's water resources for
20 the benefit of the state's residents;

21 (6) Is cost-effective;

22 (7) Helps the state meet its obligations under interstate compacts,
23 decrees, or other state contracts or agreements or federal law;

24 (8) Reduces threats to property damage or protects critical
25 infrastructure that consists of the physical assets, systems, and
26 networks vital to the state or the United States such that their
27 incapacitation would have a debilitating effect on public security or
28 public health and safety;

29 (9) Improves water quality;

30 (10) Has utilized all available funding resources of the local
31 jurisdiction to support the program, project, or activity;

1 (11) Has a local jurisdiction with plans in place that support
2 sustainable water use;

3 (12) Addresses a statewide problem or issue;

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

7 (14) Contributes to watershed health and function. ~~;~~ and

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

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

12 2-1509 (1) Applicants for funds may file an application with the
13 department for a grant or loan from the Water Sustainability Fund.
14 Applications for grants to the department itself shall be filed by the
15 department. Each application shall be filed in such manner and form and
16 be accompanied by such information as may be prescribed by the Chief
17 Water Officer ~~director~~ and the commission.

18 (2) Any such application shall:

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

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

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

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

1 acquire all water rights necessary for the proposed program, project, or
2 activity;

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

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

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

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

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

31 2-1510 (1) Each program, project, or activity for which funding is

1 requested, whether such request has as its origin an application or the
2 action of the department itself, shall be reviewed as provided in
3 sections 2-1506 to 2-1513 by the Chief Water Officer ~~director~~ prior to
4 the approval of any allocation for such program, project, or activity by
5 the commission.

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

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

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

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

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

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

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

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

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

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

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

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

15 2-1511 (1) The Chief Water Officer ~~director~~ shall make
16 recommendations based upon his or her review of the criteria set forth in
17 section 2-1510 of whether an application should be considered further or
18 rejected and the form of allocation he or she deems appropriate. The
19 commission shall act in accordance with such recommendations according to
20 the application procedures adopted and promulgated in rules and
21 regulations.

22 (2) If, after review of the recommendation by the Chief Water
23 Officer ~~director~~, the commission determines that an application for a
24 grant, loan, acquisition of an interest, or combination thereof pursuant
25 to sections 2-1506 to 2-1513 is satisfactory and qualified to be
26 approved, before the final approval of such application may be given and
27 the funds allocated, the department shall enter into an agreement in the
28 name of the state with the applicant agency or organization and with any
29 other organizations it deems to be involved in the program, project, or
30 activity to which funds shall be applied. The department shall also enter
31 into such agreements as are appropriate before allocation of any funds

1 for the acquisition of an interest in any qualified program, project, or
2 activity when such acquisition is initiated by the department itself
3 pursuant to section 2-1512. All agreements entered into pursuant to this
4 section shall include, but not be limited to, a specification of the
5 amount of funds involved, whether the funds are considered as a grant or
6 loan or for the acquisition of an interest in the name of the state, and,
7 if a combination of these is involved, the amount of funds allocated to
8 each category, the specific purpose for which the allocation is made, the
9 terms of administration of the allocated funds, and any penalties to be
10 imposed upon the applicant organization should it fail to apply or repay
11 the funds in accordance with the agreement.

12 (3) If the allocation to be approved is a loan, the department and
13 the applicant or applicants shall include in the agreement provisions for
14 repayment to the Water Sustainability Fund of money loaned together with
15 any interest at reasonable rates as established by the commission. The
16 agreement shall further provide that repayment of the loan together with
17 any interest thereon shall commence no later than one full year after
18 construction of the project or implementation of the program or activity
19 is completed and that repayment shall be completed within the time period
20 specified by the commission. The repayment period shall not exceed fifty
21 years, except that the commission may extend the time for making
22 repayment in the event of extreme emergency or hardship. Such agreement
23 shall also provide for such assurances of and security for repayment of
24 the loan as shall be considered necessary by the department.

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

31 (5) The state shall have a lien upon a program, project, or activity

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

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

19 2-1588 (1) No money in the Nebraska Resources Development Fund may
20 be reallocated by the commission in accordance with sections 2-1586 to
21 2-1595 for utilization by the department, by any state office, agency,
22 board, or commission, or by any political subdivision of the state which
23 has the authority to develop the state's water and related land resources
24 after March 30, 2014. The commission may commit appropriated funds to
25 projects approved as of March 30, 2014, not to exceed amounts
26 specifically allocated to such projects prior to March 30, 2014, unless
27 specific appropriations or transfers to exceed the March 30, 2014,
28 allocation amounts are approved by the Legislature. If such specific
29 appropriations or transfers are made, the commission shall develop
30 procedures to allocate the additional funding to projects approved as of
31 March 30, 2014. Allocations shall not exceed funds appropriated for such

1 purpose. Any of such funds remaining after all such project costs have
2 been completely funded shall be transferred to the Water Sustainability
3 Fund by the State Treasurer. Prior to March 30, 2014, the Nebraska
4 Resources Development Fund may be allocated in the form of grants or
5 loans or for acquiring state interests in water and related land
6 resources programs and projects undertaken within the state. The
7 allocation of funds to a program or project in one form shall not of
8 itself preclude additional allocations in the same or any other form to
9 the same program or project. Funds may also be allocated to assist
10 natural resources districts in the preparation of management plans as
11 provided in section 46-709. Funds so allocated shall not be subject to
12 sections 2-1589 to 2-1595.

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

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

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

29 2-1592 (1) Any organization qualified to apply for and receive funds
30 from the Nebraska Resources Development Fund may file an application with
31 the department for a grant or loan from such fund. Applications for

1 grants to the department itself shall be filed by the department. Each
2 application shall be filed in such manner and form and be accompanied by
3 such information as may be prescribed by the Chief Water Officer ~~director~~
4 and the commission. No applications may be made to receive funds by grant
5 or loan from the Nebraska Resources Development Fund after March 30,
6 2014.

7 (2) Any such application shall:

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

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

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

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

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

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

26 (3) Upon receipt of an application, the Chief Water Officer ~~director~~
27 shall evaluate and investigate all aspects of the proposed program or
28 project and the proposed schedule for development and completion of such
29 program or project, determine the eligibility of the program or project
30 for funding, and make appropriate recommendations to the commission
31 pursuant to sections 2-1586 to 2-1595. As a part of his or her

1 investigation, the Chief Water Officer ~~director~~ shall consider whether
2 the plan for development of the program or project is satisfactory. If
3 the Chief Water Officer ~~director~~ determines that the plan is
4 unsatisfactory or that the application does not contain adequate
5 information upon which to make determinations, the Chief Water Officer
6 ~~director~~ shall return the application to the applicant and may make such
7 recommendations to the applicant as are considered necessary to make the
8 plan or the application satisfactory.

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

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

18 2-1593 Each program or project for which funding is requested,
19 whether such request has as its origin an application or the action of
20 the department itself, shall be reviewed as provided in sections 2-1586
21 to 2-1595 by the Chief Water Officer ~~director~~ prior to the approval of
22 any allocation for such program or project by the commission. The Chief
23 Water Officer ~~director~~ shall within a reasonable time, not to exceed six
24 months, after receipt of such request report to the commission the
25 results of his or her review and shall recommend approval or rejection of
26 funding for the program or project. The Chief Water Officer ~~director~~
27 shall indicate what form of allocation he or she deems to be appropriate.
28 In the case of an approved application recommended for a loan, the
29 commission shall indicate the appropriate repayment period and the rate
30 of interest. The commission shall act in accordance with such
31 recommendations unless action to the contrary is approved by each

1 commission member eligible to vote on the specific recommendation under
2 consideration. No member of the commission shall be eligible to
3 participate in the action of the commission concerning an application for
4 funding to any entity in which such commission member has any interest.
5 The Chief Water Officer ~~director~~ may be delegated additional
6 responsibilities consistent with the purposes of sections 2-1586 to
7 2-1595. It shall be the sole responsibility of the commission to
8 determine the priority in which funds are allocated for eligible programs
9 and projects under sections 2-1586 to 2-1595.

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

12 2-1594 The Chief Water Officer ~~director~~ may recommend approval of
13 and the commission may approve grants or loans for program or project
14 costs or acquisition of interests in projects if after investigation and
15 evaluation the Chief Water Officer ~~director~~ finds that:

16 (1) The plan does not conflict with any existing Nebraska state land
17 plan;

18 (2) The proposed program or project is economically and financially
19 feasible based upon standards adopted by the commission pursuant to
20 sections 2-1586 to 2-1595;

21 (3) The plan for development of the proposed program or project is
22 satisfactory;

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

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

27 (6) In the case of a loan, the borrower has demonstrated the ability
28 to repay the loan and there is assurance of adequate operation,
29 maintenance, and replacement during the repayment life of the project;

30 (7) The plan considers other plans and programs of the state in
31 accordance with section 84-135 and resources development plans of the

1 political subdivisions of the state; and

2 (8) The money required from the Nebraska Resources Development Fund
3 is available.

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

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

10 2-1595 (1) If after review of the recommendation by the Chief Water
11 Officer ~~director~~ the commission determines that an application for a
12 grant, loan, acquisition of an interest, or combination thereof pursuant
13 to sections 2-1586 to 2-1595 is satisfactory and qualified to be
14 approved, before the final approval of such application may be given and
15 the funds allocated, the department shall enter into an agreement in the
16 name of the state with the applicant agency or organization and with any
17 other organizations it deems to be involved in the program or project to
18 which funds shall be applied. The department shall also enter into such
19 agreements as are appropriate before allocation of any funds for the
20 acquisition of interest in any qualified project when such acquisition is
21 initiated by the department itself pursuant to section 2-1590. All
22 agreements entered into pursuant to this section shall include, but not
23 be limited to, a specification of the amount of funds involved, whether
24 the funds are considered as a grant, loan, or for the acquisition of an
25 interest in the name of the state, and, if a combination of these is
26 involved, the amount of funds allocated to each category, the specific
27 purpose for which the allocation is made, the terms of administration of
28 the allocated funds, and any penalties to be imposed upon the applicant
29 organization should it fail to apply or repay the funds in accordance
30 with the agreement.

31 (2) If the allocation to be approved is a loan, the department and

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

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

19 (4) The state shall have a lien upon a project constructed,
20 improved, or renovated with money from the fund for the amount of the
21 loan together with any interest thereon. This lien shall attach to all
22 project facilities, equipment, easements, real property, and property of
23 any kind or nature in which the loan recipient has an interest and which
24 is associated with the project. The department shall file a statement of
25 the lien, its amount, terms, and a description of the project with the
26 county register of deeds of each county in which the project or any part
27 thereof is located. The county register of deeds shall record the lien
28 and it shall be indexed as other liens are required by law to be indexed.
29 The lien shall be valid until paid in full or otherwise discharged. The
30 lien shall be foreclosed in accordance with applicable state law
31 governing foreclosure of mortgages and liens. Any lien provided for by

1 this section may be subordinate to that which secures federal assistance
2 or other secured assistance received on the same project.

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

5 2-2626 The department shall have the following powers, functions,
6 and duties:

7 (1) To administer, implement, and enforce the Pesticide Act and
8 serve as the lead state agency for the regulation of pesticides. The
9 department shall involve the natural resources districts and other state
10 agencies, including the Department of Water, Energy, and Environment
11 ~~Environment and Energy or the Department of Natural Resources~~, in matters
12 relating to water quality. Nothing in the act shall be interpreted in any
13 way to affect the powers of any other state agency or of any natural
14 resources district to regulate for ground water quality or surface water
15 quality as otherwise provided by law;

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

30 (3) After notice and public hearing, to adopt and promulgate rules
31 and regulations providing lists of state-limited-use pesticides for the

1 entire state or for a designated area within the state, subject to the
2 following:

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

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

11 (ii) The water quality standards set by the Department of Water,
12 Energy, and Environment ~~Environment and Energy~~ pursuant to this section
13 are exceeded; or

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

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

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

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

30 (e) The state management plan and pesticide management plans may
31 impose progressively more rigorous pesticide management practices as

1 pesticides are detected in ground water or surface water at increasing
2 fractions of the standards adopted by the Department of Water, Energy,
3 and Environment ~~Environment and Energy~~; and

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

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

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

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

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

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

24 (e) Reporting and record-keeping requirements for persons
25 distributing or using pesticide products made available under 7 U.S.C.
26 136i-1 of the federal act and for persons required to keep records under
27 the Pesticide Act;

28 (f) Methods to be used in the application of pesticides when the
29 Department of Agriculture finds that such regulations are necessary to
30 carry out the purpose and intent of the Pesticide Act. Such regulations
31 may include methods to be used in the application of a restricted-use

1 pesticide or state-limited-use pesticide, may relate to the time, place,
2 manner, methods, materials, amounts, and concentrations in connection
3 with the use of the pesticide, may restrict or prohibit use of the
4 pesticides in designated areas during specified periods of time, and may
5 provide specific examples and technical interpretations of subdivision
6 (4) of section 2-2646. The regulations shall encompass all reasonable
7 factors which the department deems necessary to prevent damage or injury
8 by drift or misapplication to (i) plants, including forage plants, or
9 adjacent or nearby property, (ii) wildlife in the adjoining or nearby
10 areas, (iii) fish and other aquatic life in waters in reasonable
11 proximity to the area to be treated, (iv) surface water or ground water,
12 and (v) humans, animals, or beneficial insects. In adopting and
13 promulgating such regulations, the department shall give consideration to
14 pertinent research findings and recommendations of other agencies of the
15 state, the federal government, or other reliable sources. The department
16 may, by regulation, require that notice of a proposed use of a pesticide
17 be given to landowners whose property is adjacent to the property to be
18 treated or in the immediate vicinity thereof if the department finds that
19 such notice is necessary to carry out the purpose of the act;

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (7) To issue and enforce a written or printed order to stop the
22 sale, removal, or use of a pesticide if the Department of Agriculture has
23 reason to believe that the pesticide or use of the pesticide is in
24 violation of any provision of the act. The department shall present the
25 order to the owner or custodian of the pesticide. The person who receives
26 the order shall not distribute, remove, or use the pesticide until the
27 department determines that the pesticide or its use is in compliance with
28 the act. This subdivision shall not limit the right of the department to
29 proceed as authorized by any other provision of the act;

30 (8)(a) To sue in the name of the director to enjoin any violation of
31 the act. Venue for such action shall be in the county in which the

1 alleged violation occurred, is occurring, or is threatening to occur; and

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

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

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

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

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

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

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

31 (15) To receive grants-in-aid from any federal entity, and to enter

1 into cooperative agreements with any federal entity, any agency of this
2 state, any subdivision of this state, any agency of another state, any
3 Indian tribe, or any private person for the purpose of obtaining
4 consistency with or assistance in the implementation of the Pesticide
5 Act. The Department of Agriculture may reimburse any such entity from the
6 Pesticide Administrative Cash Fund for the work performed under the
7 cooperative agreement. The department may delegate its administrative
8 responsibilities under the act to cities of the metropolitan and primary
9 classes if it reasonably believes that such cities can perform the
10 responsibilities in a manner consistent with the act and the rules and
11 regulations adopted and promulgated under it;

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

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

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

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

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

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

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

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

29 2-3202 For purposes of Chapter 2, article 32, unless the context
30 otherwise requires:

31 (1) Commission means the Nebraska Natural Resources Commission;

1 (2) Natural resources district or district means a natural resources
2 district operating pursuant to Chapter 2, article 32;

3 (3) Board means the board of directors of a district;

4 (4) Director means a member of the board;

5 (5) Other special-purpose districts means rural water districts,
6 drainage districts, reclamation districts, and irrigation districts;

7 (6) Manager means the chief executive hired by a majority vote of
8 the board to be the supervising officer of the district; and

9 (7) Department means the Department of Water, Energy, and
10 Environment ~~Natural Resources~~.

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

13 2-3225 (1)(a) Each district shall have the power and authority to
14 levy a tax of not to exceed four and one-half cents on each one hundred
15 dollars of taxable valuation annually on all of the taxable property
16 within such district unless a higher levy is authorized pursuant to
17 section 77-3444.

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

27 (c) In addition to the power and authority granted in subdivisions
28 (1)(a) and (b) of this section, each district located in a river basin,
29 subbasin, or reach that has been determined to be fully appropriated
30 pursuant to section 46-714 or designated overappropriated pursuant to
31 section 46-713 by the Chief Water Officer ~~Department of Natural Resources~~

1 shall also have the power and authority to levy a tax equal to the dollar
2 amount by which its restricted funds budgeted to administer and implement
3 ground water management activities and integrated management activities
4 under the Nebraska Ground Water Management and Protection Act exceed its
5 restricted funds budgeted to administer and implement ground water
6 management activities and integrated management activities for FY2005-06,
7 not to exceed three cents on each one hundred dollars of taxable
8 valuation on all of the taxable property within the district for fiscal
9 year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

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

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

31 **Sec. 27.** Section 2-3241, Reissue Revised Statutes of Nebraska, is

1 amended to read:

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

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

11 2-3254 (1) The board shall hold a hearing upon the question of the
12 desirability and necessity, in the interest of the public health, safety,
13 and welfare, of the establishment of or altering the boundaries of an
14 existing improvement project area and the undertaking of such a project,
15 upon the question of the appropriate boundaries describing affected land,
16 upon the propriety of the petition, and upon all relevant questions
17 regarding such inquiries. When a hearing has been initiated by petition,
18 such hearing shall be held within one hundred twenty days of the filing
19 of such petition. Notice of such hearing shall be published prior thereto
20 once each week for three consecutive weeks in a legal newspaper published
21 or of general circulation in the district. Landowners within the limits
22 of the territory described in the petition and all other interested
23 parties, including any appropriate agencies of state or federal
24 government, shall have the right to be heard. If the board finds, after
25 consultation with such appropriate agencies of state and federal
26 government and after the hearing, that the project conforms with all
27 applicable law and with the district's goals, criteria, and policies, it
28 shall enter its findings in the board's official records and shall, with
29 the aid of such engineers, surveyors, and other assistants as it may have
30 chosen, establish an improvement project area or alter the boundaries of
31 an existing improvement project area, proceed to make detailed plans and

1 cost estimates, determine the total benefits, and carry out the project
2 as provided in subsections (2) and (3) of this section. If the board
3 finds that the project does not so conform, the findings shall be entered
4 in the board's records and copies of such findings shall be furnished to
5 the petitioners and the commission.

6 (2) When any such special project would result in the provision of
7 revenue-producing continuing services, the board shall, prior to
8 commencement of construction of such project, determine, by circulation
9 of petitions or by some other appropriate method, if such project can be
10 reasonably expected to generate sufficient revenue to recover the
11 reimbursable costs thereof. If it is determined that the project cannot
12 be reasonably expected to generate sufficient revenue, the project and
13 all work in connection therewith shall be suspended. If it is determined
14 that the project can be reasonably expected to generate sufficient
15 revenue, the board shall divide the total benefits of the project as
16 provided in sections 2-3252 to 2-3254. If the proposed project involves
17 the supply of water for any beneficial use, including a public water
18 system as defined in section 71-5301, all plans and specifications for
19 the project shall be filed with the secretary of the district and the
20 Director of Water, Energy, and Environment ~~Natural Resources~~, except that
21 ~~if such project involves a public water system as defined in section~~
22 ~~71-5301, the filing of the information shall be with the Department of~~
23 ~~Environment and Energy rather than the Director of Natural Resources~~. No
24 construction of any such special project shall begin until the plans and
25 specifications for such improvement have been approved by the Chief Water
26 Officer of the Department of Water, Energy, and Environment. When such a
27 special project involves a public water system as defined in section
28 71-5301, the Director of Water, Energy, and Environment shall ~~Director of~~
29 ~~Natural Resources and the Department of Environment and Energy, if~~
30 ~~applicable, except that if such special project involves a public water~~
31 ~~system as defined in section 71-5301, only the Department of Environment~~

1 ~~and Energy shall be required to~~ review such plans and specifications and
2 approve the same if in compliance with the Nebraska Safe Drinking Water
3 Act and departmental rules and regulations adopted and promulgated under
4 the act. All prescribed conditions having been complied with, each
5 landowner within the improvement project area shall, within any limits
6 otherwise prescribed by law, subscribe to a number of benefit units in
7 proportion to the extent he or she desires to participate in the benefits
8 of the special project. As long as the capacity of the district's
9 facilities permit, participating landowners may subscribe to additional
10 units, within any limits otherwise prescribed by law, upon payment of a
11 unit fee for each such unit. The unit fees made and charged pursuant to
12 this section shall be levied and fixed by rules and regulations of the
13 district. The service provided may be withheld during the time such
14 charges levied upon such parcel of land are delinquent and unpaid. Such
15 charges shall be cumulative, and the service provided by the project may
16 be withheld until all delinquent charges for the operation and
17 maintenance of such works of improvement are paid for past years as well
18 as for the current year. All such charges, due and delinquent according
19 to the rules and regulations of such district and unpaid on June 1 after
20 becoming due and delinquent, may be certified by the governing authority
21 of such district to the county clerk of such county in which are situated
22 the lands against which such charges have been levied, and when so
23 certified such charges shall be entered upon the tax list and spread upon
24 the tax roll the same as other special assessment taxes are levied and
25 assessed upon real estate, shall become a lien upon such real estate
26 along with other real estate taxes, and shall be collectible at the same
27 time, in the same manner, and in the same proceeding as other real estate
28 taxes are levied.

29 (3) When the special project would not result in the provision of
30 revenue-producing continuing services, the board shall apportion the
31 benefits thereof accruing to the several tracts of land within the

1 district which will be benefited thereby, on a system of units. The land
2 least benefited shall be apportioned one unit of assessment, and each
3 tract receiving a greater benefit shall be apportioned a greater number
4 of units or fraction thereof, according to the benefits received. Nothing
5 contained in this section shall prevent the district from establishing
6 separate areas within the improvement project area so as to permit future
7 allocation of costs for particular portions of the work to specific
8 subareas. This subarea method of allocation shall not be used in any
9 improvement project area which has heretofore made a final apportionment
10 of units of benefits and shall not thereafter be changed except by
11 compliance with the procedure prescribed in this section.

12 (4) A notice shall be inserted for at least one week in a newspaper
13 published or of general circulation in the improvement project area
14 stating the time when and the place where the directors shall meet for
15 the purpose of hearing all parties interested in the apportionment of
16 benefits by reason of the improvement, at which time and place such
17 parties may appear in person or by counsel or may file written objections
18 thereto. The directors shall then proceed to hear and consider the same
19 and shall make the apportionments fair and just according to benefits
20 received from the improvement. The directors, having completed the
21 apportionment of benefits, shall make a detailed report of the same and
22 file such report with the county clerk. The board of directors shall
23 include in such report a statement of the actual expenses incurred by the
24 district to that time which relate to the proposed project and the actual
25 cost per benefit unit thereof. Thereupon the board of directors shall
26 cause to be published, once each week for three consecutive weeks in a
27 newspaper published or of general circulation in the improvement project
28 area, a notice that the report required in this subsection has been filed
29 and notice shall also be sent to each party appearing to have a direct
30 legal interest in such apportionment, which notice shall include the
31 description of the lands in which each party notified appears to have

1 such interest, the units of benefit assigned to such lands, the amount of
2 actual costs assessable to date to such lands, and the estimated total
3 costs of the project assessable to such lands upon completion thereof, as
4 provided by sections 25-520.01 to 25-520.03. If the owners of record
5 title representing more than fifty percent of the estimated total
6 assessments file with the board within thirty days of the final
7 publication of such notice written objections to the project proposed,
8 such project and work in connection therewith shall be suspended, such
9 project shall not be done in such project area, and all expenses relating
10 to such project incurred by and accrued to the district may, at the
11 direction of the board of directors, be assessed upon the lands which
12 were to have been benefited by the completion of such improvement project
13 in accordance with the apportionment of benefits determined and
14 procedures established in this section. Upon completing the establishment
15 of an improvement project area or altering the boundaries of an existing
16 improvement project area as provided in this subsection and upon
17 determining the reimbursable cost of the project and the period of time
18 over which such cost shall be assessed, the board of directors shall
19 determine the amount of money necessary to raise each year by special
20 assessment within such improvement project area and apportion the same in
21 dollars and cents to each tract benefited according to the apportionment
22 of benefits as determined by this section. The board of directors shall
23 also, from time to time as it deems necessary, order an additional
24 assessment upon the lands and property benefited by the project, using
25 the original apportionment of benefits as a basis to ascertain the
26 assessment to each tract of land benefited, to carry out a reasonable
27 program of operation and maintenance upon the construction or capital
28 improvements involved in such project. The chairperson and secretary
29 shall thereupon return lists of such tracts with the amounts chargeable
30 to each of the county clerks of each county in which assessed lands are
31 located, who shall place the same on duplicate tax lists against the

1 lands and lots so assessed. Such assessments shall be collected and
2 accounted for by the county treasurer at the same time as general real
3 estate taxes, and such assessments shall be and remain a perpetual lien
4 against such real estate until paid. All provisions of law for the sale,
5 redemption, and foreclosure in ordinary tax matters shall apply to such
6 special assessments.

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

9 2-3279 All plans submitted by a district under section ~~sections~~
10 ~~2-3276 to 2-3278, except those filed in compliance with state~~
11 ~~requirements or for the purpose of state financial assistance,~~ shall be
12 accorded a thirty-day period for review and comment. Failure to reply
13 within thirty days shall be conclusive that the plans have been endorsed
14 by the reviewing agency. All comments on plans shall be reviewed by the
15 district and alterations of the plans may be made as the district deems
16 appropriate. If any state agency comments indicate a lack of conformance
17 with the goals, criteria, and policies of any outdoor recreation plan,
18 any fish and wildlife plan, or indicate a conflict with state policies or
19 plans approved by the Legislature, such plans shall be altered as deemed
20 necessary by the district prior to proceeding with implementation.

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

23 2-3280 No state funds shall be allocated or disbursed to a district
24 unless that district has submitted its master plan in accordance with
25 sections 2-3229 and 2-3276 ~~to 2-3280~~ and until the disbursing agency has
26 determined that such funds are for plans, facilities, works, and programs
27 which are in conformance with the plans of the agency.

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

30 2-4602 The Legislature recognizes that erosion and sedimentation are
31 serious problems throughout the state. Changes in farm and ranch

1 enterprises, operations, and ownership, demands made upon farm and ranch
2 enterprises which do not encourage sound resource utilization, rapid
3 shifts in land use from agricultural and rural to nonagricultural and
4 urban uses, construction of streets, highways, pipelines, recreation
5 areas, schools and universities, public utilities and facilities,
6 conversion of grasslands to croplands, and other land-disturbing
7 activities have caused excessive wind erosion and water runoff and
8 accelerated the process of soil erosion and sediment deposition. This has
9 resulted in the pollution of the waters of the state and damage to
10 domestic, agricultural, industrial, recreational, fish and wildlife, and
11 other resources. It is declared to be the policy of the state to
12 strengthen and extend the present erosion and sediment control activities
13 and programs of the state for both rural and urban lands, to improve
14 water quality, and to establish and implement, through the Director of
15 Water, Energy, and Environment ~~Natural Resources~~ and the Nebraska Natural
16 Resources Commission, a statewide, comprehensive, and coordinated erosion
17 and sediment control program to reduce damage from wind erosion and storm
18 water runoff, to retard nonpoint pollution from sediment and related
19 pollutants, and to conserve and protect land, air, and other resources of
20 the state. This program shall be carried out by the natural resources
21 districts in cooperation with the counties, municipalities, and other
22 local governments and political subdivisions of the state and other
23 public and private entities.

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

26 2-4603 For purposes of the Erosion and Sediment Control Act, unless
27 the context otherwise requires:

28 (1) Commission means the Nebraska Natural Resources Commission;

29 (2) Conservation agreement means an agreement between the owner or
30 operator of a farm unit and the district in which the owner or operator
31 agrees to implement a farm unit conservation plan or, with the approval

1 of the district within which the farm unit is located, a portion of a
2 farm unit conservation plan. The agreement shall include a schedule for
3 implementation and may be conditioned on the district or other public
4 entity furnishing technical, planning, or financial assistance in the
5 establishment of the soil and water conservation practices necessary to
6 implement the plan or a portion of the plan;

7 (3) Director means the Director of Water, Energy, and Environment
8 ~~Natural Resources~~;

9 (4) District means a natural resources district;

10 (5) Erosion or sediment control practice means:

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

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

24 (c) The establishment and maintenance of vegetation upon the right-
25 of-way of any completed portion of any public street, road, or highway or
26 the construction or installation thereon of permanent structures or
27 devices or other measures adequate to prevent erosion of the right-of-way
28 in excess of the applicable soil-loss tolerance level;

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

1 detriment or damage of such other person;

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

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

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

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

22 (c) Emergency work to protect life or property;

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

25 (e) Activities related to the operation, construction, or
26 maintenance of industrial or commercial public power district or public
27 power and irrigation district facilities or sites when such activity is
28 conducted pursuant to state or federal law or is part of the operational
29 plan for such facility or site;

30 (9) Person means any individual, partnership, limited liability
31 company, firm, association, joint venture, public or private corporation,

1 trust, estate, commission, board, institution, utility, cooperative,
2 municipality or other political subdivision of this state, interstate
3 body, or other legal entity;

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

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

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

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

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

29 2-4604 (1) The director shall, in cooperation with the commission,
30 ~~the Department of Environment and Energy,~~ the Natural Resources
31 Conservation Service of the United States Department of Agriculture, and

1 other appropriate state and federal agencies, develop and coordinate a
2 comprehensive state erosion and sediment control program designed to
3 reduce soil erosion in this state to tolerable levels. The program, which
4 shall be reasonable and attainable, shall include:

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

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

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

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

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

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

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

26 2-4901 (1) The Climate Assessment Response Committee is hereby
27 created. The office of the Governor shall be the lead agency and shall
28 oversee the committee and its activities. The committee shall be composed
29 of representatives appointed by the Governor with the approval of a
30 majority of the Legislature from livestock producers, crop producers, the
31 Nebraska Emergency Management Agency, and the Conservation and Survey

1 Division and Cooperative Extension Service of the University of Nebraska.
2 The Director of Agriculture or his or her designee, the chief executive
3 officer of the Department of Health and Human Services or his or her
4 designee, and the Director of Water, Energy, and Environment ~~Natural~~
5 ~~Resources~~ or his or her designee shall be ex officio members of the
6 committee. Representatives from the federal Consolidated Farm Service
7 Agency and Federal Crop Insurance Corporation may also serve on the
8 committee at the invitation of the Governor. The chairperson of the
9 Committee on Agriculture of the Legislature and the chairperson of the
10 Committee on Natural Resources of the Legislature shall be nonvoting, ex
11 officio members of the committee. The Governor may appoint a member of
12 the Governor's Policy Research Office and any other state agency
13 representatives or invite any other federal agencies to name
14 representatives as he or she deems necessary. The Governor shall appoint
15 one of the Climate Assessment Response Committee members to serve as the
16 chairperson of the committee. Committee members shall be reimbursed for
17 expenses as provided in sections 81-1174 to 81-1177.

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

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

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

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

31 13-1701 For purposes of sections 13-1701 to 13-1714 and 76-2,119:

1 (1) Applicant shall mean any person as defined in section 81-1502
2 who is required to obtain a permit from the department for a solid waste
3 disposal area or a solid waste processing facility but shall not include
4 any person applying for renewal of such a permit or any person as defined
5 in such section who proposes to dispose of waste which he or she
6 generates on property which he or she owns as of January 1, 1991;

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

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

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

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

18 13-2008 Department shall mean the Department of Water, Energy, and
19 Environment ~~Environment and Energy~~.

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

22 13-2009 Director shall mean the Director of Water, Energy, and
23 Environment ~~Environment and Energy~~.

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

26 13-2042.01 (1) The department ~~Department of Environment and Energy~~
27 shall rebate to the municipality or county of origin ten cents of the
28 disposal fee required by section 13-2042 for solid waste disposed of at
29 landfills regulated by the department or transported for disposal out of
30 state from a solid waste processing facility holding a permit under the
31 Integrated Solid Waste Management Act and when such solid waste

1 originated in a municipality or county with a purchasing policy approved
2 by the department. The fee shall be rebated on a schedule agreed upon
3 between the municipality or county and the department. The schedule shall
4 be no more often than quarterly and no less often than annually.

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

29 (3) A municipality or county shall file a report complying with the
30 rules and regulations adopted pursuant to this section with the
31 Department of Water, Energy, and Environment ~~Department of Environment~~

1 ~~and Energy~~ before April 1 of each year documenting purchasing practices
2 for the past calendar year in order to continue receiving the rebate. The
3 report shall include, but not be limited to, quantities of products,
4 materials, or supplies purchased which were manufactured or produced from
5 recycled material. The department shall provide copies of each report to
6 the materiel division in a timely manner. If the department determines
7 that a municipality or county is not following the purchasing policy
8 presented in the approved application or that the purchasing policy
9 presented in the approved application is not effective in assuring that a
10 preference is given to products, materials, or supplies which are
11 manufactured or produced from recycled material, the department shall
12 suspend the rebate until it determines that the municipality or county is
13 giving a preference to products, materials, or supplies which are
14 manufactured or produced from recycled material pursuant to a written
15 purchasing policy approved by the department subsequent to the
16 suspension. The materiel division may make recommendations to the
17 department regarding suspensions and reinstatements of rebates. The
18 Department of Administrative Services may adopt and promulgate rules and
19 regulations establishing procedures for reviewing applications and for
20 annual reports.

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

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

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

3 16-6,106 Cities of the first class are hereby authorized and
4 empowered to develop and implement and from time to time amend, change,
5 and modify a general plan or program of flood and storm water control,
6 drainage, and disposal for such city. If the plan or program requires
7 works of improvement outside of the city limits, it shall be submitted
8 for review to the boards of the county or counties affected and to the
9 Department of Water, Energy, and Environment ~~Natural Resources~~. To
10 accomplish such purposes, or any of them, the city may to the extent
11 deemed needful or useful in the judgment of the city council:

12 (1) Procure and contract for professional and technical assistance
13 of all kinds;

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

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

31 **Sec. 40.** Section 19-1201, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 19-1201 (1) There is hereby established the Revitalize Rural
3 Nebraska Grant Program. The governing body of a city of the first class,
4 a city of the second class, or a village may apply, on behalf of the city
5 or village, to the Department of Water, Energy, and Environment
6 ~~Environment and Energy~~ for approval of a dilapidated commercial property
7 demolition grant. The Director of Water, Energy, and Environment
8 ~~Environment and Energy~~ shall prescribe the form and manner of
9 application.

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

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

23 **Sec. 41.** Section 19-1202, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 19-1202 The Department of Water, Energy, and Environment ~~Environment~~
26 ~~and Energy~~ shall award a grant to a city or village under the Revitalize
27 Rural Nebraska Grant Program based on a completed application that
28 demonstrates:

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

31 (2) The city or village owns the property or is completing the

1 process prescribed in section 18-1722;

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

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

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

10 **Sec. 42.** Section 19-1203, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 19-1203 If a city or village fails to engage in the demolition of
13 the commercial property identified in the application for a grant under
14 the Revitalize Rural Nebraska Grant Program within twenty-four months
15 after receiving the grant, the city or village shall return the grant to
16 the Department of Water, Energy, and Environment ~~Environment and Energy~~.
17 The department shall remit such grant money to the State Treasurer for
18 credit to the Revitalize Rural Nebraska Fund.

19 **Sec. 43.** Section 19-1204, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 19-1204 The Revitalize Rural Nebraska Fund is created. The
22 Department of Water, Energy, and Environment ~~Environment and Energy~~ shall
23 use the fund for the Revitalize Rural Nebraska Grant Program. The fund
24 shall include transfers as directed by the Legislature, money from grants
25 returned under section 19-1203, and money from private contributions and
26 other sources provided for purposes of the program. Any money in the
27 Revitalize Rural Nebraska Fund available for investment shall be invested
28 by the state investment officer pursuant to the Nebraska Capital
29 Expansion Act and the Nebraska State Funds Investment Act. Any interest
30 earned on the fund shall be used for the program.

31 **Sec. 44.** Section 19-5706, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 19-5706 The Department of Economic Development may consult with
3 statewide associations representing municipal officials, economic
4 developers, the Department of Transportation, and the Department of
5 Water, Energy, and Environment ~~Environment and Energy~~ in order to carry
6 out the Municipality Infrastructure Aid Act.

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

9 25-1062.01 (1) ~~As The words Director of Natural Resources as~~ used in
10 this section and in sections 25-1064, 25-2159, and 25-2160, Chief Water
11 Officer means ~~mean~~ the Chief Water Officer ~~Director of the Department of~~
12 Water, Energy, and Environment ~~Natural Resources~~, State of Nebraska, his
13 or her successor in office, or any agent, servant, employee, or officer
14 of the State of Nebraska, now or hereafter exercising any powers or
15 duties with respect to the administration of the irrigation water in the
16 state, who may be a party in any court of the state in an action when the
17 relief demanded involves the delivery of irrigation water.

18 (2) Whenever notice by either registered or certified letter to an
19 appropriator is required in such sections, the address of the
20 appropriator shall be that recorded in the office of the Department of
21 Water, Energy, and Environment ~~Natural Resources~~ under section 46-230.

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

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

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

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

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

1 temporary restraining order without notice or on such shorter notice to
2 such party as the district court may prescribe, the adverse party may
3 appear and move for the dissolution or modification of the order, and in
4 that event, the court shall proceed to hear and determine such motion as
5 expeditiously as the ends of justice require.

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

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

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

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

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

26 25-1920 In all actions in which a temporary injunction has been
27 granted and entered in the district court, which order allowing the
28 temporary injunction is or has been superseded for by law, and in which
29 action the trial court, on the merits, determined that the temporary
30 injunction ought not to have been granted and a permanent injunction was
31 refused in such action, such cause shall be advanced by the Court of

1 Appeals or Supreme Court for hearing. In all such actions, if the relief
2 demanded involves the delivery of irrigation water, and the Chief Water
3 Officer ~~Director of Natural Resources~~, as defined in section 25-1062.01,
4 is a party, any appeal from the judgment or decree of the district court
5 shall be perfected within thirty days after the entry of such judgment,
6 decree, or final order by the district court, and the cause shall be
7 advanced for hearing before the Court of Appeals or Supreme Court.

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

10 25-2159 When the right to require the performance of the act is
11 clear and it is apparent that no valid excuse can be given for not
12 performing it, a peremptory mandamus may be allowed in the first
13 instance. In all other cases, the alternative writ must be first issued,
14 except that a peremptory mandamus in the first instance shall not be
15 given in any case involving the delivery of irrigation water if the Chief
16 Water Officer ~~Director of Natural Resources~~ as defined in section
17 25-1062.01 is a party.

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

20 25-2160 The motion for the writ must be made upon affidavit. The
21 court may require a notice of the application to be given to the adverse
22 party, may grant an order to show cause why it should not be allowed, or
23 may grant the writ without notice. No peremptory writ of mandamus shall
24 be allowed in any case involving the delivery of irrigation water if the
25 Chief Water Officer ~~Director of Natural Resources~~, as defined in section
26 25-1062.01, is a party unless notice by either registered or certified
27 mail has been given, as provided therein, seventy-two hours prior to the
28 time of hearing to the Chief Water Officer ~~director~~ and division
29 supervisor in the water division created by section 61-212 in which the
30 action is brought and to all appropriators whose rights to the delivery
31 of water might in any manner be affected, of the time and place of the

1 hearing. In such case, any person, natural or artificial, injured or
2 likely to be injured by the granting of such writ, may intervene in such
3 action at any stage of the proceedings and become a party to such
4 litigation.

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

7 31-415 The drainage district shall have power to purchase such real
8 estate or easement therein as it may need, and if it cannot agree on the
9 purchase price of any needed real estate or easement therein, it shall
10 have power to condemn the same whether the property be within the limits
11 of such district or outside its boundaries. The exercise of the right of
12 eminent domain on areas outside the boundaries of the district shall be
13 limited only to those projects which have been approved by the Department
14 of Water, Energy, and Environment ~~Natural Resources~~. This limitation
15 shall not apply to any drainage district subject to the supervision of
16 the United States Army Corps of Engineers. The procedure to condemn
17 property shall be exercised in the manner set forth in sections 76-704 to
18 76-724. If such drainage district finds it expedient or necessary for the
19 maintenance of any part of its improvement already constructed to add
20 thereto further construction in the nature of a settling basin into which
21 waters will be permitted to flow for the purpose of dropping silt before
22 finding their outlet into any part of the main or lateral ditches of such
23 drainage district improvement, such drainage district, if not able to
24 agree with the landowner on the yearly cash rental of any premises taken
25 and used for such purpose, shall have the right to condemn for the
26 purpose of fixing the yearly rental for the land so taken. If such
27 drainage district takes or damages any real estate of any minor or
28 protected person, the guardian or conservator of such minor or protected
29 person may agree and settle with the drainage district for all damages or
30 claims by reason of taking such real estate or easement and may give
31 valid releases and discharges therefor.

1 **Sec. 51.** Section 31-508, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 31-508 If a sanitary drainage district has constructed one or more
4 channels, drains, or ditches from a city of the primary class to or
5 beyond the boundaries of the district downstream and there remains from
6 the lower terminus of such improvement a portion or continuation of the
7 watercourse unimproved, the Department of Water, Energy, and Environment
8 ~~Natural Resources~~ shall investigate the conditions of such watercourse,
9 and if the department determines that further improvement in such
10 watercourse downstream is for the interest of lands adjacent to such
11 watercourse below the point of the improvement, the department shall file
12 a plan of such improvement in the office of the county clerk of each of
13 the counties in which any of the lands to be benefited are situated and
14 in which any portion of the watercourse to be improved is located. Such
15 plan shall describe the boundaries of the district to be benefited and
16 shall contain an estimate of the benefits that would accrue to the
17 sanitary district by reason of such improvement as well as the cost
18 thereof and an estimate of the special benefits that would accrue to
19 lands adjacent to the watercourse by reason of improved drainage, such
20 estimate being detailed as to the various tracts of land under separate
21 ownership as shown by the records of the county in which such lands are
22 situated.

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

25 31-509 When the Department of Water, Energy, and Environment ~~Natural~~
26 ~~Resources~~ files a report and estimate, the county clerk of such county
27 shall publish a notice once each week for three weeks in a newspaper
28 published in the county seat of each of the counties having land within
29 the sanitary drainage district, which notice shall state the filing of
30 the report and estimate, the boundaries of the district to be benefited,
31 that an election will be held at the office of the county clerk between

1 the hours of 8 a.m. and 6 p.m. on a day named in the notice, and that at
2 the election the question of the formation of a sanitary drainage
3 district to include the area described in the report will be determined.
4 The election shall be held in accordance with sections 31-406 to 31-408,
5 except that no directors shall be elected. If a majority vote for the
6 creation of a district based on acreage represented, the sanitary
7 drainage district shall have jurisdiction to make the improvements
8 recommended by the Department of Water, Energy, and Environment ~~Natural~~
9 ~~Resources~~ and to levy a special assessment on the lands specially
10 benefited. If a majority vote against the creation of a district, the
11 work shall not be done.

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

14 31-515 The proceedings for imposing of special assessment by the
15 board of trustees shall be, as nearly as may be, according to those for
16 special assessments by the mayor and council under the law governing
17 cities of the first class. If improvements are recommended by the
18 Department of Water, Energy, and Environment ~~Natural Resources~~ and a
19 sanitary drainage district is formed adjacent to a watercourse previously
20 improved above such district pursuant to sections 31-508 and 31-509, the
21 board of trustees shall advertise for bids for the construction of such
22 improvements as are recommended by the department and in accordance with
23 plans recommended by the department.

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

26 31-516 Upon the completion of the improvement, notice shall be given
27 that the trustees will sit as a board of equalization, at a day and hour
28 in such notice stated, for the purpose of equalizing the assessments of
29 such portion of the cost of such improvement as the report of the
30 Department of Water, Energy, and Environment ~~Natural Resources~~ finds to
31 represent the special benefits of the land the drainage of which such

1 improvements would improve. At such hearing such board of equalization
2 shall hear all complaints with reference to the assessments proposed
3 under the findings of the department. The trustees sitting as a board of
4 equalization shall have power to increase or decrease such special
5 assessments to the end that the property shall be assessed its equitable
6 portion of the cost of such improvement, but not exceeding in the
7 aggregate the percentage of the total cost recommended by the department
8 to be assessed against such property and not exceeding in any case the
9 actual special benefits accruing to such land. Notice of such meeting of
10 the board of equalization shall be given by publishing a notice thereof
11 in a paper, published in the county seat in each of the counties where
12 any of the lands to be assessed are situated, once each week for three
13 consecutive weeks. Appeals from the findings of such board of
14 equalization may be taken in the manner provided for appeals from
15 assessments of drainage districts organized under sections 31-401 to
16 31-450.

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

19 31-1003 Department shall mean the Department of Water, Energy, and
20 Environment ~~Natural Resources~~.

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

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

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

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

6 37-707 (1) The commission is directed to place suitable signs
7 showing the boundaries of the refuges, as designated in section 37-706,
8 using the map adopted by the commission ~~Department of Natural Resources~~
9 pursuant to this section, on all roads leading into such refuges.

10 (2)(a) The commission ~~Department of Natural Resources~~ shall adopt
11 and promulgate rules and regulations determining the boundaries of the
12 state game refuges. The commission's ~~department's~~ determination shall be
13 based on the definitions in sections 37-701 to 37-708 and shall include
14 maps showing such boundaries.

15 ~~(b) The department shall make the initial boundary determinations~~
16 ~~for the state game refuge in Garden County by March 1, 2005. The~~
17 ~~department shall make the initial boundary determinations for the~~
18 ~~remaining state game refuges by January 1, 2006.~~

19 ~~(c) Until the initial determinations are made pursuant to~~
20 ~~subdivision (a) of this subsection, the boundaries that have been~~
21 ~~determined and maintained by the commission shall remain in effect.~~

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

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

1 trespass.

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

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

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

14 37-708.01 (1) The validity of any rule or regulation adopted by the
15 ~~commission~~ Department of Natural Resources pursuant to sections 37-701 to
16 37-708 may be determined pursuant to section 84-911.

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

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

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

31 **Sec. 59.** Section 37-806, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 37-806 (1)(a) Any species of wildlife or wild plants determined to
3 be an endangered species pursuant to the Endangered Species Act shall be
4 an endangered species under the Nongame and Endangered Species
5 Conservation Act, and any species of wildlife or wild plants determined
6 to be a threatened species pursuant to the Endangered Species Act shall
7 be a threatened species under the Nongame and Endangered Species
8 Conservation Act.

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

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

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

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

25 (c) Disease or predation;

26 (d) The inadequacy of existing regulatory mechanisms; or

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

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

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

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

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

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

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

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

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

28 (vii) Submitted the scientific, commercial, and other data that is
29 the basis of the proposed action to scientists or experts outside and
30 independent of the commission for peer review of the data and
31 conclusions. If the commission submits the data to a state or federal

1 fish and wildlife agency for peer review, the commission shall also
2 submit the data to scientists or experts not affiliated with such an
3 agency for review. For purposes of this section, state fish and wildlife
4 agency does not include a postsecondary educational institution; and

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

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

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

29 (e) In cases when the commission determines that an emergency
30 situation exists involving the continued existence of such species as a
31 viable component of the wild fauna or flora of the state, the commission

1 may add species to such lists after first publishing public notice that
2 such an emergency situation exists together with a summary of facts that
3 support such determination.

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

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

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

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

1 (8) With respect to any endangered species of wildlife, it shall be
2 unlawful, except as provided in subsection (7) of this section or section
3 37-807, for any person subject to the jurisdiction of this state to:

4 (a) Export any such species from this state;

5 (b) Take any such species within this state;

6 (c) Possess, process, sell or offer for sale, deliver, carry,
7 transport, or ship, by any means whatsoever except as a common or
8 contract motor carrier under the jurisdiction of the Public Service
9 Commission or the federal Surface Transportation Board, any such species;
10 or

11 (d) Violate any rule or regulation pertaining to the conservation of
12 such species or to any threatened species of wildlife listed pursuant to
13 this section and adopted and promulgated by the commission pursuant to
14 the Nongame and Endangered Species Conservation Act.

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

18 (a) Export any such species from this state;

19 (b) Possess, process, sell or offer for sale, deliver, carry,
20 transport, or ship, by any means whatsoever, any such species; or

21 (c) Violate any rule or regulation pertaining to such species or to
22 any threatened species of wild plants listed pursuant to this section and
23 adopted and promulgated by the commission pursuant to the act.

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

30 (11) The commission may permit any act otherwise prohibited by
31 subsection (8) of this section for scientific purposes or to enhance the

1 propagation or survival of the affected species.

2 (12) Any law, rule, regulation, or ordinance of any political
3 subdivision of this state that applies with respect to the taking,
4 importation, exportation, possession, sale or offer for sale, processing,
5 delivery, carrying, transportation other than under the jurisdiction of
6 the Public Service Commission, or shipment of species determined to be
7 endangered or threatened species pursuant to the Nongame and Endangered
8 Species Conservation Act shall be void to the extent that it may
9 effectively (a) permit that which is prohibited by the act or by any rule
10 or regulation that implements the act or (b) prohibit that which is
11 authorized pursuant to an exemption or permit provided for in the act or
12 in any rule or regulation that implements the act. The Nongame and
13 Endangered Species Conservation Act shall not otherwise be construed to
14 void any law, rule, regulation, or ordinance of any political subdivision
15 of this state which is intended to conserve wildlife or wild plants.

16 **Sec. 60.** Section 37-814, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 37-814 (1) Any federally designated critical habitat under the
19 Endangered Species Act shall be critical habitat under the Nongame and
20 Endangered Species Conservation Act.

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

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

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

30 (iii) Disease or predation;

31 (iv) The inadequacy of existing regulatory mechanisms; or

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

3 (b) The commission shall not designate as critical habitat for any
4 endangered or threatened species the entire geographical area that can be
5 occupied by such endangered or threatened species unless the commission
6 determines that such designation is essential for the survival of the
7 endangered or threatened species.

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

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

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

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

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

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

30 (ii) Provides notice of such proposed action to and allows comment
31 from the Department of Agriculture, the Department of Water, Energy, and

1 ~~Environment~~ ~~Environment and Energy, the Department of Natural Resources,~~
2 and any other state agency that the commission determines might be
3 impacted by the proposed action;

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

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

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

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

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

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

30 (c) The inadvertent failure to provide notice as required by
31 subdivision (3)(b) of this section shall not prohibit the designation of

1 critical habitat and shall not be deemed to be a violation of the
2 Administrative Procedure Act or the Nongame and Endangered Species
3 Conservation Act.

4 (d) When the commission proposes to designate or remove designation
5 of critical habitat under this subsection, public notice under
6 subdivision (3)(b)(i) of this section shall include (i) the critical
7 habitat proposed to be listed as designated critical habitat and a
8 description of the portion of the range in which the species for which
9 critical habitat is proposed to be designated is endangered or
10 threatened, (ii) a declaration that the commission submitted the data
11 that is the basis for the listing for peer review and developed an
12 outline if required under subdivision (b)(viii) of this subsection, and
13 (iii) a declaration of the availability of the peer review, including an
14 explanation of any changes or modifications the commission has made to
15 its proposal as a result of the peer review, and the outline required
16 under subdivision (b)(viii) of this subsection, if applicable, for public
17 examination.

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

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

31 (5) The commission shall adopt and promulgate rules and regulations

1 containing a list of all designated critical habitat in this state and
2 the endangered or threatened species for which such critical habitat was
3 designated. Each species on such list shall be referred to by both
4 scientific and common name or names, if any.

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

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

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

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

31 (2) The board of directors may by the adoption of appropriate bylaws

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

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

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

26 46-190 After a sale of the property and franchises of the district,
27 the board of directors shall, with the amount realized from such sale,
28 together with such other funds as such district may have, make
29 settlement, payment, and redemption, if possible, of all outstanding
30 bonded and other indebtedness of the district, but shall in no case pay
31 more than the market value of such outstanding bonds with interest up to

1 the time of payment. In cases when bonds not yet due cannot be redeemed
2 by reason of the refusal of the owner thereof to surrender them before
3 due, the board may invest the surplus money of the district, after paying
4 all debts that can be paid, in state, county, or other safe bonds,
5 bearing the same or greater rate of interest, if possible, than the
6 district bonds thus outstanding, for the purpose of paying such
7 outstanding bonds of the district when due. In case the amount realized
8 from the sale of such district property, together with other money of the
9 district, is insufficient for the payment of all the indebtedness of the
10 district, assessments shall continue to be made against the lands
11 included in the district in the manner provided by law for assessments to
12 pay bonds and other indebtedness of irrigation districts until a
13 sufficient amount is raised to fully pay all obligations of such
14 district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 46-1,157 When such plan has been approved by the Chief Water Officer
10 ~~Department of Natural Resources~~, it shall be designated as the final
11 approved plan and shall be submitted to a vote as provided in section
12 46-1,158.

13 **Sec. 68.** Section 46-1,164, Revised Statutes Cumulative Supplement,
14 2024, is amended to read:

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

27 **Sec. 69.** Section 46-1,165, Revised Statutes Cumulative Supplement,
28 2024, is amended to read:

29 46-1,165 The Chief Water Officer ~~Department of Natural Resources~~
30 shall establish procedures and criteria for awarding grants to irrigation
31 districts from the Surface Water Irrigation Infrastructure Fund to be

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

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

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

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

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

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

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

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

1 46-226.01 Any person having an approved perfected appropriation may
2 file with the Chief Water Officer ~~department~~ an application for
3 recognition of incidental underground water storage associated with such
4 appropriation on a form prescribed and furnished by the Chief Water
5 Officer ~~department~~ without cost. Upon receipt of an application, the
6 Chief Water Officer ~~department~~ shall proceed in accordance with rules and
7 regulations adopted and promulgated by the Chief Water Officer
8 ~~department~~.

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

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

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

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

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

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

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

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

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

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

8 (b) The underground water storage method; and

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

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

13 46-226.03 For purposes of sections 46-226 to 46-243:

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

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

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

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

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

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

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

1 (7) Underground water storage has the same meaning as in section
2 46-296; and

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

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

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

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

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

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

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

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

31 46-229.02 (1) If, based upon the results of a field investigation or

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

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

1 or owners in accordance with subsection (1) of this section. A copy of
2 the order canceling the appropriation, or part thereof, shall be posted
3 on the department's website and shall be provided to the owner or owners
4 of the appropriation and to any other owner of the land under the
5 appropriation in the same manner that notices are to be given in
6 accordance with subsection (2), (3), or (4) of section 46-229.03, as
7 applicable. No cancellation under this subsection shall prohibit an
8 irrigation district, a reclamation district, a public power and
9 irrigation district, or a mutual irrigation company or canal company from
10 asserting the rights provided by subsections (5) and (6) of section
11 46-229.04.

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

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

1 (5) If the Chief Water Officer ~~department~~ determines that
2 subsections (2), (3), and (4) of this section do not apply, the Chief
3 Water Officer ~~it~~ shall schedule and conduct a hearing on the cancellation
4 of the appropriation in whole or in part. Notice of the hearing shall be
5 provided to the owner or owners who filed notices with the Chief Water
6 Officer ~~department~~ pursuant to subsection (1) of this section, to any
7 other owner of the appropriation known to the Chief Water Officer
8 ~~department~~, and to any other owner of the land under the appropriation.
9 The notice shall be posted on the department's website and shall be
10 served or published, as applicable, in the manner provided in subsection
11 (2), (3), or (4) of section 46-229.03, as applicable.

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

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

31 **Sec. 79.** Section 46-229.03, Reissue Revised Statutes of Nebraska, is

1 amended to read:

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

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

1 deeds for the county in which the land is located.

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

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

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

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

1 subsection (5) or (6) of this section applies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 An allotment from the natural flow of streams for irrigation shall
24 not exceed one cubic foot per second of time for each seventy acres of
25 land and shall not exceed three acre-feet in the aggregate during one
26 calendar year for each acre of land for which such appropriation has been
27 made, and an allotment shall not exceed the least amount of water that
28 experience may indicate is necessary, in the exercise of good husbandry,
29 for the production of crops. Such limitations do not apply to storage
30 waters or to water appropriations transferred pursuant to sections
31 46-2,122 to 46-2,125 and 46-2,127 to 46-2,129.

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

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

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

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

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

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

1 supplier presently uses from the well field as well as the total amount
2 of water it anticipates using from the well field in the next twenty-
3 five-year period.

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

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

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

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

31 (c) January 1, 1980, for water supply wells and facilities

1 constructed and placed in service on or after January 1, 1970, and on or
2 before December 31, 1979;

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

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

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

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

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

31 (8) Application may be made to the Chief Water Officer ~~department~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 interests of the state and its citizens.

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

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

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

1 perfected to the period within which the proposed power project can be
2 completed by uninterrupted and expeditious construction.

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

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

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

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

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

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

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

1 the regulation of junior appropriators, subject to the restrictions or
2 conditions applicable to public water suppliers.

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

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

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

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

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

30 (b) In determining whether an application for an appropriation for
31 induced ground water recharge is in the public interest, the Chief Water

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

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

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

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

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

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

31 (2) Just compensation shall be provided by a public water supplier

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 46-238 (1) Within twelve months after the approval of any

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

31 (2) The Chief Water Officer department may extend, for reasonable

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

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

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

1 basin as of the date such applications are filed with ~~in~~ the Chief Water
2 Officer ~~office of the department~~.

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

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

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

1 any person from the requirements of the Safety of Dams and Reservoirs Act
2 or section 54-2425.

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

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

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

1 water from a public stream and returns it into the same stream, he or she
2 may take out the same amount of water, less a reasonable deduction for
3 losses in transit, to be determined by the Chief Water Officer
4 ~~department~~, if no prior appropriator for beneficial use is prejudiced by
5 such diversion.

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

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

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

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

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

1 application is made by a person other than the owner of a reservoir at
2 any time, the application shall not be approved by the Chief Water
3 Officer ~~department~~ until the applicant shows, by documentary evidence,
4 sufficient interest in such storage reservoir to entitle the applicant to
5 enough water for the purpose set forth in the application.

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

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

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

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

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

27 46-252 (1) Any person may conduct, either from outside the state or
28 from sources located in the state, quantities of water over and above
29 those already present into or along any of the natural streams or
30 channels of this state, for purposes of instream beneficial uses or
31 withdrawal of some or all of such water for out-of-stream beneficial

1 uses, at any point without regard to any prior appropriation of water
2 from such stream, due allowance being made for losses in transit to be
3 determined by the Chief Water Officer ~~Department of Natural Resources~~.
4 The Chief Water Officer ~~department~~ shall monitor movement of the water by
5 measurements or other means and shall be responsible for assuring that
6 such quantities are not subsequently diverted or withdrawn by others
7 unless they are authorized to do so by the person conducting the water.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (2) By April 1, any district or company which has transferred an

1 appropriation pursuant to sections 46-2,127 to 46-2,129 in the previous
2 calendar year shall provide the Chief Water Officer ~~department~~:

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

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

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

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

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

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

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

1 condition for accepting such claimed cause as sufficient cause to excuse
2 nonuse.

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

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

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

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

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

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

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

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

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

1 46-288 For purposes of this section and section 46-289, unless the
2 context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 46-290 (1)(a) Except as provided in this section and sections
2 46-2,120 to 46-2,130, any person having a permit to appropriate water for
3 beneficial purposes issued pursuant to sections 46-233 to 46-235,
4 46-240.01, 46-241, 46-242, or 46-637 and who desires (i) to transfer the
5 use of such appropriation to a location other than the location specified
6 in the permit, (ii) to change that appropriation to a different type of
7 appropriation as provided in subsection (3) of this section, or (iii) to
8 change the purpose for which the water is to be used under a natural-
9 flow, storage, or storage-use appropriation to a purpose not at that time
10 permitted under the appropriation shall apply for approval of such
11 transfer or change to the Chief Water Officer ~~Department of Natural~~
12 ~~Resources~~.

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

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

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

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

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

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

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

1 subdivisions (2), (3), and (4) of section 46-2,115;

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

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

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

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

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

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

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

1 to increase the frequency that a diversion rate or rate of flow specified
2 in another valid appropriation is achieved.

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

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

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

1 transfer or change of the direct-use appropriation with which the
2 incidental underground water storage was recognized prior to the transfer
3 or change.

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

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

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

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

30 (2) If after reviewing an application filed under section 46-290 the
31 Chief Water Officer ~~director~~ determines that it cannot be approved

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

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

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

1 publication of the notice.

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

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

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

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

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

1 Water Officer ~~director~~ in making such determinations shall be made a part
2 of the record of the hearing as provided in section 84-914.

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

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

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

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

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

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

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

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

25 (f) The appropriation, prior to the transfer or change, is not
26 subject to termination or cancellation pursuant to sections 46-229 to
27 46-229.04;

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

1 company's facilities for water delivery, such district or company has
2 approved the transfer or change;

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

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

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

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

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

1 change is in the public interest.

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

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

30 (4) In approving an application for a transfer, the Chief Water
31 Officer ~~director~~ may also authorize the overlying of water appropriations

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

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

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

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

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

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

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

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

1 46-294.04.

2 **Sec. 118.** Section 46-296, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

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

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

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

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

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

14 (4) Underground water storage means the act of storing or recharging
15 water in underground strata. Such water shall be known as water stored
16 underground but does not include ground water as defined in section
17 46-706 which occurs naturally;

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

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

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

30 46-297 Any person who has an approved, unperfected appropriation
31 pursuant to Chapter 46, article 2, may apply to the Chief Water Officer

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

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

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

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

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

19 (b) The underground water storage method;

20 (c) The relative amounts of water stored or to be stored underground
21 and naturally occurring ground water;

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

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

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

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

30 The application shall be processed under the applicable rules and
31 regulations of the Chief Water Officer ~~department~~ adopted and promulgated

1 pursuant to section 61-206.

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

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

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

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

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

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

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

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

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

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

31 {b} Director means the ~~Director of Natural Resources~~; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 29 (1) Applications for induced recharge to public water supply wells;
30 (2) Applications for storage rights necessary for flood and sediment
31 control projects which are dry or will not result in a net consumption of

1 water exceeding two hundred acre-feet on an average annual basis;

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

4 (4) Applications for de minimis uses; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **Sec. 133.** Section 46-2,116.02, Reissue Revised Statutes of Nebraska,

1 is amended to read:

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

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

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

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

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

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

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

1 46-2,119 Instream appropriations shall be administered in the same
2 manner as prescribed by Chapter 46, article 2, for other appropriations.
3 Reservoirs shall not be required by the Chief Water Officer ~~director~~ to
4 release, for the benefit of an instream appropriation, water previously
5 impounded in accordance with section 46-241 or 46-243. Reservoirs with
6 storage rights senior to an instream appropriation shall not be required
7 to pass, for the benefit of that instream appropriation, inflows that
8 could be stored by such reservoir if the instream appropriation were not
9 in effect. Notwithstanding subsection (5) of section 46-241, a reservoir
10 with storage rights senior to an instream appropriation also shall not be
11 required to pass inflows for downstream direct irrigation if the
12 appropriation for direct irrigation is junior to and would be denied
13 water because of that instream appropriation. Instream appropriations may
14 be canceled as provided in sections 46-229.02 to 46-229.05.

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

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

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

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

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

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

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

1 46-2,122 (1) Any irrigation district, reclamation district, public
2 power and irrigation district, rural water district, or mutual irrigation
3 or canal company may file an application for transfer and a map with the
4 Chief Water Officer ~~department~~ identifying all tracts of lands that have
5 received water delivered by the district or company and beneficially
6 applied to the tract in at least one of the preceding ten consecutive
7 years. The application for transfer and map shall be prepared and filed
8 in accordance with the rules and regulations of the Chief Water Officer
9 ~~department~~.

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

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

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

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

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

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

1 46-2,123 The Chief Water Officer ~~department~~ may hold a hearing on
2 the application for transfer and map under section 46-2,122 if the Chief
3 Water Officer ~~department~~ determines that a hearing is necessary to
4 determine whether the application for transfer and map are in compliance
5 with such section. The Chief Water Officer ~~department~~ shall hold a
6 hearing on the application if requested by any owner of land within the
7 district or served by the company. The hearing shall be conducted in
8 accordance with section 61-206 and the rules and regulations of the Chief
9 Water Officer ~~department~~.

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

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

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

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

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

31 An appeal may be taken from the decision of the Chief Water Officer

1 ~~department~~ on the application for transfer and map as provided in section
2 61-207.

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

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

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

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

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

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

30 46-2,139 The Storm Water Management Plan Program is created. The
31 purpose of the program is to facilitate and fund the duties of cities and

1 counties under the federal Clean Water Act, 33 U.S.C. 1251 et seq., as
2 such act existed on January 1, 2006, regarding storm water runoff under
3 the National Pollutant Discharge Elimination System requirements. The
4 Storm Water Management Plan Program shall function as a grant program
5 administered by the Department of Water, Energy, and Environment
6 ~~Environment and Energy~~, using funds appropriated for the program. The
7 department shall deduct from funds appropriated amounts sufficient to
8 reimburse itself for its costs of administration of the grant program.
9 Any city or county when applying for a grant under the program shall have
10 a storm water management plan approved by the department which meets the
11 requirements of the National Pollutant Discharge Elimination System.
12 Grant applications shall be made to the department on forms prescribed by
13 the department. Grant funds shall be distributed by the department as
14 follows:

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

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

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

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

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

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

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

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

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

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

1 46-304 Upon receipt by the Chief Water Officer ~~Department of Natural~~
2 ~~Resources~~ of the plans, reports, and statements provided for in section
3 46-302 or of the petition provided for in section 46-303, the Chief Water
4 Officer ~~department~~ shall examine the proposed plan and project, make an
5 estimate of the probable cost thereof, and make such further examination
6 and investigation concerning the same as the Chief Water Officer
7 ~~department~~ shall deem necessary or advisable. If the Chief Water Officer
8 ~~department~~ deems the proposed plan and project feasible and practicable,
9 either as originally submitted or as changed and amended by the Chief
10 Water Officer ~~department~~, the Chief Water Officer ~~department~~ shall then
11 file with the board of directors of the irrigation district concerned its
12 report in the matter, which report shall include a complete explanation
13 of the proposed project, the plans and maps showing location of the
14 project, the estimated cost of the project, and the probable receipts
15 from the sale of electric energy, and the certificate of the Chief Water
16 Officer ~~department~~ that the project has been examined and deemed feasible
17 and practicable by the Chief Water Officer ~~department~~.

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

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

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

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

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

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

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

26 46-312 If at any time after the initial acquisition or establishment
27 by any irrigation district of an electric light and power plant, lines,
28 or systems the Chief Water Officer ~~Department of Natural Resources~~ deems
29 it to be practicable and expedient that additional plants, lines, or
30 systems, or extensions or improvements of the existing electric light and
31 power plant, lines, or systems, should be made by the district, and if

1 the cost of such additions and extensions cannot be made or provided for
2 by the application of unused funds derived from the operation of the
3 existing electric light and power plant, lines, or systems or by the
4 pledge or assignment of future net revenue as in sections 46-301 to
5 46-315, then the board of directors may, and on the petition of not less
6 than twenty-five percent of the qualified electors of the district shall,
7 submit to the electors of the district at any general election or at any
8 special election called for the purpose, the question and proposition of
9 making such improvements, additions, or extensions and the issuance of
10 bonds of the district to pay the cost thereof. A statement of the Chief
11 Water Officer ~~department~~ with reference to the expediency and feasibility
12 of such proposed extension and addition shall be made by the Chief Water
13 Officer ~~such department~~ to the irrigation district whenever requested by
14 the board of directors of such district. Such election shall be held and
15 the result thereof determined and declared in conformity with the
16 provisions of law governing elections upon the proposition of the
17 issuance of bonds of the district. Complete plans and a description of
18 the proposed additions, improvements, changes, or extensions shall be
19 prepared and kept on file in the main office of the district or of the
20 board of the district, subject to inspection by any elector or other
21 interested person, at all reasonable business hours during the period of
22 publication of notice of such election. The ballots at such election
23 shall conform, as nearly as practicable, with the requirements of section
24 46-305.

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

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

1 46-301 to 46-315.

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

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

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

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

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

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

29 (1) The proposed name of the district;

30 (2) That property within the proposed district will be benefited by
31 the accomplishment of the purposes enumerated in section 46-515;

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

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

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

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

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

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

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

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

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

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

1 mailed by either registered or certified mail to the county boards of
2 each of the several counties having territory within the proposed
3 district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 46-530 Within thirty days after entering the final order
30 establishing the district, the Chief Water Officer ~~department~~ shall enter
31 an order appointing the board of directors named in the petition in

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

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

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

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

23 46-541 The board shall have power on behalf of the district:

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

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

30 Yes

31 No

1 The election shall be held in the same manner set out in section
2 46-564 relating to submission to qualified electors for the approval of
3 bonded indebtedness.

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

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

31 In the event of a failure to receive a majority affirmative vote of

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

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

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

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

1 (3) To have and to exercise the power of eminent domain in addition
2 to any other rights and powers conferred in this section upon any
3 district organized under the Reclamation Act, for the purposes and after
4 the manner provided for in sections 76-704 to 76-724, except that when
5 any reclamation district exercises the power of eminent domain as to
6 water being used for power purposes, it shall not include any other
7 properties of any irrigation district, public power district, or public
8 power and irrigation district organized and existing under the laws of
9 the State of Nebraska;

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

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

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

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

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

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

1 property necessary or convenient therefor; and in the doing of all of
2 such things to obligate itself and execute and perform such obligations
3 according to the tenor thereof. The contracts for furnishing of water
4 service for irrigation and domestic purposes shall only be made for use
5 within the district. The board may transfer water appropriations within
6 the district pursuant to sections 46-2,127 to 46-2,129;

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

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

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

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

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

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

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

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

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

31 46-601.01 For purposes of Chapter 46, article 6:

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

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

6 (3) Department means the Department of Water, Energy, and
7 Environment;

8 (4) Director means the Director of Water, Energy, and Environment;
9 and

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

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

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

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

31 **Sec. 170.** Section 46-602, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-602 (1) Each water well completed in this state on or after July
3 1, 2001, excluding test holes and dewatering wells to be used for less
4 than ninety days, shall be registered with the department ~~Department of~~
5 ~~Natural Resources~~ as provided in this section within sixty days after
6 completion of construction of the water well. The licensed water well
7 contractor as defined in section 46-1213 constructing the water well, or
8 the owner of the water well if the owner constructed the water well,
9 shall file the registration on a form made available by the department
10 and shall also file with the department the information from the well log
11 required pursuant to section 46-1241. The department shall, by January 1,
12 2002, provide licensed water well contractors with the option of filing
13 such registration forms electronically. No signature shall be required on
14 forms filed electronically. The fee required by subsection (3) of section
15 46-1224 shall be the source of funds for any required fee to a contractor
16 which provides the online services for such registration. Any discount in
17 the amount paid the state by a credit card, charge card, or debit card
18 company or a third-party merchant bank for such registration fees shall
19 be deducted from the portion of the registration fee collected pursuant
20 to section 46-1224.

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

30 (b) For purposes of this section, replacement water well means a
31 water well which is constructed to provide water for the same purpose as

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

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

1 as defined in section 46-1209 who decommissions the water well or
2 modifies and equips the water well, or (iii) the owner if the owner
3 decommissions a driven sandpoint well which is on land owned by him or
4 her for farming, ranching, or agricultural purposes or as his or her
5 place of abode. The department ~~Department of Environment and Energy~~
6 shall, by rule and regulation, determine which contractor or owner shall
7 be responsible for such notice in situations in which more than one
8 contractor or owner may be required to provide notice under this
9 subsection.

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

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

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

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

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

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

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

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

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

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

31 **Sec. 171.** Section 46-604, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-604 The department ~~Director of Natural Resources~~ shall retain the
3 registration form required by section 46-602 and shall make a copy
4 available to the natural resources district within which the water well
5 is located, to the owner of the water well, and to the licensed water
6 well contractor as defined in section 46-1213.

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

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

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

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

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

1 such water wells registered under section 46-602, and for each group of
2 five or fewer such water wells registered thereafter, the department
3 ~~director~~ shall collect in advance a registration fee of forty dollars and
4 the fee required by subsection (3) of section 46-1224. However, if such
5 water wells are a part of remedial action approved by the department
6 ~~Department of Environment and Energy~~ pursuant to section 66-1525,
7 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall
8 be collected as if only one water well was being registered and the fee
9 required by subsection (3) of section 46-1224 shall be collected.

10 (5)(a) For a series of two or more water wells completed and pumped
11 into a common carrier as part of a single site plan for irrigation
12 purposes, the department ~~director~~ shall collect in advance a registration
13 fee of forty dollars and the fee required by subsection (3) of section
14 46-1224 for each of the first two such wells registered under section
15 46-602.

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

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

1 by subsection (3) of section 46-1224 to the Water Well Standards and
2 Contractors' Licensing Fund.

3 **Sec. 173.** Section 46-609, Reissue Revised Statutes of Nebraska, is
4 amended to read:

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

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

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

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

31 46-610 (1) Any person may apply to the Chief Water Officer ~~Director~~

1 ~~of Natural Resources~~ for a special permit to drill an irrigation water
2 well without regard to the spacing requirements of section 46-609 and
3 shall pay a fee to the Chief Water Officer ~~Department of Natural~~
4 ~~Resources~~ of twelve dollars and fifty cents, which fee shall be remitted
5 to the State Treasurer for credit to the General Fund. Such application
6 shall be in such form as the Chief Water Officer ~~director~~ directs and
7 shall contain a statement of the proposed location of the irrigation
8 water well, the reason for seeking such special permit, the legal
9 description of the land to be irrigated by the irrigation water well, the
10 number of acres to be irrigated, the proposed size of the irrigation
11 water well, the estimated capacity of the irrigation water well,
12 expressed in gallons per minute, to the extent that capacity is
13 susceptible of advance determination, and the name of the person who is
14 actually going to construct the irrigation water well.

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

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

31 46-613.01 The Legislature recognizes and declares that the

1 maintenance of an adequate source of ground water within this state is
2 essential to the social stability of the state and the health, safety,
3 and welfare of its citizens and that reasonable restrictions on the
4 transportation of ground water from this state are a proper exercise of
5 the police powers of the state. The need for such restrictions, which
6 protect the health, safety, and general welfare of the citizens of this
7 state, is hereby declared a matter of legislative determination.

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

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

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

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

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

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

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

1 subject to this section; and

2 (7) Any other factors consistent with the purposes of this section
3 that the Chief Water Officer ~~director~~ deems relevant to protect the
4 health, safety, and welfare of the state and its citizens.

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

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

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

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

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

25 46-637 The use of water described in section 46-636 may only be made
26 after securing a permit from the Chief Water Officer ~~Department of~~
27 ~~Natural Resources~~ for such use. In approving or disapproving applications
28 for such permits, the Chief Water Officer ~~Director of Natural Resources~~
29 shall take into account the effect that such pumping may have on the
30 amount of water in the stream and its ability to meet the requirements of
31 appropriators from the stream. This section does not apply to (1) water

1 wells located within fifty feet of the bank of a channel of any natural
2 stream which were in existence on July 1, 2000, and (2) replacement water
3 wells as defined in section 46-602 that are located within fifty feet of
4 the banks of a channel of a stream if the water wells being replaced were
5 originally constructed prior to July 1, 2000, and were located within
6 fifty feet of the bank of a channel of any natural stream.

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

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

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

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

25 46-639 An applicant which desires to avail itself of the Municipal
26 and Rural Domestic Ground Water Transfers Permit Act shall make
27 application in writing to the Chief Water Officer ~~Director of Natural~~
28 ~~Resources~~ for a permit. The application shall include (1) a statement of
29 the amount of water for which a permit is desired together with an
30 exhibit of maps showing the location of all water wells and (2) such
31 other information as the Chief Water Officer ~~director~~ deems necessary or

1 desirable. The application shall be accompanied by a fee in the amount of
2 fifty dollars for the first five million gallons per day and an
3 additional twenty dollars for each additional increment of five million
4 gallons per day requested. The fee shall be based on the amounts of water
5 requested on a daily average basis.

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

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

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

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

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

30 46-642 (1) If the Chief Water Officer ~~Director of Natural Resources~~
31 finds that the withdrawal and transportation of ground water requested by

1 the applicant are reasonable, are not contrary to the conservation and
2 beneficial use of ground water, and are not otherwise detrimental to the
3 public welfare, he or she shall grant a permit to the applicant to
4 withdraw and transport water in the amount applied for or in a lesser
5 amount. The permit so granted shall have a priority date as of the time
6 when the application is filed with the Chief Water Officer ~~director~~.

7 (2) In determining whether to grant or deny a permit under
8 subsection (1) of this section, the Chief Water Officer ~~director~~ shall
9 consider the factors set forth in subdivisions (1) through (7) of section
10 46-613.01.

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

13 46-644 Permits granted by the Chief Water Officer ~~Director~~ of
14 ~~Natural Resources~~ shall be valid for a period of five years after the
15 granting of a permit and as long thereafter as the water for which the
16 permit is granted is used. For the purposes of the Municipal and Rural
17 Domestic Ground Water Transfers Permit Act, the commencement of
18 construction of facilities to provide water for beneficial use shall be
19 deemed the date of the commencement of beneficial use. If it appears that
20 the holder of a permit granted under the act has not used water for a
21 beneficial purpose and in accordance with the terms of the permit for
22 more than five years, such permit may be revoked or modified by the Chief
23 Water Officer ~~director~~. The procedure for such revocation or modification
24 shall be the same as that provided for in sections 46-229.02 to
25 46-229.05.

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

28 46-645 The Chief Water Officer ~~Director~~ of ~~Natural Resources~~ may
29 grant to any public water supplier permits to store excess, unused, and
30 unappropriated water for recharging ground water reservoirs. The
31 procedure to be followed in granting permits to utilize excess, unused,

1 and unappropriated water for recharging ground water reservoirs shall, so
2 far as applicable, be the same as that required for granting permits for
3 the use of ground water as provided in the Municipal and Rural Domestic
4 Ground Water Transfers Permit Act.

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

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

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

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

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

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

1 State Treasurer for credit to the General Fund. When considering the
2 approval or rejection of any such application, the Chief Water Officer
3 ~~director~~ shall consider the facts offered as justification of the need
4 for the special permit, the known ground water supply, and such other
5 pertinent information as may be available. Such application may be
6 approved or disapproved in whole or in part and the special permit issued
7 or refused accordingly.

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

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

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

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

3 46-655.01 (1) A public water supplier as defined in section 46-638
4 may obtain protection for a public water supply wellfield from
5 encroachment from other water wells by filing with the Chief Water
6 Officer ~~Department of Natural Resources~~ a notice of intent to consider a
7 wellfield. The notice of intent shall include:

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

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

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

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

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

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

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

31 (c) Publish a copy of the notice in a newspaper of general

1 circulation in the area in which the wellfield is being considered.

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

7 (i) One thousand feet; or

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

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

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

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

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

3 46-676 For purposes of the Industrial Ground Water Regulatory Act,
4 the ÷ ~~(1) The definitions found in section 46-706 are used. ÷~~
5 ~~(2) Department means the Department of Natural Resources; and~~
6 ~~(3) Director means the Director of Natural Resources.~~

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

9 46-677 (1) Except as provided in sections 46-676.01 and 46-678.01:

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

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

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

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

25 46-678 (1) Applications for permits required by section 46-677 shall
26 be on forms provided by the Chief Water Officer ~~director~~ and shall
27 contain:

28 (a) A statement of the amount of ground water which the applicant
29 proposes to use;

30 (b) A statement of the proposed use and whether the ground water
31 will be transferred for use at a location other than the well site;

1 (c) A hydrologic evaluation of the impact of the proposed use on the
2 surrounding area and on existing users;

3 (d) The date when the applicant expects to first use the ground
4 water; and

5 (e) Such other relevant information as the Chief Water Officer
6 ~~director~~ may deem necessary or desirable.

7 (2) Such applications shall be accompanied by an exhibit of maps
8 showing the location, depth, and capacity of the proposed water wells.

9 **Sec. 193.** Section 46-679, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-679 Within thirty days of the receipt of an application made
12 under section 46-677, the Chief Water Officer ~~director~~ shall accept the
13 application as a completed application or return the application to the
14 applicant as an incomplete application. If the application is deemed to
15 be incomplete, the Chief Water Officer ~~director~~ shall inform the
16 applicant as to the deficiencies in the application.

17 **Sec. 194.** Section 46-680, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-680 (1) After the Chief Water Officer ~~director~~ has accepted the
20 application made under section 46-677 as a completed application, the
21 Chief Water Officer ~~director~~ shall cause a notice of such application to
22 be published at the applicant's expense at least once a week for three
23 consecutive weeks in a legal newspaper published or of general
24 circulation in each county containing land on which one or more water
25 wells are proposed to be located. The notice shall include (a) the amount
26 of ground water the applicant proposes to use, (b) a description of the
27 proposed use and location of that use, (c) the number of water wells
28 proposed at each location of withdrawal, and (d) any other information
29 deemed necessary by the Chief Water Officer ~~director~~ to provide adequate
30 notice of the application to interested persons. The notice shall state
31 that any interested person may object to and request a hearing on the

1 application by filing written objections stating the grounds for each
2 objection within two weeks after the date of final publication of the
3 notice. Such objections shall be filed with ~~in~~ the Chief Water Officer
4 ~~headquarters office of the department.~~

5 (2) The Chief Water Officer ~~director~~ may hold a hearing on an
6 application made under section 46-677 at his or her discretion and shall
7 hold a hearing on such an application if requested by any interested
8 person pursuant to subsection (1) of this section.

9 **Sec. 195.** Section 46-682, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-682 The applicant may negotiate with any user of water in order
12 to obtain an agreement whereby the user waives any cause of action
13 against the applicant for damages or injunctive or other relief for
14 interference with such water use, in exchange for financial payment,
15 substitute water, or other compensation. The applicant shall file copies
16 of any such agreements with the Chief Water Officer ~~director~~ who shall
17 consider the agreements in determining whether to grant or deny a permit.
18 Nothing in this section shall be construed to limit any power of eminent
19 domain possessed by an applicant.

20 **Sec. 196.** Section 46-683, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-683 (1) The Chief Water Officer ~~director~~ shall issue a written
23 order containing specific findings of fact either granting or denying a
24 permit. The Chief Water Officer ~~director~~ shall grant a permit only if he
25 or she finds that the applicant's withdrawal and any transfer of ground
26 water are in the public interest. In determining whether the withdrawal
27 and transfer, if any, are in the public interest, the Chief Water
28 Officer's ~~director's~~ considerations shall include, but not be limited to:

29 (a) Possible adverse effects on existing surface or ground water
30 users;

31 (b) The effect of the withdrawal and any transfer of ground water on

1 surface or ground water supplies needed to meet reasonably anticipated
2 domestic and agricultural demands in the area of the proposed ground
3 water withdrawal;

4 (c) The availability of alternative sources of surface or ground
5 water reasonably accessible to the applicant in or near the region of the
6 proposed withdrawal or use;

7 (d) The economic benefit of the applicant's proposed use;

8 (e) The social and economic benefits of existing uses of surface or
9 ground water in the area of the applicant's proposed use and any
10 transfer;

11 (f) Any waivers of liability from existing users filed with the
12 Chief Water Officer ~~director~~;

13 (g) The effects on interstate compacts or decrees and the
14 fulfillment of the provisions of any other state contract or agreement;
15 and

16 (h) Other factors reasonably affecting the equity of granting the
17 permit.

18 (2) The Chief Water Officer ~~director~~ may grant a permit for less
19 water than requested by the applicant. The Chief Water Officer ~~director~~
20 may also impose reasonable conditions on the manner and timing of the
21 ground water withdrawals and on the manner of any transfer of ground
22 water which the Chief Water Officer ~~director~~ deems necessary to protect
23 existing users of water. If a hearing is held, the Chief Water Officer
24 ~~director~~ shall issue such written order within ninety days of the
25 hearing.

26 **Sec. 197.** Section 46-683.01, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 46-683.01 If during construction or operation a permit holder
29 determines (1) that an additional amount of water is or will be required
30 for the proposed use set forth in a permit issued pursuant to section
31 46-683 or (2) that there is a need to amend any condition set forth in

1 the permit, the permitholder may file an application to amend the permit.
2 Following a hearing conducted in the manner prescribed by section 46-680,
3 the Chief Water Officer ~~director~~ shall issue a written order containing
4 specific findings of fact either granting or denying the proposed
5 amendment in accordance with the public interest considerations
6 enumerated in section 46-683. An application to amend a permit shall not
7 be approved if the amendment would increase the daily peak withdrawal or
8 the annual volume by more than twenty-five percent from the amounts
9 approved in the original permit, except for an amendment to increase the
10 maximum daily volumetric flow rate or annual volume to levels authorized
11 under a permit issued by the department ~~Department of Environment and~~
12 ~~Energy~~ pursuant to section 81-1504 and subsection (9) of section 81-1505.

13 **Sec. 198.** Section 46-684, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-684 (1) A permit granted pursuant to section 46-683 shall be
16 revoked, following a hearing conducted in the same manner as hearings
17 conducted pursuant to section 46-680, if the Chief Water Officer ~~director~~
18 determines that the permitholder has failed to exercise the right to
19 withdraw ground water within three years of the date specified in the
20 permit or for a period of three consecutive years thereafter.

21 (2) If it appears to the Chief Water Officer ~~director~~ that a
22 permitholder has withdrawn more ground water than the amount specified in
23 the permit or has violated any of the conditions specified in the permit,
24 the Chief Water Officer ~~director~~ shall give written notice to the
25 permitholder of the alleged violation.

26 Within thirty days following receipt of such notice, the
27 permitholder may:

28 (a) File an application to amend the permit as provided in section
29 46-683.01;

30 (b) Request a hearing before the Chief Water Officer ~~director~~; or

31 (c) Take appropriate measures to comply with the permit.

1 If the permitholder fails to take action pursuant to subdivision (2)
2 (a), (2)(b), or (2)(c) of this section, the Chief Water Officer ~~director~~
3 may issue an order requiring compliance with the permit and seek, if
4 appropriate, a court injunction prohibiting further violations of the
5 permit.

6 If the permitholder requests a hearing, the Chief Water Officer
7 ~~director~~ shall within thirty days schedule a hearing within or in
8 reasonable proximity to the area where the water wells are located.
9 Within forty-five days following the hearing, the Chief Water Officer
10 ~~director~~ shall issue an order containing specific findings of fact with
11 reference to the alleged violation and directing the permitholder, if
12 necessary, to cease and desist from further violations of the permit.

13 (3) Nothing in this section shall limit the penalty provisions of
14 section 46-687.

15 **Sec. 199.** Section 46-685, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-685 Any affected person aggrieved by any order issued or final
18 decision made by the Chief Water Officer ~~director~~ pursuant to the
19 Industrial Ground Water Regulatory Act may appeal the order to the Court
20 of Appeals. For purposes of this section, affected person means the
21 applicant for a permit which is the subject of the Chief Water Officer's
22 ~~director's~~ order or final decision and any owner of an estate or interest
23 in or concerning land or water whose interest is or may be impacted in a
24 direct and significant manner by the Chief Water Officer's ~~director's~~
25 order or final decision.

26 **Sec. 200.** Section 46-686, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-686 Any owner of an estate or interest in or concerning land or
29 water, except a person who has signed an agreement filed with the Chief
30 Water Officer ~~director~~ pursuant to section 46-682, may bring an action
31 for damages or injunctive or other relief for any injury done to his or

1 her land or water rights by the holder of a permit issued pursuant to
2 section 46-683. Nothing in the Industrial Ground Water Regulatory Act
3 shall be construed as limiting the right to resort to other means of
4 review, redress, or relief provided by law.

5 **Sec. 201.** Section 46-686.01, Reissue Revised Statutes of Nebraska,
6 is amended to read:

7 46-686.01 The Chief Water Officer ~~director~~ shall have jurisdiction
8 over any ground water withdrawal and transfer made under section
9 46-678.01. Any person using ground water at the time a notice to transfer
10 is filed under such section whose wells thereafter suffer an
11 unanticipated decline in ground water levels may petition the Chief Water
12 Officer ~~director~~ for a hearing. Such petition shall specifically set
13 forth the cause and extent of the ground water decline as well as the
14 nature and extent of any injury resulting from that decline. If at such
15 hearing the injured party presents evidence showing that the ground water
16 levels declined as a result of such transfer and shows the nature and
17 extent of any resulting injury, the Chief Water Officer ~~director~~ may
18 issue an order terminating or conditioning the transfer to eliminate any
19 further injury. If the injured party prevails and an order is issued
20 pursuant to this section, the order shall provide that the person filing
21 the notice of transfer shall pay the costs of the Chief Water Officer and
22 department staff ~~department~~ and of the injured party, including
23 reasonable attorney's fees. The injured party may maintain a civil action
24 against the person filing the notice of transfer to recover the costs of
25 a hydrologic evaluation. The order of the Chief Water Officer ~~director~~
26 may be appealed to the Court of Appeals.

27 **Sec. 202.** Section 46-688, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-688 The Chief Water Officer ~~director~~ may adopt and promulgate all
30 rules and regulations necessary or desirable to secure compliance with
31 the Industrial Ground Water Regulatory Act. The Chief Water Officer

1 ~~director~~ shall by regulation specify the contents and scope of the
2 hydrologic evaluation required by section 46-678, taking into account the
3 current state of hydrologic knowledge and techniques, and the factors for
4 permit approval listed in section 46-683.

5 **Sec. 203.** Section 46-691, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-691 (1) Any person who withdraws ground water for agricultural
8 purposes, or for any purpose pursuant to a ground water remediation plan
9 as required under the Environmental Protection Act, including the
10 providing of water for domestic purposes, from aquifers located within
11 the State of Nebraska may transfer the use of the ground water off the
12 overlying land if the ground water is put to a reasonable and beneficial
13 use within the State of Nebraska and is used for an agricultural purpose,
14 or for any purpose pursuant to a ground water remediation plan as
15 required under the Environmental Protection Act, including the providing
16 of water for domestic purposes, after transfer, and if such withdrawal,
17 transfer, and use (a) will not significantly adversely affect any other
18 water user, (b) is consistent with all applicable statutes and rules and
19 regulations, and (c) is in the public interest. The determination made by
20 a natural resources district under subsection (2) of this section or the
21 Chief Water Officer ~~Director of Natural Resources~~ under subsection (3) of
22 this section shall include consideration of the factors set forth in
23 subdivisions (1) through (7) of section 46-613.01. For purposes of this
24 section, domestic has the same meaning as in section 46-613.

25 (2) Any affected party may object to the transfer of ground water by
26 filing written objections, specifically stating the grounds for such
27 objection, in the office of the natural resources district containing the
28 land from which the ground water is withdrawn. Upon the filing of such
29 objections or on its own initiative, the natural resources district shall
30 conduct a preliminary investigation to determine if the withdrawal,
31 transfer, and use of ground water is consistent with the requirements of

1 subsection (1) of this section. Following the preliminary investigation,
2 if the district has reason to believe that the withdrawal, transfer, or
3 use may not comply with any rule or regulation of the district, it may
4 utilize its authority under the Nebraska Ground Water Management and
5 Protection Act to prohibit such withdrawal, transfer, or use. If the
6 district has reason to believe that the withdrawal, transfer, and use is
7 consistent with all rules and regulations of the district but may not
8 comply with one or more other requirements of subsection (1) of this
9 section, the district shall request that the Chief Water Officer
10 ~~Department of Natural Resources~~ hold a hearing on such transfer.

11 (3) At the hearing, all interested persons may appear and present
12 testimony. Agencies or political subdivisions of this state and the
13 appropriate natural resources districts shall offer as evidence any
14 information in their possession which they deem relevant to the purposes
15 of the hearing. After the hearing, if the Chief Water Officer ~~Director of~~
16 ~~Natural Resources~~ finds that the withdrawal, transfer, or use of ground
17 water is contrary to the requirements of subsection (1) of this section,
18 he or she shall issue a cease and desist order prohibiting the withdrawal
19 and transfer.

20 (4) The Chief Water Officer ~~director~~ may adopt and promulgate rules
21 and regulations to carry out this section.

22 **Sec. 204.** Section 46-703, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-703 The Legislature further finds:

25 (1) The management, conservation, and beneficial use of
26 hydrologically connected ground water and surface water are essential to
27 the continued economic prosperity and well-being of the state, including
28 the present and future development of agriculture in the state;

29 (2) Hydrologically connected ground water and surface water may need
30 to be managed differently from unconnected ground water and surface water
31 in order to permit equity among water users and to optimize the

1 beneficial use of interrelated ground water and surface water supplies;

2 (3) Natural resources districts already have significant legal
3 authority to regulate activities which contribute to declines in ground
4 water levels and to nonpoint source contamination of ground water and are
5 the preferred entities to regulate, through ground water management
6 areas, ground water related activities which are contributing to or are,
7 in the reasonably foreseeable future, likely to contribute to conflicts
8 between ground water users and surface water appropriators or to water
9 supply shortages in fully appropriated or overappropriated river basins,
10 subbasins, or reaches;

11 (4) The Legislature recognizes that ground water use or surface
12 water use in one natural resources district may have adverse affects on
13 water supplies in another district or in an adjoining state. The
14 Legislature intends and expects that each natural resources district
15 within which water use is causing external impacts will accept
16 responsibility for ground water management in accordance with the
17 Nebraska Ground Water Management and Protection Act in the same manner
18 and to the same extent as if the impacts were contained within that
19 district;

20 (5) The Chief Water Officer ~~Department of Natural Resources~~ is
21 responsible for regulation of surface water resources and local surface
22 water project sponsors are responsible for much of the structured
23 irrigation utilizing surface water supplies, and the Chief Water Officer
24 and the local surface water project sponsors ~~these entities~~ should be
25 responsible for regulation of surface water related activities which
26 contribute to conflicts between ground water users and surface water
27 appropriators or to water supply shortages in fully appropriated or
28 overappropriated river basins, subbasins, or reaches;

29 (6) All involved natural resources districts, the Chief Water
30 Officer ~~department~~, and surface water project sponsors should cooperate
31 and collaborate on the identification and implementation of management

1 solutions to conflicts between ground water users and surface water
2 appropriators or to water supply shortages in fully appropriated or
3 overappropriated river basins, subbasins, and reaches; and

4 (7) An Interrelated Water Review Board is needed to resolve any
5 conflicts between the Chief Water Officer ~~department~~ and the involved
6 natural resources districts concerning the content, implementation, or
7 enforcement of integrated management plans for fully appropriated and
8 overappropriated river basins, subbasins, and reaches.

9 **Sec. 205.** Section 46-704, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-704 The Legislature also finds that:

12 (1) The levels of nitrate nitrogen and other contaminants in ground
13 water in certain areas of the state are increasing;

14 (2) Long-term solutions should be implemented and efforts should be
15 made to prevent the levels of ground water contaminants from becoming too
16 high and to reduce high levels sufficiently to eliminate health hazards;

17 (3) Agriculture has been very productive and should continue to be
18 an important industry to the State of Nebraska;

19 (4) Natural resources districts have the legal authority to regulate
20 certain activities and, as local entities, are the preferred regulators
21 of activities which may contribute to ground water contamination in both
22 urban and rural areas;

23 (5) The department is authorized ~~Department of Environment and~~
24 ~~Energy should be given authority~~ to regulate sources of contamination
25 when necessary to prevent serious deterioration of ground water quality;

26 (6) The powers given to districts and the department ~~Department of~~
27 ~~Environment and Energy~~ should be used to stabilize, reduce, and prevent
28 the increase or spread of ground water contamination; and

29 (7) There is a need to provide for the orderly management of ground
30 water quality in areas where available data, evidence, and other
31 information indicate that present or potential ground water conditions

1 require the designation of such areas as management areas.

2 **Sec. 206.** Section 46-705, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-705 Nothing in the Nebraska Ground Water Management and
5 Protection Act shall be construed to limit the powers of the department
6 ~~Department of Environment and Energy~~ provided in the Nebraska Safe
7 Drinking Water Act.

8 Nothing in the Nebraska Ground Water Management and Protection Act
9 relating to the contamination of ground water is intended to limit the
10 powers of the department ~~Department of Environment and Energy~~ provided in
11 Chapter 81, article 15.

12 **Sec. 207.** Section 46-706, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-706 For purposes of the Municipal and Rural Domestic Ground Water
15 Transfers Permit Act, the Nebraska Ground Water Management and Protection
16 Act, and sections 46-601 to 46-613.02, 46-636, 46-637, and 46-651 to
17 46-655, unless the context otherwise requires:

18 (1) Person means a natural person, a partnership, a limited
19 liability company, an association, a corporation, a municipality, an
20 irrigation district, an agency or a political subdivision of the state,
21 or a department, an agency, or a bureau of the United States;

22 (2) Ground water means that water which occurs in or moves, seeps,
23 filters, or percolates through ground under the surface of the land;

24 (3) Contamination or contamination of ground water means nitrate
25 nitrogen or other material which enters the ground water due to action of
26 any person and causes degradation of the quality of ground water
27 sufficient to make such ground water unsuitable for present or reasonably
28 foreseeable beneficial uses;

29 (4) Department means the Department of Water, Energy, and
30 Environment;

31 (5) Chief Water Officer means the Chief Water Officer of the

1 Department of Water, Energy, and Environment;

2 (6) (4) District means a natural resources district operating
3 pursuant to Chapter 2, article 32;

4 (7) (5) Illegal water well means (a) any water well operated or
5 constructed without or in violation of a permit required by the Nebraska
6 Ground Water Management and Protection Act, (b) any water well not in
7 compliance with rules and regulations adopted and promulgated pursuant to
8 the act, (c) any water well not properly registered in accordance with
9 sections 46-602 to 46-604, or (d) any water well not in compliance with
10 any other applicable laws of the State of Nebraska or with rules and
11 regulations adopted and promulgated pursuant to such laws;

12 (8) (6) To commence construction of a water well means the beginning
13 of the boring, drilling, jetting, digging, or excavating of the actual
14 water well from which ground water is to be withdrawn;

15 (9) (7) Management area means any area so designated by a district
16 pursuant to section 46-712 or 46-718, by the Director of Water, Energy,
17 and Environment ~~Director of Environment and Energy~~ pursuant to section
18 46-725, or by the Interrelated Water Review Board pursuant to section
19 46-719. Management area includes a control area or a special ground water
20 quality protection area designated prior to July 19, 1996;

21 (10) (8) Management plan means a ground water management plan
22 developed by a district and submitted to the Chief Water Officer ~~Director~~
23 ~~of Natural Resources~~ for review pursuant to section 46-711;

24 (11) (9) Ground water reservoir life goal means the finite or
25 infinite period of time which a district establishes as its goal for
26 maintenance of the supply and quality of water in a ground water
27 reservoir at the time a ground water management plan is adopted;

28 (12) (10) Board means the board of directors of a district;

29 (13) (11) Acre-inch means the amount of water necessary to cover an
30 acre of land one inch deep;

31 (14) (12) Subirrigation or subirrigated land means the natural

1 occurrence of a ground water table within the root zone of agricultural
2 vegetation, not exceeding ten feet below the surface of the ground;

3 (15) ~~(13)~~ Best management practices means schedules of activities,
4 maintenance procedures, and other management practices utilized for
5 purposes of irrigation efficiency, to conserve or effect a savings of
6 ground water, or to prevent or reduce present and future contamination of
7 ground water. Best management practices relating to contamination of
8 ground water may include, but not be limited to, irrigation scheduling,
9 proper rate and timing of fertilizer application, and other fertilizer
10 and pesticide management programs. In determining the rate of fertilizer
11 application, the district shall consult with the University of Nebraska
12 or a certified crop advisor certified by the American Society of
13 Agronomy;

14 (16) ~~(14)~~ Point source means any discernible, confined, and discrete
15 conveyance, including, but not limited to, any pipe, channel, tunnel,
16 conduit, well, discrete fissure, container, rolling stock, vessel, other
17 floating craft, or other conveyance, over which the department ~~Department~~
18 ~~of Environment and Energy~~ has regulatory authority and from which a
19 substance which can cause or contribute to contamination of ground water
20 is or may be discharged;

21 (17) ~~(15)~~ Allocation, as it relates to water use for irrigation
22 purposes, means the allotment of a specified total number of acre-inches
23 of irrigation water per irrigated acre per year or an average number of
24 acre-inches of irrigation water per irrigated acre over any reasonable
25 period of time;

26 (18) ~~(16)~~ Rotation means a recurring series of use and nonuse of
27 irrigation wells on an hourly, daily, weekly, monthly, or yearly basis;

28 (19) ~~(17)~~ Water well has the same meaning as in section 46-601.01;

29 (20) ~~(18)~~ Surface water project sponsor means an irrigation district
30 created pursuant to Chapter 46, article 1, a reclamation district created
31 pursuant to Chapter 46, article 5, or a public power and irrigation

1 district created pursuant to Chapter 70, article 6;

2 (21) ~~(19)~~ Beneficial use means that use by which water may be put to
3 use to the benefit of humans or other species;

4 (22) ~~(20)~~ Consumptive use means the amount of water that is consumed
5 under appropriate and reasonably efficient practices to accomplish
6 without waste the purposes for which the appropriation or other legally
7 permitted use is lawfully made;

8 (23) ~~(21)~~ Dewatering well means a well constructed and used solely
9 for the purpose of lowering the ground water table elevation;

10 (24) ~~(22)~~ Emergency situation means any set of circumstances that
11 requires the use of water from any source that might otherwise be
12 regulated or prohibited and the agency, district, or organization
13 responsible for regulating water use from such source reasonably and in
14 good faith believes that such use is necessary to protect the public
15 health, safety, and welfare, including, if applicable, compliance with
16 federal or state water quality standards;

17 (25) ~~(23)~~ Good cause shown means a reasonable justification for
18 granting a variance for a consumptive use of water that would otherwise
19 be prohibited by rule or regulation and which the granting agency,
20 district, or organization reasonably and in good faith believes will
21 provide an economic, environmental, social, or public health and safety
22 benefit that is equal to or greater than the benefit resulting from the
23 rule or regulation from which a variance is sought;

24 (26) ~~(24)~~ Historic consumptive use means the amount of water that
25 has previously been consumed under appropriate and reasonably efficient
26 practices to accomplish without waste the purposes for which the
27 appropriation or other legally permitted use was lawfully made;

28 (27) ~~(25)~~ Monitoring well means a water well that is designed and
29 constructed to provide ongoing hydrologic or water quality information
30 and is not intended for consumptive use;

31 (28) ~~(26)~~ Order, except as otherwise specifically provided, includes

1 any order required by the Nebraska Ground Water Management and Protection
2 Act, by rule or regulation, or by a decision adopted by a district by
3 vote of the board of directors of the district taken at any regularly
4 scheduled or specially scheduled meeting of the board;

5 ~~(29)~~ ~~(27)~~ Overall difference between the current and fully
6 appropriated levels of development means the extent to which existing
7 uses of hydrologically connected surface water and ground water and
8 conservation activities result in the water supply available for purposes
9 identified in subsection (3) of section 46-713 to be less than the water
10 supply available if the river basin, subbasin, or reach had been
11 determined to be fully appropriated in accordance with section 46-714;

12 ~~(30)~~ ~~(28)~~ Test hole means a hole designed solely for the purposes of
13 obtaining information on hydrologic or geologic conditions;

14 ~~(31)~~ ~~(29)~~ Variance means (a) an approval to deviate from a
15 restriction imposed under subsection (1), (2), (8), or (9) of section
16 46-714 or (b) the approval to act in a manner contrary to existing rules
17 or regulations from a governing body whose rule or regulation is
18 otherwise applicable;

19 ~~(32)~~ ~~(30)~~ Certified irrigated acres means the number of acres or
20 portion of an acre that a natural resources district has approved for
21 irrigation from ground water in accordance with law and with rules
22 adopted by the district; and

23 ~~(33)~~ ~~(31)~~ Certified water uses means beneficial uses of ground water
24 for purposes other than irrigation identified by a district pursuant to
25 rules adopted by the district.

26 **Sec. 208.** Section 46-707, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-707 (1) Regardless of whether or not any portion of a district
29 has been designated as a management area, in order to administer and
30 enforce the Nebraska Ground Water Management and Protection Act and to
31 effectuate the policy of the state to conserve ground water resources, a

1 district may:

2 (a) Adopt and promulgate rules and regulations necessary to
3 discharge the administrative duties assigned in the act;

4 (b) Require such reports from ground water users as may be
5 necessary;

6 (c) Require the reporting of water uses and irrigated acres by
7 landowners and others with control over the water uses and irrigated
8 acres for the purpose of certification by the district;

9 (d) Require meters to be placed on any water wells for the purpose
10 of acquiring water use data;

11 (e) Require decommissioning of water wells that are not properly
12 classified as active status water wells as defined in section 46-1204.02
13 or inactive status water wells as defined in section 46-1207.02;

14 (f) Conduct investigations and cooperate or contract with agencies
15 of the United States, agencies or political subdivisions of this state,
16 public or private corporations, or any association or individual on any
17 matter relevant to the administration of the act;

18 (g) Report to and consult with the department ~~Department of~~
19 ~~Environment and Energy~~ on all matters concerning the entry of
20 contamination or contaminating materials into ground water supplies; and

21 (h) Issue cease and desist orders, following three days' notice to
22 the person affected stating the contemplated action and in general the
23 grounds for the action and following reasonable opportunity to be heard,
24 to enforce any of the provisions of the act or of orders or permits
25 issued pursuant to the act, to initiate suits to enforce the provisions
26 of orders issued pursuant to the act, and to restrain the construction of
27 illegal water wells or the withdrawal or use of water from illegal water
28 wells.

29 Before any rule or regulation is adopted pursuant to this
30 subsection, a public hearing shall be held within the district. Notice of
31 the hearing shall be given as provided in section 46-743.

1 (2) In addition to the powers enumerated in subsection (1) of this
2 section, a district may impose an immediate temporary stay for a period
3 of one hundred eighty days on the construction of any new water well and
4 on any increase in the number of acres historically irrigated, without
5 prior notice or hearing, upon adoption of a resolution by the board
6 finding that such temporary immediate stay is necessary. The district
7 shall hold at least one public hearing on the matter within the district
8 during such one hundred eighty days, with the notice of the hearing given
9 as provided in section 46-743, prior to making a determination as to
10 imposing a permanent stay or conditions in accordance with subsections
11 (1) and (6) of section 46-739. Within forty-five days after a hearing
12 pursuant to this subsection, the district shall decide whether to exempt
13 from the immediate temporary stay the construction of water wells for
14 which permits were issued prior to the date of the resolution commencing
15 the stay but for which construction had not begun prior to such date. If
16 construction of such water wells is allowed, all permits that were valid
17 when the stay went into effect shall be extended by a time period equal
18 to the length of the stay and such water wells shall otherwise be
19 completed in accordance with section 46-738. Water wells listed in
20 subsection (3) of section 46-714 and water wells of public water
21 suppliers are exempt from this subsection.

22 (3) In addition to the powers enumerated in subsections (1) and (2)
23 of this section, a district may assess a fee against a person requesting
24 a variance to cover the administrative cost of consideration of the
25 variance, including, but not limited to, costs of copying records and the
26 cost of publishing a notice in a legal newspaper of general circulation
27 in the county or counties of the district, radio announcements, or other
28 means of communication deemed necessary in the area where the property is
29 located.

30 **Sec. 209.** Section 46-709, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-709 Each district shall maintain a ground water management plan
2 based upon the best available information and shall submit amendments to
3 such plan to the Chief Water Officer ~~Director of Natural Resources~~ for
4 review and approval.

5 The plan shall include, but not be limited to, the identification to
6 the extent possible of:

7 (1) Ground water supplies within the district including
8 transmissivity, saturated thickness maps, and other ground water
9 reservoir information, if available;

10 (2) Local recharge characteristics and rates from any sources, if
11 available;

12 (3) Average annual precipitation and the variations within the
13 district;

14 (4) Crop water needs within the district;

15 (5) Current ground water data-collection programs;

16 (6) Past, present, and potential ground water use within the
17 district;

18 (7) Ground water quality concerns within the district;

19 (8) Proposed water conservation and supply augmentation programs for
20 the district;

21 (9) The availability of supplemental water supplies, including the
22 opportunity for ground water recharge;

23 (10) The opportunity to integrate and coordinate the use of water
24 from different sources of supply;

25 (11) Ground water management objectives, including a proposed ground
26 water reservoir life goal for the district. For management plans adopted
27 or revised after July 19, 1996, the ground water management objectives
28 may include any proposed integrated management objectives for
29 hydrologically connected ground water and surface water supplies but a
30 management plan does not have to be revised prior to the adoption or
31 implementation of an integrated management plan pursuant to section

1 46-718 or 46-719;

2 (12) Existing subirrigation uses within the district;

3 (13) The relative economic value of different uses of ground water
4 proposed or existing within the district; and

5 (14) The geographic and stratigraphic boundaries of any proposed
6 management area.

7 If the expenses incurred by a district preparing or amending a
8 ground water management plan exceed twenty-five percent of the district's
9 current budget, the district may make application to the Nebraska
10 Resources Development Fund for assistance.

11 Each district's ground water management plan shall also identify, to
12 the extent possible, the levels and sources of ground water contamination
13 within the district, ground water quality goals, long-term solutions
14 necessary to prevent the levels of ground water contaminants from
15 becoming too high and to reduce high levels sufficiently to eliminate
16 health hazards, and practices recommended to stabilize, reduce, and
17 prevent the occurrence, increase, or spread of ground water
18 contamination.

19 **Sec. 210.** Section 46-711, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-711 (1) The Chief Water Officer ~~Director of Natural Resources~~
22 shall review any ground water management plan or plan modification
23 submitted by a district to ensure that the best available studies, data,
24 and information, whether previously existing or newly initiated, were
25 utilized and considered and that such plan is supported by and is a
26 reasonable application of such information. ~~If a management area is~~
27 ~~proposed and the primary purpose of the proposed management area is~~
28 ~~protection of water quality, the director shall consult with the~~
29 ~~Department of Environment and Energy regarding approval or denial of the~~
30 ~~management plan.~~ The Chief Water Officer ~~director~~ shall consult with the
31 Conservation and Survey Division of the University of Nebraska and such

1 other state or federal agencies the Chief Water Officer ~~director~~ shall
2 deem necessary when reviewing plans. Within ninety days after receipt of
3 a plan, the Chief Water Officer ~~director~~ shall transmit his or her
4 specific findings, conclusions, and reasons for approval or disapproval
5 to the district submitting the plan.

6 (2) If the Chief Water Officer ~~Director of Natural Resources~~
7 disapproves a ground water management plan, the district which submitted
8 the plan shall, in order to establish a management area, submit to the
9 Chief Water Officer ~~director~~ either the original or a revised plan with
10 an explanation of how the original or revised plan addresses the issues
11 raised by the Chief Water Officer ~~director~~ in his or her reasons for
12 disapproval. Once a district has submitted an explanation pursuant to
13 this section, such district may proceed to schedule a hearing pursuant to
14 section 46-712.

15 **Sec. 211.** Section 46-712, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-712 (1) A natural resources district may establish a ground water
18 management area in accordance with this section to accomplish any one or
19 more of the following objectives: (a) Protection of ground water
20 quantity; (b) protection of ground water quality; or (c) prevention or
21 resolution of conflicts between users of ground water and appropriators
22 of surface water, which ground water and surface water are hydrologically
23 connected.

24 (2) Prior to establishment by a district of a management area other
25 than a management area being established in accordance with section
26 46-718, the district's management plan shall have been approved by the
27 Chief Water Officer ~~Director of Natural Resources~~ or the district shall
28 have completed the requirements of subsection (2) of section 46-711. If
29 necessary to determine whether a management area should be designated,
30 the district may initiate new studies and data-collection efforts and
31 develop computer models. In order to establish a management area, the

1 district shall fix a time and place for a public hearing to consider the
2 management plan information supplied by the Chief Water Officer ~~director~~
3 and to hear any other evidence. The hearing shall be located within or in
4 reasonable proximity to the area proposed for designation as a management
5 area. Notice of the hearing shall be published as provided in section
6 46-743, and the hearing shall be conducted in accordance with such
7 section.

8 (3)(a) Within ninety days after the hearing, the district shall
9 determine whether a management area shall be designated. If the district
10 determines that no management area shall be established, the district
11 shall issue an order to that effect.

12 (b) If the district determines that a management area shall be
13 established, the district shall by order designate the area as a
14 management area and shall adopt one or more controls authorized by
15 section 46-739 to be utilized within the area in order to achieve the
16 ground water management objectives specified in the plan. Such an order
17 shall include a geographic and stratigraphic definition of the area. The
18 boundaries and controls shall take into account any considerations
19 brought forth at the hearing and administrative factors directly
20 affecting the ability of the district to implement and carry out local
21 ground water management.

22 (c) The controls adopted shall not include controls substantially
23 different from those set forth in the notice of the hearing. The area
24 designated by the order shall not include any area not included in the
25 notice of the hearing.

26 (4) Modification of the boundaries of a district-designated
27 management area or dissolution of such an area shall be in accordance
28 with the procedures established in this section. Hearings for such
29 modifications or for dissolution may not be initiated more often than
30 once a year. Hearings for modification of controls may be initiated as
31 often as deemed necessary by the district, and such modifications may be

1 accomplished using the procedure in this section.

2 (5) A district shall, prior to adopting or amending any rules or
3 regulations for a management area, consult with any holders of permits
4 for intentional or incidental underground water storage and recovery
5 issued pursuant to section 46-226.02, 46-233, 46-240, 46-241, 46-242, or
6 46-297.

7 (6) If a ground water management area has been adopted by a district
8 under this section that includes one or more controls authorized by
9 subdivision (1)(f) or (1)(m) of section 46-739, the district may request
10 ~~that the Chief Water Officer Department of Natural Resources~~ to conduct
11 an evaluation to determine if an immediate stay should be placed on the
12 issuance of new surface water natural-flow appropriations in the area,
13 river basin, subbasin, or reach of the management area, and the Chief
14 Water Officer ~~department~~ may determine that the stay is in the public
15 interest. The stay may include provisions for exceptions to be granted
16 for beneficial uses as described in subsection (3) of section 46-714 or
17 for a project that provides hydrological benefit to the area of the stay
18 and may include provisions that the stay may be rescinded based on new or
19 additional information that may become available.

20 **Sec. 212.** Section 46-713, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-713 (1)(a) By January 1 of each year beginning in 2006 and except
23 as otherwise provided in this section and section 46-720, the Chief Water
24 Officer ~~Department of Natural Resources~~ shall complete an evaluation of
25 the expected long-term availability of hydrologically connected water
26 supplies for both existing and new surface water uses and existing and
27 new ground water uses in each of the state's river basins and shall issue
28 a report that describes the results of the evaluation. For purposes of
29 the evaluation and the report, a river basin may be divided into two or
30 more subbasins or reaches. A river basin, subbasin, or reach for which an
31 integrated management plan has been or is being developed pursuant to

1 sections 46-715 to 46-717 or pursuant to section 46-719 shall not be
2 evaluated unless it is being reevaluated as provided in subsection (2) of
3 this section. For each river basin, subbasin, or reach evaluated, the
4 report shall describe (i) the nature and extent of use of both surface
5 water and ground water in each river basin, subbasin, or reach, (ii) the
6 geographic area within which the Chief Water Officer ~~department~~
7 preliminarily considers surface water and ground water to be
8 hydrologically connected and the criteria used for that determination,
9 and (iii) the extent to which the then-current uses affect available
10 near-term and long-term water supplies. River basins, subbasins, and
11 reaches designated as overappropriated in accordance with subsection (4)
12 of this section shall not be evaluated by the Chief Water Officer
13 ~~department~~. The Chief Water Officer ~~department~~ is not required to perform
14 an annual evaluation for a river basin, subbasin, or reach during the
15 four years following a status change in such river basin, subbasin, or
16 reach under subsection (12) of section 46-714.

17 (b) Based on the information reviewed in the evaluation process, the
18 Chief Water Officer ~~department~~ shall arrive at a preliminary conclusion
19 for each river basin, subbasin, and reach evaluated as to whether such
20 river basin, subbasin, or reach presently is fully appropriated without
21 the initiation of additional uses. The Chief Water Officer ~~department~~
22 shall also determine if and how such preliminary conclusion would change
23 if no additional legal constraints were imposed on future development of
24 hydrologically connected surface water and ground water and reasonable
25 projections are made about the extent and location of future development
26 in such river basin, subbasin, or reach.

27 (c) In addition to the conclusion about whether a river basin,
28 subbasin, or reach is fully appropriated, the Chief Water Officer
29 ~~department~~ shall include in the report, for informational purposes only,
30 a summary of relevant data provided by any interested party concerning
31 the social, economic, and environmental impacts of additional

1 hydrologically connected surface water and ground water uses on resources
2 that are dependent on streamflow or ground water levels but are not
3 protected by appropriations or regulations.

4 (d) In preparing the report, the Chief Water Officer ~~department~~
5 shall rely on the best scientific data, information, and methodologies
6 readily available to ensure that the conclusions and results contained in
7 the report are reliable. In ~~the~~ its report, the Chief Water Officer
8 ~~department~~ shall provide sufficient documentation to allow these data,
9 information, methodologies, and conclusions to be independently
10 replicated and assessed. Upon request by the Chief Water Officer
11 ~~department~~, state agencies, natural resources districts, irrigation
12 districts, reclamation districts, public power and irrigation districts,
13 mutual irrigation companies, canal companies, municipalities, and other
14 water users and stakeholders shall provide relevant data and information
15 in their possession. The Chief Water Officer ~~Department of Natural~~
16 ~~Resources~~ shall specify by rule and regulation the types of scientific
17 data and other information that will be considered for making the
18 preliminary determinations required by this section.

19 (2)(a) The Chief Water Officer ~~department~~ shall complete a
20 reevaluation of a river basin, subbasin, or reach for which an integrated
21 management plan has been or is being prepared if the Chief Water Officer
22 ~~department~~ has reason to believe that a reevaluation might lead to a
23 different determination about whether such river basin, subbasin, or
24 reach is fully appropriated or overappropriated. A decision to reevaluate
25 may be reached by the Chief Water Officer ~~department~~ on his or her ~~its~~
26 own or in response to a petition filed with the Chief Water Officer
27 ~~department~~ by any interested person. To be considered sufficient to
28 justify a reevaluation, a petition shall be accompanied by supporting
29 information showing that (i) new scientific data or other information
30 relevant to the determination of whether the river basin, subbasin, or
31 reach is fully appropriated or overappropriated has become available

1 since the last evaluation of such river basin, subbasin, or reach, (ii)
2 the Chief Water Officer ~~department~~ relied on incorrect or incomplete
3 information when the river basin, subbasin, or reach was last evaluated,
4 or (iii) the Chief Water Officer ~~department~~ erred in the its
5 interpretation or application of the information available when the river
6 basin, subbasin, or reach was last evaluated. If a petition determined by
7 the Chief Water Officer ~~department~~ to be sufficient is filed before July
8 1 of any year, the reevaluation of the river basin, subbasin, or reach
9 involved shall be included in the next annual report prepared in
10 accordance with subsection (1) of this section. If any such petition is
11 filed on or after July 1 of any year, the Chief Water Officer ~~department~~
12 may defer the reevaluation of the river basin, subbasin, or reach
13 involved until the second annual report after such filing.

14 (b) If the reevaluation results in a different determination by the
15 Chief Water Officer ~~department~~, then (i) the Chief Water Officer
16 ~~department~~ shall notify, by certified mail, the affected natural
17 resources districts and any irrigation district, public power and
18 irrigation district, mutual irrigation company, canal company, or
19 municipality that relies on water from the affected river basin,
20 subbasin, or reach of the preliminary change in the determination and
21 (ii) the Chief Water Officer ~~department~~ shall hold one or more public
22 hearings not more than ninety days after the publication of the notice
23 required in subdivision (b)(i) of this subsection. Notice of the hearings
24 shall be provided in the same manner as the notice required in subsection
25 (1) of section 46-714. Any interested person may appear at the hearing
26 and present written or oral testimony and evidence concerning the
27 appropriation status of the river basin, subbasin, or reach.

28 (c) Within thirty days after the final hearing under subdivision (b)
29 of this subsection, the Chief Water Officer ~~department~~ shall notify the
30 appropriate natural resources districts of the Chief Water Officer's
31 ~~department's~~ final determination with respect to the appropriation status

1 of the river basin, subbasin, or reach.

2 (3) A river basin, subbasin, or reach shall be deemed fully
3 appropriated if the Chief Water Officer ~~department~~ determines based upon
4 ~~the its~~ evaluation conducted pursuant to subsection (1) of this section
5 and information presented at the hearing pursuant to subsection (4) of
6 section 46-714 that then-current uses of hydrologically connected surface
7 water and ground water in the river basin, subbasin, or reach cause or
8 will in the reasonably foreseeable future cause (a) the surface water
9 supply to be insufficient to sustain over the long term the beneficial or
10 useful purposes for which existing natural-flow or storage appropriations
11 were granted and the beneficial or useful purposes for which, at the time
12 of approval, any existing instream appropriation was granted, (b) the
13 streamflow to be insufficient to sustain over the long term the
14 beneficial uses from wells constructed in aquifers dependent on recharge
15 from the river or stream involved, or (c) reduction in the flow of a
16 river or stream sufficient to cause noncompliance by Nebraska with an
17 interstate compact or decree, other formal state contract or agreement,
18 or applicable state or federal laws.

19 (4)(a) A river basin, subbasin, or reach shall be deemed
20 overappropriated if, on July 16, 2004, the river basin, subbasin, or
21 reach is subject to an interstate cooperative agreement among three or
22 more states and if, prior to such date, the Chief Water Officer
23 ~~department~~ has declared a moratorium on the issuance of new surface water
24 appropriations in such river basin, subbasin, or reach and has requested
25 each natural resources district with jurisdiction in the affected area in
26 such river basin, subbasin, or reach either (i) to close or to continue
27 in effect a previously adopted closure of all or part of such river
28 basin, subbasin, or reach to the issuance of additional water well
29 permits in accordance with subdivision (1)(k) of section 46-656.25 as
30 such section existed prior to July 16, 2004, or (ii) to temporarily
31 suspend or to continue in effect a temporary suspension, previously

1 adopted pursuant to section 46-656.28 as such section existed prior to
2 July 16, 2004, on the drilling of new water wells in all or part of such
3 river basin, subbasin, or reach.

4 (b) Within sixty days after July 16, 2004, the Chief Water Officer
5 ~~department~~ shall designate which river basins, subbasins, or reaches are
6 overappropriated. The designation shall include a description of the
7 geographic area within which the Chief Water Officer ~~department~~ has
8 determined that surface water and ground water are hydrologically
9 connected and the criteria used to make such determination.

10 **Sec. 213.** Section 46-714, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-714 (1) Whenever the Chief Water Officer ~~Department of Natural~~
13 ~~Resources~~ makes a preliminary determination that a river basin, subbasin,
14 or reach not previously designated as overappropriated and not previously
15 determined to be fully appropriated has become fully appropriated, the
16 Chief Water Officer ~~department~~ shall place an immediate stay on the
17 issuance of any new natural-flow, storage, or storage-use appropriations
18 in such river basin, subbasin, or reach. The Chief Water Officer
19 ~~department~~ shall also provide prompt notice of such preliminary
20 determination to all licensed water well contractors in the state and to
21 each natural resources district that encompasses any of the geographic
22 area involved. Such notice to natural resources districts shall be by
23 certified mail. The notice shall be addressed to the manager of the
24 natural resources district or his or her designee and shall include the
25 signature of the Chief Water Officer ~~Director of Natural Resources~~.
26 Immediately upon receipt of such notice by the natural resources
27 district, there shall be a stay on issuance of water well construction
28 permits in the geographic area preliminarily determined by the Chief
29 Water Officer ~~department~~ to include hydrologically connected surface
30 water and ground water in such river basin, subbasin, or reach. The Chief
31 Water Officer ~~department~~ shall also notify the public of the preliminary

1 determination that the river basin, subbasin, or reach is fully
2 appropriated and of the affected geographic area. Such notice shall be
3 provided by publication once each week for three consecutive weeks in at
4 least one newspaper of statewide circulation and in such other newspaper
5 or newspapers as are deemed appropriate by the Chief Water Officer
6 ~~department~~ to provide general circulation in the river basin, subbasin,
7 or reach.

8 (2) If the Chief Water Officer ~~department~~ preliminarily determines a
9 river basin, subbasin, or reach to be fully appropriated and has
10 identified the existence of hydrologically connected surface water and
11 ground water in such river basin, subbasin, or reach, stays shall also be
12 imposed:

13 (a) On the construction of any new water well in the area covered by
14 the determination unless a permit with conditions imposed by the natural
15 resources district has been issued prior to the determination. Such
16 conditions shall meet the objectives of subsection (4) of section 46-715
17 and may include, but are not limited to, conditions in accordance with
18 subsection (6) of section 46-739. Any well constructed pursuant to such
19 permit shall be completed in accordance with section 46-738; and

20 (b) On the use of an existing water well or an existing surface
21 water appropriation in the affected area to increase the number of acres
22 historically irrigated.

23 Such additional stays shall begin ten days after the first
24 publication, in a newspaper of statewide circulation, of the notice of
25 the preliminary determination that the river basin, subbasin, or reach is
26 fully appropriated.

27 (3) Exceptions to the stays imposed pursuant to subsection (1), (2),
28 (8), or (9) of this section shall exist for (a) test holes, (b)
29 dewatering wells with an intended use of one year or less, (c) monitoring
30 wells, (d) wells constructed pursuant to a ground water remediation plan
31 under the Environmental Protection Act, (e) water wells designed and

1 constructed to pump fifty gallons per minute or less, except that no two
2 or more water wells that each pump fifty gallons per minute or less may
3 be connected or otherwise combined to serve a single project such that
4 the collective pumping would exceed fifty gallons per minute, (f) water
5 wells for range livestock, (g) new surface water uses or water wells that
6 are necessary to alleviate an emergency situation involving the provision
7 of water for human consumption or public health and safety, (h) water
8 wells defined by the applicable natural resources district as replacement
9 water wells, but the consumptive use of any such replacement water well
10 can be no greater than the historic consumptive use of the water well it
11 is to replace or, if applicable, the historic consumptive use of the
12 surface water use it is to replace, (i) new surface water uses and water
13 wells to which a right or permit is transferred in accordance with state
14 law, but the consumptive use of any such new use can be no greater than
15 the historic consumptive use of the surface water use or water well from
16 which the right or permit is being transferred, (j) water wells and
17 increases in ground water irrigated acres for which a variance is granted
18 by the applicable natural resources district for good cause shown, (k)
19 subject to any conditions imposed by the applicable natural resources
20 district, to the extent permitted by the applicable natural resources
21 district, increases in ground water irrigated acres that result from the
22 use of water wells that were permitted prior to the effective date of the
23 determination made in subsection (1) of this section and completed in
24 accordance with section 46-738 but were not used for irrigation prior to
25 that effective date, (l) to the extent permitted by the applicable
26 natural resources district, increases in ground water irrigated acres
27 that result from the use of water wells that are constructed after the
28 effective date of the stay in accordance with a permit granted by that
29 natural resources district prior to the effective date of the stay, (m)
30 surface water uses for which temporary public-use construction permits
31 are issued pursuant to subsection (8) of section 46-233, (n) surface

1 water uses and increases in surface water irrigated acres for which a
2 variance is granted by the Chief Water Officer ~~department~~ for good cause
3 shown, and (o) water wells for which permits have been approved by the
4 Chief Water Officer ~~Department of Natural Resources~~ pursuant to the
5 Municipal and Rural Domestic Ground Water Transfers Permit Act prior to
6 the effective date of the stay.

7 (4) Except as otherwise provided in this section, any stay imposed
8 pursuant to subsections (1) and (2) of this section shall remain in
9 effect for the affected river basin, subbasin, or reach until the Chief
10 Water Officer ~~department~~ has made a final determination regarding whether
11 the river basin, subbasin, or reach is fully appropriated and, if the
12 Chief Water Officer's ~~department's~~ final determination is that the river
13 basin, subbasin, or reach is fully appropriated, shall remain in effect
14 as provided in subsection (11) of this section. Within the time period
15 between the dates of the preliminary and final determinations, the Chief
16 Water Officer ~~department~~ and the affected natural resources districts
17 shall consult with any irrigation district, reclamation district, public
18 power and irrigation district, mutual irrigation company, canal company,
19 or municipality that relies on water from the affected river basin,
20 subbasin, or reach and with other water users and stakeholders as deemed
21 appropriate by the Chief Water Officer ~~department~~ or the natural
22 resources districts. The Chief Water Officer ~~department~~ shall also hold
23 one or more public hearings not more than ninety days after the first
24 publication of the notice required by subsection (1) of this section.
25 Notice of the hearings shall be provided in the same manner as the notice
26 required by such subsection. Any interested person may appear at such
27 hearing and present written or oral testimony and evidence concerning the
28 appropriation status of the river basin, subbasin, or reach, the Chief
29 Water Officer's ~~department's~~ preliminary conclusions about the extent of
30 the area within which the surface water and ground water supplies for the
31 river basin, subbasin, or reach are determined to be hydrologically

1 connected, and whether the stays on new uses should be terminated.

2 (5) Within thirty days after the final hearing under subsection (4)
3 of this section, the Chief Water Officer ~~department~~ shall notify the
4 appropriate natural resources districts of the Chief Water Officer's
5 ~~department's~~ final determination with respect to the appropriation status
6 of the river basin, subbasin, or reach. If the final determination is
7 that the river basin, subbasin, or reach is fully appropriated, the Chief
8 Water Officer ~~department~~, at the same time, shall (a) decide whether to
9 continue or to terminate the stays on new surface water uses and on
10 increases in the number of surface water irrigated acres and (b)
11 designate the geographic area within which the Chief Water Officer
12 ~~department~~ considers surface water and ground water to be hydrologically
13 connected in the river basin, subbasin, or reach and describe the methods
14 and criteria used in making that determination. The Chief Water Officer
15 ~~department~~ shall provide notice of the ~~its~~ decision to continue or
16 terminate the stays in the same manner as the notice required by
17 subsection (1) of this section.

18 (6) Within ninety days after a final determination by the Chief
19 Water Officer ~~department~~ that a river basin, subbasin, or reach is fully
20 appropriated, an affected natural resources district may hold one or more
21 public hearings on the question of whether the stays on the issuance of
22 new water well permits, on the construction of new water wells, or on
23 increases in ground water irrigated acres should be terminated. Notice of
24 the hearings shall be published as provided in section 46-743.

25 (7) Within forty-five days after a natural resources district's
26 final hearing pursuant to subsection (6) of this section, the natural
27 resources district shall decide (a) whether to terminate the stay on new
28 water wells in all or part of the natural resources district subject to
29 the stay and (b) whether to terminate the stay on increases in ground
30 water irrigated acres. If the natural resources district decides not to
31 terminate the stay on new water wells in any geographic area, it shall

1 also decide whether to exempt from such stay the construction of water
2 wells for which permits were issued prior to the issuance of the stay but
3 for which construction had not begun prior to issuance of the stay. If
4 construction of water wells for which permits were issued prior to the
5 stay is allowed, all permits that were valid when the stay went into
6 effect shall be extended by a time period equal to the length of the
7 stay.

8 (8) Whenever the Chief Water Officer ~~department~~ designates a river
9 basin, subbasin, or reach as overappropriated, each previously declared
10 moratorium on the issuance of new surface water appropriations in the
11 river basin, subbasin, or reach shall continue in effect. The Chief Water
12 Officer ~~department~~ shall also provide prompt notice of such designation
13 to all licensed water well contractors in the state and to each natural
14 resources district that encompasses any of the geographic area involved.
15 Immediately upon receipt of such notice by a natural resources district,
16 there shall be a stay on the issuance of new water well construction
17 permits in any portion of such natural resources district that is within
18 the hydrologically connected area designated by the Chief Water Officer
19 ~~department~~. The Chief Water Officer ~~department~~ shall also notify the
20 public of the Chief Water Officer's ~~its~~ designation of such river basin,
21 subbasin, or reach as overappropriated and of the geographic area
22 involved in such designation. Such notice shall be published once each
23 week for three consecutive weeks in at least one newspaper of statewide
24 circulation and in such other newspapers as are deemed appropriate by the
25 Chief Water Officer ~~department~~ to provide general notice in the river
26 basin, subbasin, or reach.

27 (9) Beginning ten days after the first publication of notice under
28 subsection (8) of this section in a newspaper of statewide circulation,
29 there shall also be stays (a) on the construction of any new water well
30 in the hydrologically connected area if such construction has not
31 commenced prior to such date and if no permit for construction of the

1 water well has been issued previously by either the Chief Water Officer
2 ~~department~~ or the natural resources district, (b) on the use of an
3 existing water well in the hydrologically connected area to increase the
4 number of acres historically irrigated, and (c) on the use of an existing
5 surface water appropriation to increase the number of acres historically
6 irrigated in the affected area.

7 (10) Within ninety days after a designation by the Chief Water
8 Officer ~~department~~ of a river basin, subbasin, or reach as
9 overappropriated, a natural resources district that encompasses any of
10 the hydrologically connected area designated by the Chief Water Officer
11 ~~department~~ may hold one or more public hearings on the question of
12 whether to terminate the stays on (a) the construction of new water wells
13 within all or part of its portion of the hydrologically connected area,
14 (b) the issuance of new water well construction permits in such area, or
15 (c) the increase in ground water irrigated acres in such area. Notice of
16 any hearing for such purpose shall be provided pursuant to section
17 46-743. Prior to the scheduling of a natural resources district hearing
18 on the question of whether to terminate any such stay, the Chief Water
19 Officer ~~department~~ and the affected natural resources district shall
20 consult with any irrigation district, reclamation district, public power
21 and irrigation district, mutual irrigation company, canal company, or
22 municipality that relies on water from the affected river basin,
23 subbasin, or reach and with other water users and stakeholders as deemed
24 appropriate by the Chief Water Officer ~~department~~ or the natural
25 resources district.

26 (11) Any stay issued pursuant to this section shall remain in effect
27 until (a) the stay has been terminated pursuant to subsection (5), (7),
28 or (10) of this section, (b) an integrated management plan for the
29 affected river basin, subbasin, or reach has been adopted by the Chief
30 Water Officer ~~department~~ and the affected natural resources districts and
31 has taken effect, (c) an integrated management plan for the affected

1 river basin, subbasin, or reach has been adopted by the Interrelated
2 Water Review Board and has taken effect, (d) the Chief Water Officer
3 ~~department~~ has completed a reevaluation pursuant to subsection (2) of
4 section 46-713 and has determined that the affected river basin,
5 subbasin, or reach is not fully appropriated or overappropriated, or (e)
6 the stay expires pursuant to this subsection. Such stay may be imposed
7 initially for not more than three years following the Chief Water
8 Officer's ~~department's~~ designation of the river basin, subbasin, or reach
9 as overappropriated or the Chief Water Officer's ~~department's~~ final
10 determination that a river basin, subbasin, or reach is fully
11 appropriated and may be extended thereafter on an annual basis by
12 agreement of the Chief Water Officer ~~department~~ and the affected natural
13 resources district for not more than two additional years if necessary to
14 allow the development, adoption, and implementation of an integrated
15 management plan pursuant to sections 46-715 to 46-719.

16 (12)(a) For purposes of this subsection, (i) a status change occurs
17 when a preliminary or final determination that a river basin, subbasin,
18 or reach is fully appropriated is reversed by the Chief Water Officer
19 ~~department~~ or by judicial determination and such river basin, subbasin,
20 or reach is determined not to be fully appropriated and (ii) the
21 hydrologically connected area means the geographic area within which the
22 Chief Water Officer ~~department~~ considers surface water and ground water
23 in such river basin, subbasin, or reach to be hydrologically connected.

24 (b) If a status change occurs, any stays previously in force by the
25 Chief Water Officer ~~department~~ or affected natural resources districts
26 shall remain in force until the stays imposed under this subsection are
27 in place and the Chief Water Officer ~~department~~ shall place an immediate
28 stay on the issuance of any new natural-flow, storage, or storage-use
29 appropriations in the river basin, subbasin, or reach. The Chief Water
30 Officer ~~department~~ shall also provide prompt notice of the status change
31 in accordance with subsection (1) of this section. Immediately upon

1 receipt of the notice by the affected natural resources district, there
2 shall be stays imposed as set forth in subsections (1) and (2) of this
3 section, subject to the exceptions set forth in subsection (3) of this
4 section. The stays imposed pursuant to this subsection shall remain in
5 effect within each affected natural resources district until such
6 district adopts rules and regulations in accordance with subdivision (c),
7 (d), or (e) of this subsection.

8 (c) Upon receipt of notice of a status change, each affected natural
9 resources district shall adopt rules and regulations within one hundred
10 twenty days after receipt of such notice for the prioritization and
11 granting of water well permits within the hydrologically connected area
12 for the four-year period following the status change. Nothing in this
13 subsection shall be construed to supersede the authority provided to
14 natural resources districts under subsection (2) of section 46-707 and
15 subdivisions (1)(f) and (1)(m) of section 46-739.

16 (d) The rules and regulations adopted by each affected natural
17 resources district in accordance with subdivision (c) of this subsection
18 shall (i) allow a limited number of total new ground water irrigated
19 acres annually, (ii) be created with the purpose of maintaining the
20 status of not fully appropriated based on the most recent basin
21 determination, (iii) be for a term of not less than four years, and (iv)
22 limit the number of new permits so that total new ground water irrigated
23 acres do not exceed the number set in the rules and regulations. The
24 Chief Water Officer ~~department~~ shall approve the proposed new number of
25 ground water irrigated acres within sixty days after approval by the
26 natural resources district if such district meets the conditions set
27 forth in subdivision (d)(ii) of this subsection, based on the most recent
28 basin determination.

29 (e) If the proposed new number of acres is not approved by the Chief
30 Water Officer ~~department~~ within the applicable time period as provided in
31 subdivision (d) of this subsection, the affected natural resources

1 districts shall adopt rules and regulations that allow water well permits
2 to be issued that will result in no more than two thousand five hundred
3 irrigated acres or that will result in an increase of not more than
4 twenty percent of all historically irrigated acres within the
5 hydrologically connected area of each natural resources district within
6 the affected river basin, subbasin, or reach, whichever is less, for each
7 calendar year of the four-year period following the date of the
8 determination described in this subsection. Each affected natural
9 resources district may, after the initial four-year period has expired,
10 annually determine whether water well permit limitations should continue
11 and may enforce such limitations.

12 (f) During the four-year period following the status change, the
13 Chief Water Officer ~~department~~ shall ensure that any new appropriation
14 granted will not cause the basin, subbasin, or reach to be fully
15 appropriated based on the most recent basin determination. The Chief
16 Water Officer ~~department~~, pursuant to its rules and regulations adopted
17 and promulgated under the Nebraska Ground Water Management and Protection
18 Act, shall not issue new natural flow surface water appropriations for
19 irrigation, within the river basin, subbasin, or reach affected by the
20 status change, that will result in a net increase of more than eight
21 hundred thirty-four irrigated acres in each natural resources district
22 during each calendar year of the four-year period following the date of
23 the determination described in this subsection.

24 **Sec. 214.** Section 46-715, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-715 (1)(a) Whenever the Chief Water Officer ~~Department of Natural~~
27 ~~Resources~~ has designated a river basin, subbasin, or reach as
28 overappropriated or has made a final determination that a river basin,
29 subbasin, or reach is fully appropriated, the natural resources districts
30 encompassing such river basin, subbasin, or reach and the Chief Water
31 Officer ~~department~~ shall jointly develop an integrated management plan

1 for such river basin, subbasin, or reach. The plan shall be completed,
2 adopted, and take effect within three years after such designation or
3 final determination unless the Chief Water Officer ~~department~~ and the
4 natural resources districts jointly agree to an extension of not more
5 than two additional years.

6 (b) A natural resources district encompassing a river basin,
7 subbasin, or reach that has not been designated as overappropriated or
8 has not been finally determined to be fully appropriated may, jointly
9 with the Chief Water Officer ~~department~~, develop an integrated management
10 plan for such river basin, subbasin, or reach located within the
11 district. The district shall notify the Chief Water Officer ~~department~~ of
12 its intention to develop an integrated management plan which shall be
13 developed and adopted according to sections 46-715 to 46-717 and
14 subsections (1) and (2) of section 46-718. The objective of an integrated
15 management plan under this subdivision is to manage such river basin,
16 subbasin, or reach to achieve and sustain a balance between water uses
17 and water supplies for the long term. If a district develops an
18 integrated management plan under this subdivision and the Chief Water
19 Officer ~~department~~ subsequently determines the affected river basin,
20 subbasin, or reach to be fully appropriated, the Chief Water Officer
21 ~~department~~ and the affected natural resources district may amend the
22 integrated management plan.

23 (2) In developing an integrated management plan, the effects of
24 existing and potential new water uses on existing surface water
25 appropriators and ground water users shall be considered. An integrated
26 management plan shall include the following: (a) Clear goals and
27 objectives with a purpose of sustaining a balance between water uses and
28 water supplies so that the economic viability, social and environmental
29 health, safety, and welfare of the river basin, subbasin, or reach can be
30 achieved and maintained for both the near term and the long term; (b) a
31 map clearly delineating the geographic area subject to the integrated

1 management plan; (c) one or more of the ground water controls authorized
2 for adoption by natural resources districts pursuant to section 46-739;
3 (d) one or more of the surface water controls authorized for adoption by
4 the Chief Water Officer ~~department~~ pursuant to section 46-716; and (e) a
5 plan to gather and evaluate data, information, and methodologies that
6 could be used to implement sections 46-715 to 46-717, increase
7 understanding of the surface water and hydrologically connected ground
8 water system, and test the validity of the conclusions and information
9 upon which the integrated management plan is based. The plan may also
10 provide for utilization of any applicable incentive programs authorized
11 by law. Nothing in the integrated management plan for a fully
12 appropriated river basin, subbasin, or reach shall require a natural
13 resources district to regulate ground water uses in place at the time of
14 the Chief Water Officer's ~~department's~~ preliminary determination that the
15 river basin, subbasin, or reach is fully appropriated, unless such
16 regulation is necessary to carry out the goals and objectives of a basin-
17 wide plan pursuant to section 46-755, but a natural resources district
18 may voluntarily adopt such regulations. The applicable natural resources
19 district may decide to include all water users within the district
20 boundary in an integrated management plan.

21 (3) In order to provide a process for economic development
22 opportunities and economic sustainability within a river basin, subbasin,
23 or reach, the integrated management plan shall include clear and
24 transparent procedures to track depletions and gains to streamflows
25 resulting from new, retired, or other changes to uses within the river
26 basin, subbasin, or reach. The procedures shall:

27 (a) Utilize generally accepted methodologies based on the best
28 available information, data, and science;

29 (b) Include a generally accepted methodology to be utilized to
30 estimate depletions and gains to streamflows, which methodology includes
31 location, amount, and time regarding gains to streamflows as offsets to

1 new uses;

2 (c) Identify means to be utilized so that new uses will not have
3 more than a de minimis effect upon existing surface water users or ground
4 water users;

5 (d) Identify procedures the natural resources district and the Chief
6 Water Officer ~~department~~ will use to report, consult, and otherwise share
7 information on new uses, changes in uses, or other activities affecting
8 water use in the river basin, subbasin, or reach;

9 (e) Identify, to the extent feasible, potential water available to
10 mitigate new uses, including, but not limited to, water rights leases,
11 interference agreements, augmentation projects, conjunctive use
12 management, and use retirement;

13 (f) Develop, to the extent feasible, an outline of plans after
14 consultation with and an opportunity to provide input from irrigation
15 districts, public power and irrigation districts, reclamation districts,
16 municipalities, other political subdivisions, and other water users to
17 make water available for offset to enhance and encourage economic
18 development opportunities and economic sustainability in the river basin,
19 subbasin, or reach; and

20 (g) Clearly identify procedures that applicants for new uses shall
21 take to apply for approval of a new water use and corresponding offset.

22 Nothing in this subsection shall require revision or amendment of an
23 integrated management plan approved on or before August 30, 2009.

24 (4) The ground water and surface water controls proposed for
25 adoption in the integrated management plan pursuant to subsection (1) of
26 this section shall, when considered together and with any applicable
27 incentive programs, (a) be consistent with the goals and objectives of
28 the plan, (b) be sufficient to ensure that the state will remain in
29 compliance with applicable state and federal laws and with any applicable
30 interstate water compact or decree or other formal state contract or
31 agreement pertaining to surface water or ground water use or supplies,

1 and (c) protect the ground water users whose water wells are dependent on
2 recharge from the river or stream involved and the surface water
3 appropriators on such river or stream from streamflow depletion caused by
4 surface water uses and ground water uses begun, in the case of a river
5 basin, subbasin, or reach designated as overappropriated or preliminarily
6 determined to be fully appropriated in accordance with section 46-713,
7 after the date of such designation or preliminary determination.

8 (5)(a) In any river basin, subbasin, or reach that is designated as
9 overappropriated, when the designated area lies within two or more
10 natural resources districts, the Chief Water Officer ~~department~~ and the
11 affected natural resources districts shall jointly develop a basin-wide
12 plan for the area designated as overappropriated. Such plan shall be
13 developed using the consultation and collaboration process described in
14 subdivision (b) of this subsection, shall be developed concurrently with
15 the development of the integrated management plan required pursuant to
16 subsections (1) through (4) of this section, and shall be designed to
17 achieve, in the incremental manner described in subdivision (d) of this
18 subsection, the goals and objectives described in subsection (2) of this
19 section. The basin-wide plan shall be adopted after hearings by the Chief
20 Water Officer ~~department~~ and the affected natural resources districts.

21 (b) In any river basin, subbasin, or reach designated as
22 overappropriated and subject to this subsection, the Chief Water Officer
23 ~~department~~ and each natural resources district encompassing such river
24 basin, subbasin, or reach shall jointly develop an integrated management
25 plan for such river basin, subbasin, or reach pursuant to subsections (1)
26 through (4) of this section. Each integrated management plan for a river
27 basin, subbasin, or reach subject to this subsection shall be consistent
28 with any basin-wide plan developed pursuant to subdivision (a) of this
29 subsection. Such integrated management plan shall be developed after
30 consultation and collaboration with irrigation districts, reclamation
31 districts, public power and irrigation districts, mutual irrigation

1 companies, canal companies, and municipalities that rely on water from
2 within the affected area and that, after being notified of the
3 commencement of the plan development process, indicate in writing their
4 desire to participate in such process. In addition, the Chief Water
5 Officer ~~department~~ or the affected natural resources districts may
6 include designated representatives of other stakeholders. If agreement is
7 reached by all parties involved in such consultation and collaboration
8 process, the Chief Water Officer ~~department~~ and each natural resources
9 district shall adopt the agreed-upon integrated management plan. If
10 agreement cannot be reached by all parties involved, the integrated
11 management plan shall be developed and adopted by the Chief Water Officer
12 ~~department~~ and the affected natural resources district pursuant to
13 sections 46-715 to 46-718 or by the Interrelated Water Review Board
14 pursuant to section 46-719.

15 (c) Any integrated management plan developed under this subsection
16 shall identify the overall difference between the current and fully
17 appropriated levels of development. Such determination shall take into
18 account cyclical supply, including drought, identify the portion of the
19 overall difference between the current and fully appropriated levels of
20 development that is due to conservation measures, and identify the
21 portions of the overall difference between the current and fully
22 appropriated levels of development that are due to water use initiated
23 prior to July 1, 1997, and to water use initiated on or after such date.

24 (d) Any integrated management plan developed under this subsection
25 shall adopt an incremental approach to achieve the goals and objectives
26 identified under subdivision (2)(a) of this section using the following
27 steps:

28 (i) The first incremental goals shall be to address the impact of
29 streamflow depletions to (A) surface water appropriations and (B) water
30 wells constructed in aquifers dependent upon recharge from streamflow, to
31 the extent those depletions are due to water use initiated after July 1,

1 1997, and, unless an interstate cooperative agreement for such river
2 basin, subbasin, or reach is no longer in effect, to prevent streamflow
3 depletions that would cause noncompliance by Nebraska with such
4 interstate cooperative agreement. During the first increment, the Chief
5 Water Officer ~~department~~ and the affected natural resources districts
6 shall also pursue voluntary efforts, subject to the availability of
7 funds, to offset any increase in streamflow depletive effects that occur
8 after July 1, 1997, but are caused by ground water uses initiated prior
9 to such date. The Chief Water Officer ~~department~~ and the affected natural
10 resources districts may also use other appropriate and authorized
11 measures for such purpose;

12 (ii) The Chief Water Officer ~~department~~ and the affected natural
13 resources districts may amend an integrated management plan subject to
14 this subsection (5) as necessary based on an annual review of the
15 progress being made toward achieving the goals for that increment;

16 (iii) During the ten years following adoption of an integrated
17 management plan developed under this subsection (5) or during the ten
18 years after the adoption of any subsequent increment of the integrated
19 management plan pursuant to subdivision (d)(iv) of this subsection, the
20 Chief Water Officer ~~department~~ and the affected natural resources
21 district shall conduct a technical analysis of the actions taken in such
22 increment to determine the progress towards meeting the goals and
23 objectives adopted pursuant to subsection (2) of this section. The
24 analysis shall include an examination of (A) available supplies and
25 changes in long-term availability, (B) the effects of conservation
26 practices and natural causes, including, but not limited to, drought, and
27 (C) the effects of the plan on reducing the overall difference between
28 the current and fully appropriated levels of development identified in
29 subdivision (5)(c) of this section. The analysis shall determine whether
30 a subsequent increment is necessary in the integrated management plan to
31 meet the goals and objectives adopted pursuant to subsection (2) of this

1 section and reduce the overall difference between the current and fully
2 appropriated levels of development identified in subdivision (5)(c) of
3 this section;

4 (iv) Based on the determination made in subdivision (d)(iii) of this
5 subsection, the Chief Water Officer ~~department~~ and the affected natural
6 resources districts, utilizing the consultative and collaborative process
7 described in subdivision (b) of this subsection, shall if necessary
8 identify goals for a subsequent increment of the integrated management
9 plan. Subsequent increments shall be completed, adopted, and take effect
10 not more than ten years after adoption of the previous increment; and

11 (v) If necessary, the steps described in subdivisions (d)(ii)
12 through (iv) of this subsection shall be repeated until the Chief Water
13 Officer ~~department~~ and the affected natural resources districts agree
14 that the goals and objectives identified pursuant to subsection (2) of
15 this section have been met and the overall difference between the current
16 and fully appropriated levels of development identified in subdivision
17 (5)(c) of this section has been addressed so that the river basin,
18 subbasin, or reach has returned to a fully appropriated condition.

19 (6) In any river basin, subbasin, or reach that is designated as
20 fully appropriated or overappropriated and whenever necessary to ensure
21 that the state is in compliance with an interstate compact or decree or a
22 formal state contract or agreement, the Chief Water Officer ~~department~~,
23 in consultation with the affected districts, shall forecast on an annual
24 basis the maximum amount of water that may be available from streamflow
25 for beneficial use in the short term and long term in order to comply
26 with the requirement of subdivision (4)(b) of this section. This forecast
27 shall be made by January 1, 2008, and each January 1 thereafter.

28 **Sec. 215.** Section 46-716, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-716 (1) The surface water controls that may be included in an
31 integrated management plan and may be adopted by the Chief Water Officer

1 ~~Department of Natural Resources~~ are: (a) Increased monitoring and
2 enforcement of surface water diversion rates and amounts diverted
3 annually; (b) the prohibition or limitation of additional surface water
4 appropriations; (c) requirements for surface water appropriators to apply
5 or utilize reasonable conservation measures consistent with good
6 husbandry and other requirements of section 46-231 and consistent with
7 reasonable reliance by other surface water or ground water users on
8 return flows or on seepage to the aquifer; and (d) other reasonable
9 restrictions on surface water use which are consistent with the intent of
10 section 46-715 and the requirements of section 46-231.

11 (2) If during the development of the integrated management plan the
12 Chief Water Officer ~~department~~ determines that surface water
13 appropriators should be required to apply or utilize conservation
14 measures or that other reasonable restrictions on surface water use need
15 to be imposed, the Chief Water Officer's ~~department's~~ portion of the
16 integrated management plan shall allow the affected surface water
17 appropriators and surface water project sponsors a reasonable amount of
18 time, not to exceed one hundred eighty days unless extended by the Chief
19 Water Officer ~~department~~, to identify the conservation measures to be
20 applied or utilized, to develop a schedule for such application and
21 utilization, and to comment on any other proposed restrictions.

22 **Sec. 216.** Section 46-717, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-717 (1) In developing an integrated management plan, the Chief
25 Water Officer ~~Department of Natural Resources~~ and the affected natural
26 resources districts shall utilize the best scientific data and other
27 information available and shall review and consider any rules and
28 regulations in effect in any existing ground water management area that
29 encompasses all or part of the geographic area to be encompassed by the
30 plan. Consideration shall be given to the applicable scientific data and
31 other information relied upon by the Chief Water Officer ~~department~~ in

1 preparing the annual report required by section 46-713 and to other types
2 of data and information that may be deemed appropriate by the Chief Water
3 Officer ~~department~~. The Chief Water Officer ~~department~~, after seeking
4 input from the affected natural resources districts, shall specify by
5 rule and regulation the types of scientific data and other information
6 that will be considered in developing an integrated management plan. The
7 natural resources districts shall adopt similar rules and regulations
8 specifying the types of scientific data and other information necessary
9 for purposes of this section. Existing research, data, studies, or any
10 other relevant information which has been compiled by or is in possession
11 of other state or federal agencies, other natural resources districts,
12 and other political subdivisions within the State of Nebraska shall be
13 utilized. State agencies and political subdivisions shall furnish
14 information or data upon request of the Chief Water Officer ~~department~~ or
15 any affected natural resources district. Neither the Chief Water Officer
16 ~~department~~ nor the natural resources districts shall be required to
17 conduct new research or to develop new computer models to prepare an
18 integrated management plan, but such new research may be conducted or new
19 computer models developed within the limits of available funding if the
20 additional information is desired by the Chief Water Officer ~~department~~
21 or the affected natural resources districts.

22 (2) During preparation of an integrated management plan for a fully
23 appropriated river basin, subbasin, or reach or of an integrated
24 management plan under subdivision (1)(b) of section 46-715, the Chief
25 Water Officer ~~department~~ and the affected natural resources districts
26 shall consult with any irrigation district, reclamation district, public
27 power and irrigation district, mutual irrigation company, canal company,
28 or municipality that relies on water from the affected river basin,
29 subbasin, or reach and with other water users and stakeholders as deemed
30 appropriate by the Chief Water Officer ~~department~~ or by the affected
31 natural resources districts. They shall also actively solicit public

1 comments and opinions through public meetings and other means.

2 **Sec. 217.** Section 46-718, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-718 (1) If the Chief Water Officer ~~Department of Natural~~
5 ~~Resources~~ and the affected natural resources districts preparing an
6 integrated management plan reach agreement on (a) the proposed goals and
7 objectives of the plan for the affected river basin, subbasin, or reach,
8 (b) the proposed geographic area to be subject to controls, and (c) the
9 surface water and ground water controls and any incentive programs that
10 are proposed for adoption and implementation in the river basin,
11 subbasin, or reach, they shall schedule one or more public hearings to
12 take testimony on the proposed integrated management plan and the
13 proposed controls. Such hearings shall be held within forty-five days
14 after reaching agreement and within or in reasonable proximity to the
15 area to be affected by implementation of the integrated management plan.
16 Notice of such hearings shall be published as provided in section 46-743.
17 The costs of publishing the notice shall be shared between the Chief
18 Water Officer ~~department~~ and the affected natural resources districts.
19 All interested persons may appear at the hearings and present testimony
20 or provide other evidence relevant to the issues being considered.

21 (2) Within sixty days after the final hearing under this section,
22 the Chief Water Officer ~~department~~ and the affected natural resources
23 districts shall jointly decide whether to implement the plan proposed,
24 with or without modifications, and whether to adopt and implement the
25 surface water and ground water controls and incentive programs proposed
26 in the plan. If the Chief Water Officer ~~department~~ and the natural
27 resources districts agree to implement the plan and to adopt and
28 implement the proposed controls, the natural resources districts shall by
29 order designate a ground water management area for integrated management
30 or, if the geographic area subject to the integrated management plan is
31 already in a ground water management area, the order shall designate an

1 integrated management subarea for that area. The order shall include a
2 geographic and stratigraphic definition of the ground water management
3 area or integrated management subarea and shall adopt the controls in the
4 integrated management plan that are authorized for adoption by the
5 natural resources district pursuant to section 46-739. The Chief Water
6 Officer ~~department~~ shall by order adopt the controls in the integrated
7 management plan that are authorized for adoption by the Chief Water
8 Officer ~~department~~ pursuant to section 46-716. Neither the controls
9 adopted by the district nor those adopted by the Chief Water Officer
10 ~~department~~ shall include controls substantially different from those set
11 forth in the notice of hearing. The area designated as a ground water
12 management area or an integrated management subarea by the natural
13 resources district shall not include any area that was not identified in
14 the notice of the hearing as within the area proposed to be subject to
15 the controls in the plan. The Chief Water Officer ~~department~~ and the
16 natural resources district shall each cause a copy of their respective
17 orders ~~its order~~ to be published in the manner provided in section
18 46-744.

19 (3) If at any time during the development of a basin-wide plan or an
20 integrated management plan either the Chief Water Officer ~~department~~ or
21 the affected natural resources districts conclude that the parties will
22 be unable to reach a timely agreement on the basin-wide plan or on (a)
23 the goals and objectives of the integrated management plan for the
24 affected river basin, subbasin, or reach, (b) the geographic area to be
25 subject to controls, or (c) the surface water or ground water controls or
26 any incentive programs to be proposed for adoption and implementation in
27 the affected river basin, subbasin, or reach, the Governor shall be
28 notified and the dispute shall be submitted to the Interrelated Water
29 Review Board as provided in subsection (2) of section 46-719.

30 **Sec. 218.** Section 46-719, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-719 (1)(a) The Interrelated Water Review Board is created for the
2 purposes stated in subsections (2) through (5) of this section. The board
3 shall consist of five members. The board, when appointed and convened,
4 shall continue in existence only until it has resolved a dispute referred
5 to it pursuant to such subsections. The Governor shall appoint and
6 convene the board within forty-five days of being notified of the need to
7 resolve a dispute. The board shall be chaired by the Governor or his or
8 her designee, which designee shall be knowledgeable concerning surface
9 water and ground water issues. The Governor shall appoint one additional
10 member of his or her choosing and shall appoint the other three members
11 of the board from a list of no fewer than six nominees provided by the
12 Nebraska Natural Resources Commission within twenty days after request by
13 the Governor for a list of nominees.

14 (b) Not more than two members of the board shall reside in the
15 geographic area involved in the dispute. A person is not eligible for
16 membership on the board if the decisions to be made by the board would or
17 could cause financial benefit or detriment to the person, a member of his
18 or her immediate family, or a business with which the person is
19 associated, unless such benefit or detriment is indistinguishable from
20 the effects of such action on the public generally or a broad segment of
21 the public. The board shall be subject to the Open Meetings Act.

22 (c) For purposes of subsections (2) and (3) of this section, action
23 may be taken by a vote of three of the board's five members. For purposes
24 of subsections (4) and (5) of this section, action may be taken only by a
25 vote of at least four of the board's five members.

26 (2)(a) If the Chief Water Officer ~~Department of Natural Resources~~
27 and the affected natural resources districts cannot resolve disputes over
28 the content of a basin-wide plan or an integrated management plan by
29 utilizing the process described in sections 46-715 to 46-718, the
30 Governor shall be notified and the dispute submitted to the Interrelated
31 Water Review Board. When the board has been appointed and convened to

1 resolve disputes over a basin-wide plan, the Chief Water Officer
2 ~~department~~ and each affected district shall present their proposed basin-
3 wide plans to the board. When the board has been convened to resolve
4 disputes over an integrated management plan, the Chief Water Officer
5 ~~department~~ and each affected natural resources district shall present
6 their (i) proposed goals and objectives for the integrated management
7 plan, (ii) proposed geographic area to be subject to controls, and (iii)
8 proposed surface water and ground water controls and any proposed
9 incentive program for adoption and implementation in the river basin,
10 subbasin, or reach involved. The Chief Water Officer ~~department~~ and each
11 affected natural resources district shall also be given adequate
12 opportunity to comment on the proposals made by the other parties to the
13 dispute.

14 (b) When the Interrelated Water Review Board concludes that the
15 issues in dispute have been fully presented and commented upon by the
16 parties to the dispute, which conclusion shall be made not more than
17 forty-five days after the board is convened, the board shall select the
18 proposals or portions of proposals that the board will consider for
19 adoption and shall schedule one or more public hearings to take testimony
20 on the selected proposals. The hearings shall be held within forty-five
21 days after the board's selection of proposals to consider for adoption
22 and shall be within or in reasonable proximity to the area that would be
23 affected by implementation of any of the proposals to be considered at
24 the hearings. Notice of the hearings shall be published as provided in
25 section 46-743. The cost of publishing the notice shall be shared by the
26 Chief Water Officer ~~department~~ and the affected natural resources
27 districts. All interested persons may appear at the hearings and present
28 testimony or provide other evidence relevant to the issues being
29 considered.

30 (c) Within forty-five days after the final hearing pursuant to
31 subdivision (b) of this subsection, the Interrelated Water Review Board

1 shall by order, as applicable, adopt a basin-wide plan or an integrated
2 management plan for the affected river basin, subbasin, or reach and, in
3 the case of an integrated management plan, shall designate a ground water
4 management area for integrated management or an integrated management
5 subarea for such river basin, subbasin, or reach. An integrated
6 management plan shall be consistent with subsection (2) of section
7 46-715, and the surface water and ground water controls and any
8 applicable incentive programs adopted as part of that plan shall be
9 consistent with subsection (4) of section 46-715. The controls adopted by
10 the board shall not be substantially different from those described in
11 the notice of hearing. The area designated as a ground water management
12 area or an integrated management subarea shall not include any area that
13 was not identified in the notice of the hearing as within the area
14 proposed to be subject to the controls in the plan.

15 (d) The order adopted under this subsection shall be published in
16 the manner prescribed in section 46-744.

17 (e) Surface water controls adopted by the Interrelated Water Review
18 Board shall be implemented and enforced by the Chief Water Officer
19 ~~department~~. Ground water controls adopted by the Interrelated Water
20 Review Board shall be implemented and enforced by the affected natural
21 resources districts.

22 (3) Whether an integrated management plan is adopted pursuant to
23 section 46-718 or by the Interrelated Water Review Board pursuant to
24 subsection (2) of this section, the Chief Water Officer ~~department~~ or a
25 natural resources district responsible in part for implementation and
26 enforcement of an integrated management plan may propose modification of
27 the goals or objectives of that plan, of the area subject to the plan, or
28 of the surface water controls, ground water controls, or incentive
29 programs adopted to implement the plan. The Chief Water Officer
30 ~~department~~ and the affected natural resources districts shall utilize the
31 procedures in sections 46-715 to 46-718 in an attempt to reach agreement

1 on and to adopt and implement proposed modifications. If agreement on
2 such modifications cannot be achieved utilizing those procedures, either
3 the Chief Water Officer ~~department~~ or an affected natural resources
4 district may notify the Governor of the dispute. The Interrelated Water
5 Review Board shall be appointed and convened in accordance with
6 subsection (1) of this section to resolve the dispute and, if applicable,
7 to adopt any modifications utilizing the procedures in subsection (2) of
8 this section.

9 (4) The Chief Water Officer ~~department~~ and the affected natural
10 resources districts may also raise objections concerning the
11 implementation or enforcement of previously adopted surface water or
12 ground water controls. The Chief Water Officer ~~department~~ and the
13 affected natural resources districts shall utilize the procedures in
14 sections 46-715 to 46-718 in an attempt to reach agreement on such
15 implementation or enforcement issues. If agreement on such issues cannot
16 be achieved utilizing such procedures, either the Chief Water Officer
17 ~~department~~ or an affected natural resources district may notify the
18 Governor of the dispute. The Interrelated Water Review Board shall be
19 appointed and convened in accordance with subsection (1) of this section.
20 After permitting each party to fully express ~~the its~~ reasons for ~~the its~~
21 position taken by each party on the disputed issues, the board may either
22 take no action or conclude (a) that one or more parties needs to modify
23 the party's its approach to implementation or enforcement and direct that
24 such modifications take place or (b) that one or more parties either has
25 not made a good faith effort to implement or enforce the portion of the
26 plan or controls for which the party ~~it~~ is responsible or is unable to
27 fully implement and enforce such portion and that such party's
28 jurisdiction with respect to implementation and enforcement of the plan
29 and controls shall be terminated and reassigned to one or more of the
30 other parties responsible for implementation and enforcement. A decision
31 by the Interrelated Water Review Board to terminate and reassign

1 jurisdiction of any portion of the plan or controls shall take effect
2 immediately upon that decision. Notice of such reassignment shall be
3 published at least once in one or more newspapers as necessary to provide
4 general circulation in the area affected by such reassignment.

5 (5) The board may be reconvened in accordance with subsection (1) of
6 this section at a later date upon request to the Governor by the party
7 for which jurisdiction for implementation and enforcement was terminated
8 if such party desires to have the party's ~~its~~ jurisdiction reinstated,
9 but no such request shall be honored until at least one year after the
10 termination and not more than once per year thereafter. The board may
11 reinstate jurisdiction to that party only upon a clear showing by such
12 party that the party ~~it~~ is willing and able to fully implement and
13 enforce the plan and any applicable controls. Notice that a party's
14 jurisdiction has been reinstated shall be provided in the same manner
15 that notice of the earlier termination was given.

16 **Sec. 219.** Section 46-720, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-720 (1) The Legislature finds that, prior to July 16, 2004,
19 actions were taken by the Department of Natural Resources as it existed
20 prior to July 1, 2025, and by one or more natural resources districts
21 pursuant to section 46-656.28, as such section existed immediately prior
22 to July 16, 2004 ~~such date~~, for the purpose of addressing circumstances
23 that are, after July 16, 2004 ~~such date~~, to be addressed in accordance
24 with sections 46-713 to 46-719. It is the intent of the Legislature that
25 actions taken pursuant to section 46-656.28, as such section existed
26 immediately prior to July 16, 2004, should not be negated and that
27 transition from the authorities and responsibilities granted by such
28 section to those granted by sections 46-713 to 46-719 should occur in as
29 efficient a manner as possible. Such transition shall be therefor
30 governed by subsections (2) through (5) of this section, and all
31 references in such subsections to section 46-656.28 shall be construed to

1 mean section 46-656.28 as such section existed immediately prior to July
2 16, 2004.

3 (2) If, prior to July 16, 2004, (a) a natural resources district
4 requested pursuant to subsection (1) of section 46-656.28 that affected
5 appropriators, affected surface water project sponsors, and the
6 department consult and that studies and a hearing be held but (b) the
7 Director of Natural Resources, as such position existed, had ~~has~~ not made
8 a preliminary determination relative to that request pursuant to
9 subsection (2) of section 46-656.28, no further action on the district's
10 request shall be required of the department. If under the same
11 circumstances a temporary suspension in the drilling of certain water
12 wells has been imposed by the district pursuant to subsection (16) of
13 section 46-656.28 and remains in effect immediately prior to July 16,
14 2004, such temporary suspension shall remain in effect for thirty days
15 after the department issues its first annual report under section 46-713,
16 except that (i) such temporary suspension shall not apply to water wells
17 for which a permit has been obtained pursuant to the Municipal and Rural
18 Domestic Ground Water Transfers Permit Act and (ii) to the extent any
19 such temporary suspension is in effect for all or part of a
20 hydrologically connected area for a river basin, subbasin, or reach
21 designated as overappropriated by the department, such temporary
22 suspension shall remain in effect only until it is superseded by the
23 stays imposed pursuant to subsections (8) and (9) of section 46-714. To
24 the extent that any such temporary suspension applies to a geographic
25 area preliminarily considered by the department to have ground water
26 hydrologically connected to the surface water of a fully appropriated
27 river basin, subbasin, or reach, such temporary suspension shall be
28 superseded by the stays imposed pursuant to subsections (1) and (2) of
29 section 46-714.

30 (3)(a) If prior to July 16, 2004, (i) the director has made a
31 preliminary determination pursuant to subsection (2) of section 46-656.28

1 that there is reason to believe that the use of hydrologically connected
2 ground water and surface water in a specific geographic area is
3 contributing to or is in the reasonably foreseeable future likely to
4 contribute to any conflict, dispute, or difficulty listed in such
5 subsection, (ii) the director has not made a determination pursuant to
6 subsection (4) of section 46-656.28 that a joint action plan should not
7 be prepared, and (iii) preparation of a joint action plan pursuant to
8 subsections (5) through (9) of such section has not been completed, the
9 geographic area involved shall become subject to sections 46-713 to
10 46-719 on July 16, 2004, and the department need not evaluate such
11 geographic area in its first annual report issued pursuant to section
12 46-713.

13 (b) For purposes of this subsection and section 46-714 and except as
14 otherwise provided in this section, (i) July 16, 2004, shall result in
15 the imposition in any geographic area subject to this subsection of the
16 stays required by subsections (1) and (2) of section 46-714, (ii) such
17 stays shall be imposed in the manner required by such section, and (iii)
18 July 16, 2004, shall be treated as if it were the date of a departmental
19 preliminary determination pursuant to section 46-713 that such area is a
20 geographic area within which ground water and surface water of a fully
21 appropriated river basin, subbasin, or reach are hydrologically
22 connected. Notwithstanding the other provisions of this subsection, if a
23 temporary suspension in the drilling of certain new water wells has
24 previously been imposed by the affected natural resources district, (A)
25 the stays on construction of new water wells and on the increase in
26 ground water irrigated acres shall be limited in geographic extent to
27 only that part of the affected area within which the temporary suspension
28 was in effect unless the director determines that inclusion of additional
29 area is necessary because ground water and surface water are
30 hydrologically connected in such additional area and (B) the stays on
31 construction of certain new water wells shall not apply to a water well

1 constructed in accordance with the terms of a water well construction
2 permit approved by the district prior to July 16, 2004, unless such well
3 was subject to the district's temporary suspension. If, prior to July 16,
4 2004, the director has held a hearing on a report issued pursuant to
5 subsection (3) of section 46-656.28 but has not yet determined whether a
6 joint action plan should be prepared, no departmental hearing shall be
7 required pursuant to subsection (4) of section 46-714 before a final
8 determination is made about whether the river basin, subbasin, or reach
9 involved is fully appropriated. If, prior to July 16, 2004, the director
10 has determined pursuant to subsection (4) of section 46-656.28 that a
11 joint action plan should be prepared, such determination shall have the
12 same effect as a final departmental determination pursuant to subsection
13 (5) of section 46-714 that the affected river basin, subbasin, or reach
14 is fully appropriated and no separate determination to that effect shall
15 be required. If, after July 16, 2004, the department determines that all
16 or part of the area subject to this subsection is in an overappropriated
17 river basin, subbasin, or reach, that portion of the area shall
18 thereafter be subject to the provisions of the Nebraska Ground Water
19 Management and Protection Act applicable to an overappropriated river
20 basin, subbasin, or reach and stays that have previously taken effect in
21 accordance with this subsection shall continue in effect as stays for an
22 overappropriated river basin, subbasin, or reach without additional
23 action or publication of notice by the department. Any temporary
24 suspension in the drilling of certain water wells that has been imposed
25 in the geographic area involved by a natural resources district pursuant
26 to subsection (16) of section 46-656.28 prior to July 16, 2004, shall
27 remain in effect until superseded by the stays imposed pursuant to
28 subsections (1) and (2) of section 46-714.

29 (4) If, prior to July 16, 2004, preparation of a joint action plan
30 has been completed pursuant to subsections (5) through (9) of section
31 46-656.28 but the plan has not yet been adopted pursuant to subsection

1 (11) of such section, the department need not evaluate the affected
2 geographic area in its first annual report issued pursuant to section
3 46-713. The department and the affected natural resources district shall
4 review the completed joint action plan for its compliance with sections
5 46-715 to 46-717. If the joint action plan is determined to be in
6 compliance with sections 46-715 to 46-717 or if agreement is reached on
7 the revisions necessary to bring it into such compliance, the department
8 and the district shall adopt the plan and implement the controls as
9 provided in section 46-718. If the joint action plan is determined not to
10 be in compliance with sections 46-715 to 46-717 and agreement on the
11 proposed plan or the proposed controls cannot be reached pursuant to
12 section 46-718, section 46-719 shall apply. Except to the extent that any
13 portion of the affected area is designated as all or part of an
14 overappropriated river basin, subbasin, or reach, any temporary
15 suspension in the drilling of certain water wells imposed in the affected
16 geographic area by a natural resources district pursuant to subsection
17 (16) of section 46-656.28 shall remain in effect until (a) the department
18 and the affected district have jointly decided to implement the plan,
19 with or without modifications, and controls have been adopted and taken
20 effect or (b) the Interrelated Water Review Board, pursuant to section
21 46-719, has adopted an integrated management plan for the affected river
22 basin, subbasin, or reach and the controls adopted by the board have
23 taken effect. To the extent that any portion of the affected area is
24 designated as all or part of an overappropriated river basin, subbasin,
25 or reach, any temporary suspension in the drilling of water wells shall
26 be superseded by the stays imposed pursuant to subsections (8) and (9) of
27 section 46-714.

28 (5) If, before July 16, 2004, a joint action plan has been adopted
29 and implemented pursuant to subsections (10) through (12) of section
30 46-656.28 and is in effect immediately prior to such date, the department
31 need not evaluate the geographic area subject to the plan in the

1 department's first annual report issued pursuant to section 46-713. For
2 purposes of the Nebraska Ground Water Management and Protection Act, (a)
3 the plan adopted shall be considered an integrated management plan
4 adopted pursuant to section 46-718, (b) the management area designated
5 shall be considered an integrated management area or subarea designated
6 pursuant to section 46-718, and (c) the controls adopted shall be
7 considered controls adopted pursuant to section 46-718 and shall remain
8 in effect until amended or repealed pursuant to section 46-718 or 46-719.

9 **Sec. 220.** Section 46-721, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-721 Each state agency and political subdivision shall promptly
12 report to the department ~~Department of Environment and Energy~~ any
13 information which indicates that contamination is occurring.

14 **Sec. 221.** Section 46-722, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-722 If, as a result of information provided pursuant to section
17 46-721 or studies conducted by or otherwise available to the department
18 ~~Department of Environment and Energy~~ and following preliminary
19 investigation, the Director of Water, Energy, and Environment ~~Director of~~
20 ~~Environment and Energy~~ makes a preliminary determination (1) that there
21 is reason to believe that contamination of ground water is occurring or
22 likely to occur in an area of the state in the reasonably foreseeable
23 future and (2) that the natural resources district or districts in which
24 the area is located have not designated a management area or have not
25 implemented adequate controls to prevent such contamination from
26 occurring, the department shall, in cooperation with any appropriate
27 state agency and district, conduct a study to determine the source or
28 sources of the contamination and the area affected by such contamination
29 and shall issue a written report within one year of the initiation of the
30 study. During the study, the department shall consider the relevant water
31 quality portions of the management plan developed by each district

1 pursuant to sections 46-709 to 46-711, whether the district has
2 designated a management area encompassing the area studied, and whether
3 the district has adopted any controls for the area.

4 **Sec. 222.** Section 46-723, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-723 If the Director of Water, Energy, and Environment ~~Director of~~
7 ~~Environment and Energy~~ determines from the study conducted pursuant to
8 section 46-722 that one or more sources of contamination are point
9 sources, he or she shall expeditiously use the procedures authorized in
10 the Environmental Protection Act to stabilize or reduce the level and
11 prevent the increase or spread of such contamination.

12 **Sec. 223.** Section 46-724, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-724 If the Director of Water, Energy, and Environment ~~Director of~~
15 ~~Environment and Energy~~ determines from the study conducted pursuant to
16 section 46-722 that one or more sources of contamination are not point
17 sources and if a management area, a purpose of which is protection of
18 water quality, has been established which includes the affected area, the
19 director ~~Director of Environment and Energy~~ shall consider whether to
20 require the district which established the management area to adopt an
21 action plan as provided in sections 46-725 to 46-729.

22 If the director ~~Director of Environment and Energy~~ determines that
23 one or more of the sources are not point sources and if such a management
24 area has not been established or does not include all the affected area,
25 he or she shall, within thirty days after completion of the report
26 required by section 46-722, consult with the district within whose
27 boundaries the area affected by such contamination is located and fix a
28 time and place for a public hearing to consider the report, hear any
29 other evidence, and secure testimony on whether a management area should
30 be designated or whether an existing area should be modified. The hearing
31 shall be held within one hundred twenty days after completion of the

1 report. Notice of the hearing shall be given as provided in section
2 46-743, and the hearing shall be conducted in accordance with such
3 section.

4 At the hearing, all interested persons shall be allowed to appear
5 and present testimony. The Conservation and Survey Division of the
6 University of Nebraska, the Department of Health and Human Services, the
7 ~~Department of Natural Resources~~, and the appropriate district may offer
8 as evidence any information in their possession which they deem relevant
9 to the purpose of the hearing. After the hearing and after any studies or
10 investigations conducted by or on behalf of the director ~~Director of~~
11 ~~Environment and Energy~~ as he or she deems necessary, the director shall
12 determine whether a management area shall be designated.

13 **Sec. 224.** Section 46-725, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-725 (1) When determining whether to designate or modify the
16 boundaries of a management area or to require a district which has
17 established a management area, a purpose of which is protection of water
18 quality, to adopt an action plan for the affected area, the Director of
19 Water, Energy, and Environment ~~Director of Environment and Energy~~ shall
20 consider:

21 (a) Whether contamination of ground water has occurred or is likely
22 to occur in the reasonably foreseeable future;

23 (b) Whether ground water users, including, but not limited to,
24 domestic, municipal, industrial, and agricultural users, are experiencing
25 or will experience within the foreseeable future substantial economic
26 hardships as a direct result of current or reasonably anticipated
27 activities which cause or contribute to contamination of ground water;

28 (c) Whether methods are available to stabilize or reduce the level
29 of contamination;

30 (d) Whether, if a management area has been established which
31 includes the affected area, the controls adopted by the district pursuant

1 to section 46-739 as administered and enforced by the district are
2 sufficient to address the ground water quality issues in the management
3 area; and

4 (e) Administrative factors directly affecting the ability to
5 implement and carry out regulatory activities.

6 (2) If the director ~~Director of Environment and Energy~~ determines
7 that no such area should be established, he or she shall issue an order
8 declaring that no management area shall be designated.

9 (3) If the director ~~Director of Environment and Energy~~ determines
10 that a management area shall be established, that the boundaries of an
11 existing management area shall be modified, or that the district shall be
12 required to adopt an action plan, he or she shall consult with relevant
13 state agencies and with the district or districts affected and determine
14 the boundaries of the area, taking into account the effect on political
15 subdivisions and the socioeconomic and administrative factors directly
16 affecting the ability to implement and carry out local ground water
17 management, control, and protection. The report by the director ~~Director~~
18 ~~of Environment and Energy~~ shall include the specific reasons for the
19 creation of the management area or the requirement of such an action plan
20 and a full disclosure of the possible causes.

21 (4) When the boundaries of an area have been determined or modified,
22 the director ~~Director of Environment and Energy~~ shall issue an order
23 designating the area as a management area, specifying the modified
24 boundaries of the management area, or requiring such an action plan. Such
25 an order shall include a geographic and stratigraphic definition of the
26 area. Such order shall be published in the manner provided in section
27 46-744.

28 **Sec. 225.** Section 46-726, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-726 (1) Within one hundred eighty days after the designation of a
31 management area or the requiring of an action plan for a management area,

1 a purpose of which is protection of water quality, the district or
2 districts within whose boundaries the area is located shall prepare an
3 action plan designed to stabilize or reduce the level and prevent the
4 increase or spread of ground water contamination. Whenever a management
5 area or the affected area of such a management area encompasses portions
6 of two or more districts, the responsibilities and authorities delegated
7 in this section shall be exercised jointly and uniformly by agreement of
8 the respective boards of all districts so affected.

9 (2) Within thirty days after an action plan has been prepared, a
10 public hearing on such plan shall be held by the district. Notice of the
11 hearing shall be given as provided in section 46-743, and the hearing
12 shall be conducted in accordance with such section.

13 (3) Within thirty days after the hearing, the district shall adopt
14 and submit an action plan to the department ~~Department of Environment and~~
15 ~~Energy~~. Notice of the district's order adopting an action plan shall be
16 published as required by section 46-744.

17 **Sec. 226.** Section 46-728, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-728 (1) In adopting or amending an action plan authorized by
20 subsection (2) of this section, the district's considerations shall
21 include, but not be limited to, whether it reasonably appears that such
22 action will mitigate or eliminate the condition which led to designation
23 of the management area or the requirement of an action plan for a
24 management area or will improve the administration of the area.

25 (2) The Director of Water, Energy, and Environment ~~Director of~~
26 ~~Environment and Energy~~ shall approve or deny the adoption or amendment of
27 an action plan within one hundred twenty days after the date the plan is
28 submitted by the district. He or she may hold a public hearing to
29 consider testimony regarding the action plan prior to the issuance of an
30 order approving or disapproving the adoption or amendment. In approving
31 the adoption or amendment of the plan in such an area, considerations

1 shall include, but not be limited to, those enumerated in subsection (1)
2 of this section.

3 (3) If the director denies approval of an action plan by the
4 district, the order shall list the reason the action plan was not
5 approved. A district may submit a revised action plan within sixty days
6 after denial of its original action plan to the director for approval
7 subject to section 46-731.

8 **Sec. 227.** Section 46-729, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-729 Following approval of the action plan by the Director of
11 Water, Energy, and Environment ~~Director of Environment and Energy~~, the
12 district shall cause a copy of the order adopted pursuant to section
13 46-728 to be published in the manner provided in section 46-744.

14 **Sec. 228.** Section 46-730, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-730 Each district in which a management area has been designated
17 or an action plan for a management area has been required pursuant to
18 section 46-725 shall, in cooperation with the department ~~Department of~~
19 ~~Environment and Energy~~, establish a program to monitor the quality of the
20 ground water in the area and shall if appropriate provide each landowner
21 or operator of an irrigation system with current information available
22 with respect to fertilizer and chemical usage for the specific soil types
23 present and cropping patterns used.

24 **Sec. 229.** Section 46-731, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-731 (1) The power to specify controls authorized by section
27 46-739 shall vest in the Director of Water, Energy, and Environment
28 ~~Director of Environment and Energy~~ if (a) at the end of one hundred
29 eighty days following the designation of a management area or the
30 requiring of an action plan for a management area pursuant to section
31 46-725, a district encompassed in whole or in part by the management area

1 has not completed and adopted an action plan, (b) a district does not
2 submit a revised action plan within sixty days after denial of its
3 original action plan, or (c) the district submits a revised action plan
4 which is not approved by the director.

5 (2) If the power to specify controls in such a management area is
6 vested in the director ~~Director of Environment and Energy~~, he or she
7 shall within ninety days adopt and promulgate by rule and regulation such
8 measures as he or she deems necessary for carrying out the intent of the
9 Nebraska Ground Water Management and Protection Act. He or she shall
10 conduct one or more public hearings prior to the adoption of controls.
11 Notice of any such additional hearings shall be given in the manner
12 provided in section 46-743. The enforcement of controls adopted pursuant
13 to this section shall be the responsibility of the department ~~Department~~
14 ~~of Environment and Energy~~.

15 **Sec. 230.** Section 46-732, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-732 The controls in the action plan approved by the Director of
18 Water, Energy, and Environment ~~Director of Environment and Energy~~
19 pursuant to section 46-728 shall be exercised by the district for the
20 period of time necessary to stabilize or reduce the level of
21 contamination and prevent the increase or spread of ground water
22 contamination. An action plan may be amended by the same method utilized
23 in the adoption of the action plan.

24 **Sec. 231.** Section 46-733, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-733 A district may petition the Director of Water, Energy, and
27 Environment ~~Director of Environment and Energy~~ to remove the director's
28 designation of the area as a management area or the requirement of an
29 action plan for a management area or to modify the boundaries of a
30 management area designated pursuant to section 46-725. If the director
31 determines that the level of contamination in a management area has

1 stabilized at or been reduced to a level which is not detrimental to
2 beneficial uses of ground water, he or she may remove the designation or
3 action plan requirement or modify the boundaries of the management area.

4 **Sec. 232.** Section 46-736, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-736 An application for a permit or late permit for a water well
7 in a management area shall be denied only if the district in which the
8 water well is to be located finds (1) that the location or operation of
9 the proposed water well or other work would conflict with any regulations
10 or controls adopted by the district, (2) that the proposed use would not
11 be a beneficial use of water, or (3) in the case of a late permit only,
12 that the applicant did not act in good faith in failing to obtain a
13 timely permit.

14 If the district finds that the application is incomplete or
15 defective, it shall return the application for correction. If the
16 correction is not made within sixty days, the application shall be
17 canceled. All permits shall be issued with or without conditions attached
18 or denied not later than thirty days after receipt by the district of a
19 complete and properly prepared application.

20 A permit issued shall specify all regulations and controls adopted
21 by a district relevant to the construction or utilization of the proposed
22 water well. No refund of any application fees shall be made regardless of
23 whether the permit is issued, canceled, or denied. The district shall
24 transmit one copy of each permit issued to the department ~~Director of~~
25 ~~Natural Resources~~.

26 **Sec. 233.** Section 46-737, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-737 The issuance by the district of a permit pursuant to section
29 46-736 or registration of a water well by the department ~~Director of~~
30 ~~Natural Resources~~ pursuant to section 46-602 shall not vest in any person
31 the right to violate any district rule, regulation, or control in effect

1 on the date of issuance of the permit or the registration of the water
2 well or to violate any rule, regulation, or control properly adopted
3 after such date.

4 **Sec. 234.** Section 46-739, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-739 (1) A district in which a management area has been designated
7 shall by order adopt one or more of the following controls for the
8 management area:

9 (a) It may allocate the amount of ground water that may be withdrawn
10 by ground water users;

11 (b) It may adopt a system of rotation for use of ground water;

12 (c) It may adopt well-spacing requirements more restrictive than
13 those found in sections 46-609 and 46-651;

14 (d) It may require the installation of devices for measuring ground
15 water withdrawals from water wells;

16 (e) It may adopt a system which requires reduction of irrigated
17 acres pursuant to subsection (2) of section 46-740;

18 (f) It may limit or prevent the expansion of irrigated acres or
19 otherwise limit or prevent increases in the consumptive use of ground
20 water withdrawals from water wells used for irrigation or other
21 beneficial purposes;

22 (g) It may require the use of best management practices;

23 (h) It may require the analysis of water or deep soils for
24 fertilizer and chemical content;

25 (i) It may impose mandatory educational requirements designed to
26 protect water quality or to stabilize or reduce the incidence of ground
27 water depletion, conflicts between ground water users and surface water
28 appropriators, disputes over interstate compacts or decrees, or
29 difficulties fulfilling the provisions of other formal state contracts or
30 agreements;

31 (j) It may require water quality monitoring and reporting of results

1 to the district for all water wells within all or part of the management
2 area;

3 (k) It may require district approval of (i) transfers of ground
4 water off the land where the water is withdrawn, (ii) transfers of rights
5 to use ground water that result from district allocations imposed
6 pursuant to subdivision (1)(a) of this section or from other restrictions
7 on use that are imposed by the district in accordance with this section,
8 (iii) transfers of certified water uses or certified irrigated acres
9 between landowners or other persons, or (iv) transfers of certified water
10 uses or certified irrigated acres between parcels or tracts under the
11 control of a common landowner or other person. Such approval may be
12 required whether the transfer is within the management area, from inside
13 to outside the management area, or from outside to inside the management
14 area, except that transfers for which permits have been obtained from the
15 Department of Natural Resources, as it existed, prior to July 16, 2004,
16 or pursuant to the Municipal and Rural Domestic Ground Water Transfers
17 Permit Act shall not be subject to district approval pursuant to this
18 subdivision. If the district adopts rules and regulations pursuant to
19 this subdivision, such regulations shall require that the district deny
20 or condition the approval of any such transfer when and to the extent
21 such action is necessary to (A) ensure the consistency of the transfer
22 with the purpose or purposes for which the management area was
23 designated, (B) prevent adverse effects on other ground water users or on
24 surface water appropriators, (C) prevent adverse effects on the state's
25 ability to comply with an interstate compact or decree or to fulfill the
26 provisions of any other formal state contract or agreement, and (D)
27 otherwise protect the public interest and prevent detriment to the public
28 welfare. Approval of any transfer of certified water uses or certified
29 irrigated acres under subdivision (1)(k)(iii) or (iv) of this section
30 shall further be subject to the district having complied with the
31 requirements of section 46-739.01;

1 (1) It may require, when conditions so permit, that new or
2 replacement water wells to be used for domestic or other purposes shall
3 be constructed to such a depth that they are less likely to be affected
4 by seasonal water level declines caused by other water wells in the same
5 area;

6 (m) It may close all or a portion of the management area to the
7 issuance of additional permits or may condition the issuance of
8 additional permits on compliance with other rules and regulations adopted
9 and promulgated by the district to achieve the purpose or purposes for
10 which the management area was designated; and

11 (n) It may adopt and promulgate such other reasonable rules and
12 regulations as are necessary to carry out the purpose for which a
13 management area was designated.

14 (2) In adopting, amending, or repealing any control authorized by
15 subsection (1) of this section or sections 46-740 and 46-741, the
16 district's considerations shall include, but not be limited to, whether
17 it reasonably appears that such action will mitigate or eliminate the
18 condition which led to designation of the management area or will improve
19 the administration of the area.

20 (3) Upon request by the district or when any of the controls being
21 proposed are for the purpose of integrated management of hydrologically
22 connected ground water and surface water, the Chief Water Officer
23 ~~Director of Natural Resources~~ shall review and comment on the adoption,
24 amendment, or repeal of any authorized control in a management area. The
25 Chief Water Officer ~~director~~ may hold a public hearing to consider
26 testimony regarding the control prior to commenting on the adoption,
27 amendment, or repeal of the control. The Chief Water Officer ~~director~~
28 shall consult with the district and fix a time, place, and date for such
29 hearing. In reviewing and commenting on an authorized control in a
30 management area, the Chief Water Officer's ~~director's~~ considerations
31 shall include, but not be limited to, those enumerated in subsection (2)

1 of this section.

2 (4) If because of varying ground water uses, varying surface water
3 uses, different irrigation distribution systems, or varying climatic,
4 hydrologic, geologic, or soil conditions existing within a management
5 area the uniform application throughout such area of one or more controls
6 would fail to carry out the intent of the Nebraska Ground Water
7 Management and Protection Act in a reasonably effective and equitable
8 manner, the controls adopted by the district pursuant to this section may
9 contain different provisions for different categories of ground water use
10 or portions of the management area which differ from each other because
11 of varying climatic, hydrologic, geologic, or soil conditions. Any
12 differences in such provisions shall recognize and be directed toward
13 such varying ground water uses or varying conditions. Except as otherwise
14 provided in this section, if the district adopts different controls for
15 different categories of ground water use, those controls shall be
16 consistent with section 46-613 and shall, for each such category, be
17 uniform for all portions of the area which have substantially similar
18 climatic, hydrologic, geologic, and soil conditions.

19 (5) The district may establish different water allocations for
20 different irrigation distribution systems.

21 (6)(a) The district may establish different provisions for different
22 hydrologic relationships between ground water and surface water.

23 (b) For management areas a purpose of which is the integrated
24 management of hydrologically connected ground water and surface water,
25 the district may establish different provisions for water wells either
26 permitted or constructed before the designation of a management area for
27 integrated management of hydrologically connected ground water and
28 surface water and for water wells either permitted or constructed on or
29 after the designation date or any other later date or dates established
30 by the district. Permits for construction of new wells not completed by
31 the date of the determination of fully appropriated shall be subject to

1 any conditions imposed by the applicable natural resources district.

2 (c) For a management area in a river basin or part of a river basin
3 that is or was the subject of litigation over an interstate water compact
4 or decree in which the State of Nebraska is a named defendant, the
5 district may establish different provisions for restriction of water
6 wells constructed after January 1, 2001, if such litigation was commenced
7 before or on May 22, 2001. If such litigation is commenced after May 22,
8 2001, the district may establish different provisions for restriction of
9 water wells constructed after the date on which such litigation is
10 commenced in federal court. An appeal from a decision of the district
11 under this subdivision shall be in accordance with the hearing procedures
12 established in the Nebraska Ground Water Management and Protection Act.

13 (d) Except as otherwise authorized by law, the district shall make a
14 replacement water well as defined in section 46-602, or as further
15 defined in district rules and regulations, subject to the same provisions
16 as the water well it replaces.

17 (7) If the district has included controls delineated in subdivision
18 (1)(m) of this section in its management plan, but has not implemented
19 such controls within two years after the initial public hearing on the
20 controls, the district shall hold a public hearing, as provided in
21 section 46-712, regarding the controls before implementing them.

22 (8) In addition to the controls listed in subsection (1) of this
23 section, a district in which a management area has been designated may
24 also adopt and implement one or more of the following measures if it
25 determines that any such measures would help the district and water users
26 achieve the goals and objectives of the management area: (a) It may
27 sponsor nonmandatory educational programs; and (b) it may establish and
28 implement financial or other incentive programs. As a condition for
29 participation in an incentive program, the district may require water
30 users or landowners to enter into and perform such agreements or
31 covenants concerning the use of land or water as are necessary to produce

1 the benefits for which the incentive program is established and shall
2 further condition participation upon satisfaction of the requirements of
3 section 46-739.01.

4 **Sec. 235.** Section 46-740, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-740 (1) If allocation is adopted for use of ground water for
7 irrigation purposes in a management area, the permissible withdrawal of
8 ground water shall be allocated equally per irrigated acre except as
9 permitted by subsections (4) through (6) of section 46-739. Such
10 allocation shall specify the total number of acre-inches that are
11 allocated per irrigated acre per year, except that the district may allow
12 a ground water user to average his or her allocation over any reasonable
13 period of time. A ground water user may use his or her allocation on all
14 or any part of the irrigated acres to which the allocation applies or in
15 any other manner approved by the district.

16 (2) Except as permitted pursuant to subsections (4) through (6) of
17 section 46-739, if annual rotation or reduction of irrigated acres is
18 adopted for use of ground water for irrigation purposes in a management
19 area, the nonuse of irrigated acres shall be a uniform percentage
20 reduction of each landowner's irrigated acres within the management area
21 or a subarea of the management area. Such uniform reduction may be
22 adjusted for each landowner based upon crops grown on his or her land to
23 reflect the varying consumptive requirements between crops.

24 (3) Unless an integrated management plan, a rule, or an order is
25 established, adopted, or issued prior to November 1, 2005, no integrated
26 management plan, rule, or order shall limit the use of ground water by a
27 municipality, within an area determined by the Chief Water Officer
28 ~~Department of Natural Resources~~ to be fully appropriated pursuant to
29 section 46-714 or designated as overappropriated pursuant to section
30 46-713, until January 1, 2026, except that:

31 (a) Any allocations to a municipality that have been made as of

1 November 1, 2005, shall remain in full force and effect unless changed by
2 the appropriate natural resources district;

3 (b)(i) For any municipality that has not received an allocation as
4 of November 1, 2005, the minimum annual allocation may be the greater of
5 either the amount of ground water authorized by a permit issued pursuant
6 to the Municipal and Rural Domestic Ground Water Transfers Permit Act or
7 the governmental, commercial, and industrial uses of the municipality
8 plus a per capita allowance. Water for commercial and industrial uses may
9 be limited as specified in subdivision (b)(iii) of this subsection.

10 (ii) The per capita allowance shall be based on the location of the
11 municipality, increasing in equal increments from east to west, and shall
12 not be less than two hundred gallons per person per day at 95 degrees, 19
13 minutes, 00 seconds longitude and not less than two hundred fifty gallons
14 per person per day at 104 degrees, 04 minutes, 00 seconds longitude.
15 Persons served by a municipality outside of its corporate limits shall be
16 considered part of the municipality's population if such service begins
17 prior to January 1, 2026.

18 (iii) Prior to January 1, 2026, any new or expanded single
19 commercial or single industrial development served by any municipality
20 within the fully appropriated or overappropriated area which, after July
21 14, 2006, commences water use resulting in the consumptive use of water
22 in amounts greater than twenty-five million gallons annually may be
23 subject to controls adopted pursuant to section 46-715;

24 (c) Prior to January 1, 2026, increases in the consumptive use of
25 water by a municipality that result in a decrease in streamflow shall be
26 addressed by the integrated management plan pursuant to controls or
27 incentive programs adopted pursuant to section 46-715 and shall not
28 affect the municipal allocations outlined in subdivisions (3)(a) and (b)
29 of this section. Any permanent reduction in consumptive use of water
30 associated with municipal growth, including governmental, industrial, and
31 commercial growth, during the period between July 14, 2006, and January

1 1, 2026, shall accrue to the benefit of the natural resources district
2 within which such municipality is located; and

3 (d) To qualify for the exemption specified in subsection (3) of this
4 section, any city of the metropolitan class, city of the primary class,
5 city of the first class, or city of the second class shall file a
6 conservation plan with the natural resources district, if required by the
7 integrated management plan. Villages and other municipalities smaller
8 than a city of the second class shall not be required to submit a
9 conservation plan to qualify for such exemption.

10 (4) On and after January 1, 2026, the base amount for an annual
11 allocation to a municipality shall be determined as the greater of either
12 (a) the amount of water authorized by a permit issued pursuant to the
13 Municipal and Rural Domestic Ground Water Transfers Permit Act or (b) the
14 greatest annual use prior to January 1, 2026, for uses specified in
15 subdivision (3)(b) of this section plus the per capita allowance
16 described in subdivision (3)(b)(ii) of this section. On and after January
17 1, 2026, increases in the consumptive use of water by a municipality that
18 result in a decrease in streamflow shall be addressed by the integrated
19 management plan pursuant to controls or incentive programs adopted
20 pursuant to section 46-715. Each municipality may be subject to controls
21 adopted pursuant to such section for amounts in excess of the
22 allocations.

23 (5) Unless an integrated management plan, rule, or order is
24 established, adopted, or issued prior to November 1, 2005, no integrated
25 management plan, rule, or order shall limit the use of ground water by a
26 nonmunicipal commercial or industrial water user within an area
27 determined by the Department of Natural Resources as it existed prior to
28 July 1, 2025, or the Chief Water Officer ~~department~~ to be fully
29 appropriated pursuant to section 46-714 or designated as overappropriated
30 pursuant to section 46-713, until January 1, 2026, except that:

31 (a) Prior to January 1, 2026, the minimum annual allocation for a

1 nonmunicipal commercial or industrial user shall be the greater of either
2 (i) the amount specified in a permit issued pursuant to the Industrial
3 Ground Water Regulatory Act or (ii) the amount necessary to achieve the
4 commercial or industrial use, including all new or expanded uses that
5 consume less than twenty-five million gallons annually. Any increases in
6 the consumptive use of water by a nonmunicipal commercial or industrial
7 water user that result in a decrease in streamflow shall be addressed by
8 the integrated management plan pursuant to controls or incentive programs
9 adopted pursuant to section 46-715;

10 (b) Prior to January 1, 2026, any new or expanded single commercial
11 or industrial development served by a nonmunicipal well within an area
12 determined by the Department of Natural Resources as it existed prior to
13 July 1, 2025, or the Chief Water Officer ~~department~~ to be fully
14 appropriated pursuant to section 46-714 or designated as overappropriated
15 pursuant to section 46-713 which, after July 14, 2006, commences water
16 use resulting in the consumptive use of water in amounts greater than
17 twenty-five million gallons annually may be subject to controls adopted
18 pursuant to section 46-715. This subdivision does not apply to a water
19 user described in this subdivision that is regulated by the Industrial
20 Ground Water Regulatory Act and the United States Nuclear Regulatory
21 Commission;

22 (c) On and after January 1, 2026, the base amount for an annual
23 allocation to a nonmunicipal commercial or industrial user within an area
24 determined by the Chief Water Officer ~~department~~ to be fully appropriated
25 pursuant to section 46-714 or designated as overappropriated pursuant to
26 section 46-713 shall be the amount specified in subdivision (5)(a) or (b)
27 of this section;

28 (d) On and after January 1, 2026, increases in the consumptive use
29 of water by a nonmunicipal commercial or industrial water user that
30 result in a decrease in streamflow shall be addressed by the integrated
31 management plan pursuant to controls or incentive programs adopted

1 pursuant to section 46-715; and

2 (e) Any reduction in consumptive use associated with new
3 nonmunicipal industrial or commercial uses of less than twenty-five
4 million gallons, during the period between July 14, 2006, and January 1,
5 2026, shall accrue to the benefit of the natural resources district
6 within which such nonmunicipal industrial or commercial user is located.

7 **Sec. 236.** Section 46-742, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-742 (1) Whenever the drilling of new wells has been stayed
10 pursuant to section 46-714, ground water withdrawn outside the affected
11 area shall not be transported for use inside such area unless (a) such
12 withdrawal and transport began before the stay took effect, (b) the water
13 is used solely for domestic purposes, or (c) such withdrawal and
14 transport is approved in advance by the district in which the stay is in
15 effect and, if the water is withdrawn in another natural resources
16 district, by the other district.

17 (2) Whenever a natural resources district pursuant to subdivision
18 (1)(m) of section 46-739 has closed all or part of the district to the
19 issuance of additional well permits, ground water withdrawn outside the
20 affected area shall not be transported for use inside such area unless
21 (a) such withdrawal and transport began before the affected area was
22 closed to the issuance of additional well permits, (b) the water is used
23 solely for domestic purposes, or (c) such withdrawal and transport is
24 approved in advance by the district that closed the affected area to
25 additional well permits and, if the water is withdrawn in another natural
26 resources district, by the other district.

27 (3) If a proposed withdrawal and transport of water under subsection
28 (1) or (2) of this section is intended for municipal purposes, the
29 natural resources district shall approve the withdrawal and transport of
30 ground water into the affected area when a public water supplier
31 providing water for municipal purposes receives a permit from the Chief

1 ~~Water Officer Department of Natural Resources~~ pursuant to the Municipal
2 and Rural Domestic Ground Water Transfers Permit Act.

3 **Sec. 237.** Section 46-743, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-743 Any public hearing required under the Nebraska Ground Water
6 Management and Protection Act shall comply with the following
7 requirements:

8 (1) The hearing shall be located within or in reasonable proximity
9 to the area proposed for designation as a management area or affected by
10 the proposed rule or regulation;

11 (2) Notice of the hearing shall be published in a newspaper
12 published or of general circulation in the affected area at least once
13 each week for three consecutive weeks, the last publication of which
14 shall be not less than seven days prior to the hearing;

15 (3) As to the designation of a management area, adoption or
16 amendment of an action plan or integrated management plan, or adoption or
17 amendment of controls, the notice shall provide, as applicable, a general
18 description of (a) the contents of the plan, (b) the geographic area
19 which will be considered for inclusion in the management area, and (c) a
20 general description of all controls proposed for adoption or amendment
21 and shall identify all locations where a copy of the full text of the
22 proposed plan or controls may be obtained;

23 (4) For all other rules and regulations, the notice shall provide a
24 general description of the contents of the rules and regulations proposed
25 for adoption or amendment and shall identify all locations where a copy
26 of the full text of the proposed rules and regulations may be obtained;

27 (5) The full text of all controls, rules, or regulations shall be
28 available to the public upon request not later than the date of first
29 publication;

30 (6) All interested persons shall be allowed to appear and present
31 testimony; and

1 (7) The hearing shall include testimony of a representative of the
2 ~~department Department of Natural Resources and, if the primary purpose of~~
3 ~~the proposed management area is protection of water quality, testimony of~~
4 ~~a representative of the Department of Environment and Energy~~ and shall
5 include the results of any relevant water quality studies or
6 investigations conducted by the district.

7 **Sec. 238.** Section 46-744, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-744 Any order adopted pursuant to section 46-712, 46-718, 46-719,
10 46-725, or 46-726 shall be published once each week for three consecutive
11 weeks in a local newspaper published or of general circulation in the
12 area involved, the last publication of which shall be not less than seven
13 days prior to the date set for the effective date of the order. The
14 publication shall provide a general description of the text of all
15 controls adopted or amended and shall identify all locations where a copy
16 of the full text of the proposed controls may be obtained. The full text
17 of all controls adopted shall be available to the public upon request at
18 least thirty days prior to the effective date of the controls.

19 Such order shall become effective on the date specified by the
20 adopting district, Chief Water Officer, department, or board, as
21 applicable.

22 **Sec. 239.** Section 46-745, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-745 (1) Any person who violates a cease and desist order issued
25 by a district pursuant to section 46-707 shall be subject to a civil
26 penalty of not less than one thousand dollars and not more than five
27 thousand dollars for each day an intentional violation occurs. In
28 assessing the amount of the civil penalty, the court shall consider the
29 degree and extent of the violation, the size of the operation, whether
30 the violator has been previously convicted or subjected to a civil
31 penalty under this section, and any economic benefit derived from

1 noncompliance. Any civil penalty assessed and unpaid shall constitute a
2 debt to the state which may be collected in the manner of a lien
3 foreclosure or sued for and recovered in a proper form of action in the
4 name of the state in the district court of the county in which the
5 violator resides or owns property. The court shall remit the civil
6 penalty to the State Treasurer, within thirty days after receipt, for
7 distribution in accordance with Article VII, section 5, of the
8 Constitution of Nebraska ~~The court shall, within thirty days after~~
9 ~~receipt, remit the civil penalty to the State Treasurer for credit to the~~
10 ~~permanent school fund.~~

11 (2)(a) Prior to issuing a cease and desist order against a public
12 water supplier as defined in section 46-638, the district shall consult
13 with the Attorney General. If the Attorney General determines that the
14 district does not have sufficient grounds to issue a cease and desist
15 order, the district shall abide by such determination and shall not issue
16 a cease and desist order. The Attorney General shall have exclusive
17 authority to enforce actions under this subsection.

18 (b) Any determination as to whether a water well is properly
19 registered under sections 46-602 to 46-604 shall be made by the
20 department. Any determination as to ~~or whether a water well is properly~~
21 ~~permitted under the Municipal and Rural Domestic Ground Water Transfers~~
22 ~~Permit Act shall be made by the~~ Chief Water Officer ~~Department of Natural~~
23 ~~Resources.~~

24 (3) When the Attorney General, a county attorney, or a private
25 attorney brings an action on behalf of a district to recover a civil
26 penalty under this section, the district shall recover the costs of the
27 action if a civil penalty is awarded. Any recovered costs of the action
28 shall be: (a) Remitted to the State Treasurer for credit to the
29 Department of Justice Natural Resources Enforcement Fund if the action is
30 brought by the Attorney General; (b) credited to the applicable county
31 fund if the action is brought by the county attorney; and (c) remitted to

1 the district if the action is brought by the district's private attorney.

2 (4) The Department of Justice Natural Resources Enforcement Fund is
3 created. The fund shall consist of money credited pursuant to subsection
4 (3) of this section. Money in the fund shall be used to reimburse the
5 office of the Attorney General for the costs incurred in enforcing this
6 section. Any money in the fund available for investment shall be invested
7 by the state investment officer pursuant to the Nebraska Capital
8 Expansion Act and the Nebraska State Funds Investment Act.

9 **Sec. 240.** Section 46-746, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-746 (1) Any person who violates any cease and desist order issued
12 by a district pursuant to section 46-707 or any controls, rules, or
13 regulations adopted by a natural resources district relating to a
14 management area shall be subject to the imposition of penalties imposed
15 through the controls adopted by the district, including, but not limited
16 to, having any allocation of water granted or irrigated acres certified
17 by the district reduced in whole or in part. Before a district takes any
18 action, notice and hearing shall be provided to such person.

19 (2) Any person who violates any of the provisions of sections 46-721
20 to 46-733 for which a penalty is not otherwise provided, other than the
21 requirements imposed on a district, the Chief Water Officer of the
22 Department of Water, Energy, and Environment, the Director of Water,
23 Energy, and Environment ~~Director of Natural Resources~~, or the ~~department~~
24 ~~Department of Natural Resources~~, shall be subject to a civil penalty of
25 not more than five hundred dollars. Each day of continued violation shall
26 constitute a separate offense.

27 **Sec. 241.** Section 46-748, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-748 The Chief Water Officer ~~Director of Natural Resources~~ shall
30 adopt and promulgate, in accordance with the Administrative Procedure
31 Act, such rules and regulations as are necessary to the discharge of

1 duties assigned to the Chief Water Officer ~~director or the Department of~~
2 ~~Natural Resources~~ by the Nebraska Ground Water Management and Protection
3 Act.

4 **Sec. 242.** Section 46-749, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-749 In the administration of the Nebraska Ground Water Management
7 and Protection Act, all actions of the Director of Water, Energy, and
8 Environment, the Chief Water Officer, ~~Director of Environment and Energy,~~
9 ~~the Director of Natural Resources,~~ and the districts shall be consistent
10 with the provisions of section 46-613.

11 **Sec. 243.** Section 46-750, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-750 Any person aggrieved by any order of the district, the Chief
14 Water Officer, or ~~the~~ Director of Water, Energy, and Environment
15 ~~Director of Environment and Energy, or the Director of Natural Resources~~
16 issued pursuant to the Nebraska Ground Water Management and Protection
17 Act may appeal the order. The appeal shall be in accordance with the
18 Administrative Procedure Act.

19 **Sec. 244.** Section 46-751, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-751 All fees paid to the Chief Water Officer ~~Director of Natural~~
22 ~~Resources~~ pursuant to the Nebraska Ground Water Management and Protection
23 Act shall be remitted to the State Treasurer for credit to the Ground
24 Water Management Fund which is hereby created and which shall be
25 administered by the Chief Water Officer ~~director~~. Any money credited to
26 the fund may be utilized by the Chief Water Officer ~~director~~ for payments
27 of expenses incurred in the administration of the act. Any money in the
28 fund available for investment shall be invested by the state investment
29 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
30 State Funds Investment Act.

31 **Sec. 245.** Section 46-753, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-753 (1) The Water Resources Trust Fund is created. The State
3 Treasurer shall credit to the fund such money as is specifically
4 appropriated thereto by the Legislature, transfers authorized by the
5 Legislature, and such funds, fees, donations, gifts, or bequests received
6 by the department ~~Department of Natural Resources~~ from any federal,
7 state, public, or private source for expenditure for the purposes
8 described in the Nebraska Ground Water Management and Protection Act.
9 Money in the fund shall not be subject to any fiscal-year limitation or
10 lapse provision of unexpended balance at the end of any fiscal year or
11 biennium. Any money in the fund available for investment shall be
12 invested by the state investment officer pursuant to the Nebraska Capital
13 Expansion Act and the Nebraska State Funds Investment Act.

14 (2) The fund shall be administered by the Chief Water Officer
15 ~~department~~. The Chief Water Officer ~~department~~ may adopt and promulgate
16 rules and regulations regarding the allocation and expenditure of money
17 from the fund.

18 (3) Money in the fund may be expended by the Chief Water Officer
19 ~~department~~ for costs incurred by the Chief Water Officer ~~department~~, by
20 natural resources districts, or by other political subdivisions in (a)
21 determining whether river basins, subbasins, or reaches are fully
22 appropriated in accordance with section 46-713, (b) developing or
23 implementing integrated management plans for such fully appropriated
24 river basins, subbasins, or reaches or for river basins, subbasins, or
25 reaches designated as overappropriated in accordance with section 46-713,
26 (c) developing or implementing integrated management plans in river
27 basins, subbasins, or reaches which have not yet become either fully
28 appropriated or overappropriated, or (d) attaining state compliance with
29 an interstate water compact or decree or other formal state contract or
30 agreement.

31 (4) Except for funds paid to a political subdivision for forgoing or

1 reducing its own water use or for implementing projects or programs
2 intended to aid the state in complying with an interstate water compact
3 or decree or other formal state contract or agreement, a political
4 subdivision that receives funds from the fund shall provide, or cause to
5 be provided, matching funds in an amount at least equal to twenty percent
6 of the amount received from the fund by that natural resources district
7 or political subdivision. The Chief Water Officer ~~department~~ shall
8 monitor programs and activities funded by the fund to ensure that the
9 required match is being provided.

10 **Sec. 246.** Section 46-754, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-754 The Interrelated Water Management Plan Program is created for
13 the purpose of facilitating and funding the duties of districts arising
14 under the Nebraska Ground Water Management and Protection Act. The
15 program shall function as a grant program administered by the Nebraska
16 Natural Resources Commission and the Chief Water Officer ~~Department of~~
17 ~~Natural Resources~~ upon recommendations of the commission using funds
18 appropriated for the program. The commission shall develop guidelines and
19 limitations for grant requests for funding such district's duties,
20 including studies required to carry out those duties. Grant requests
21 shall be made to the commission for review in a manner and form
22 prescribed by the commission. The amounts requested and approved shall be
23 supported by a minimum local revenue match comprising twenty percent of
24 the total project cost. The Chief Water Officer ~~Director of Natural~~
25 ~~Resources~~ shall expend funds to implement the commission's
26 recommendations for fiscal support under the program only upon the
27 commission's approval.

28 **Sec. 247.** Section 46-755, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-755 This section shall apply notwithstanding any other provision
31 of the Nebraska Ground Water Management and Protection Act.

1 (1) If a river basin as described in subdivision (2)(a) of section
2 2-1504 includes three or more natural resources districts that, pursuant
3 to subdivision (1)(a) of section 46-715, have been or are required to
4 develop an integrated management plan for all or substantially all
5 (eighty-five percent) of the district, such natural resources districts
6 shall, jointly with the Chief Water Officer ~~department~~ and the natural
7 resources districts within the same basin, develop and adopt a basin-wide
8 plan for the areas of a basin, subbasin, or reach determined by the
9 department to have hydrologically connected water supplies, except that
10 any natural resources district that has developed and implemented a
11 basin-wide plan pursuant to subsection (5) of section 46-715 shall not be
12 affected by this section. If deemed appropriate by the Chief Water
13 Officer ~~department~~ and the affected natural resources districts, the
14 basin-wide plan may combine two or more river basins.

15 (2) An integrated management plan developed under subdivision (1)(a)
16 or (b) of section 46-715 shall ensure such integrated management plan is
17 consistent with any basin-wide plan developed pursuant to this section.
18 However, an integrated management plan may implement additional incentive
19 programs or controls pursuant to section 46-739 if the programs and
20 controls are consistent with the basin-wide plan.

21 (3) A basin-wide plan shall be completed, adopted, and take effect
22 within three years after April 17, 2014, unless the Chief Water Officer
23 ~~department~~ and the natural resources districts jointly agree to an
24 extension of not more than an additional two years.

25 (4) A basin-wide plan shall (a) have clear goals and objectives with
26 a purpose of sustaining a balance between water uses and water supplies
27 so that the economic viability, social and environmental health, safety,
28 and welfare of the river basin, subbasin, or reach can be achieved and
29 maintained for both the near term and the long term, (b) ensure that
30 compliance with any interstate compact or decree or other formal state
31 contract or agreement or applicable state or federal law is maintained,

1 and (c) set forth a timeline to meet the goals and objectives as required
2 under this subdivision, but in no case shall a timeline exceed thirty
3 years after April 17, 2014.

4 (5)(a) A basin-wide plan developed under this section shall utilize
5 the best generally-accepted methodologies and available information,
6 data, and science to evaluate the effect of existing uses of
7 hydrologically connected water on existing surface water and ground water
8 users. The plan shall include a process to gather and evaluate data,
9 information, and methodologies to increase understanding of the surface
10 water and hydrologically connected ground water system within the basin,
11 subbasin, or reach and test the validity of the conclusions, information,
12 and assumptions upon which the plan is based.

13 (b) A basin-wide plan developed under this section shall include a
14 schedule indicating the end date by which the stated goals and objectives
15 are to be achieved and the management actions to be taken to achieve the
16 goals and objectives. To ensure that reasonable progress is being made
17 toward achieving the final goals and objectives of the plan, the schedule
18 shall also include measurable hydrologic objectives and intermediate
19 dates by which the objectives are expected to be met and monitoring plans
20 to measure the extent to which the objectives are being achieved. Such
21 intermediate objectives shall be established in a manner that, if
22 achieved on schedule, will provide a reasonable expectation that the
23 goals of the plan will be achieved by the established end date.

24 (c) A basin-wide plan shall be developed using a consultation and
25 collaboration process involving representatives from irrigation
26 districts, reclamation districts, public power and irrigation districts,
27 mutual irrigation companies, canal companies, ground water users, range
28 livestock owners, the Game and Parks Commission, and municipalities that
29 rely on water from within the affected area and that, after being
30 notified of the commencement of the plan development process, indicate in
31 writing their desire to become an official participant in such process.

1 The Chief Water Officer ~~department~~ and affected natural resources
2 districts shall involve official participants in formulating, evaluating,
3 and recommending plans and management actions and work to reach an
4 agreement among all official participants involved in a basin-wide plan.
5 In addition, the Chief Water Officer ~~department~~ or the affected natural
6 resources districts may include designated representatives of other
7 stakeholders. If agreement is reached by all parties involved in such
8 consultation and collaboration process, the Chief Water Officer
9 ~~department~~ and the affected natural resources districts shall adopt the
10 agreed-upon basin-wide plan. If agreement cannot be reached by all
11 parties involved, the basin-wide plan shall be developed and adopted by
12 the Chief Water Officer ~~department~~ and the affected natural resources
13 districts or by the Interrelated Water Review Board pursuant to section
14 46-719.

15 (d) Within five years after the adoption of the basin-wide plan, and
16 every five years thereafter, the Chief Water Officer ~~department~~ and
17 affected natural resources districts shall conduct a technical analysis
18 of the actions taken in a river basin to determine the progress towards
19 meeting the goals and objectives of the plan. The analysis shall include
20 an examination of (i) available supplies, current uses, and changes in
21 long-term water availability, (ii) the effects of conservation practices
22 and natural causes, including, but not limited to, drought, and (iii) the
23 effects of the plan in meeting the goal of sustaining a balance between
24 water uses and water supplies. The analysis shall determine if changes or
25 modifications to the basin-wide plan are needed to meet the goals and
26 objectives pursuant to subdivision (4)(a) of this section. The Chief
27 Water Officer ~~department~~ and affected natural resources districts shall
28 present the results of the analysis and any recommended modifications to
29 the plan at a public meeting and shall provide for at least a thirty-day
30 public comment period before holding a public hearing on the recommended
31 modifications. The Chief Water Officer ~~department~~ shall submit a report

1 to the Legislature of the results of this analysis and the progress made
2 under the basin-wide plan. The report shall be submitted electronically.
3 Any official participant or stakeholder may submit comments to the Chief
4 Water Officer ~~department~~ and affected natural resources districts on the
5 final basin-wide plan adopted by the Chief Water Officer ~~department~~ and
6 affected natural resources districts, which shall be made a part of the
7 report to the Legislature.

8 (e) Before adoption of a basin-wide plan, the Chief Water Officer
9 ~~department~~ and affected natural resources districts shall schedule at
10 least one public hearing to take testimony on the proposed plan. Any such
11 hearings shall be held in reasonable proximity to the area affected by
12 the plan. Notice of hearings shall be published as provided in section
13 46-743. All interested persons may appear at any hearings and present
14 testimony or provide other evidence relevant to the issues under
15 consideration. Within sixty days after the final hearing, the Chief Water
16 Officer ~~department~~ and affected natural resources districts shall jointly
17 determine whether to adopt the plan.

18 (f) The Chief Water Officer ~~department~~ and the affected natural
19 resources districts may utilize, when necessary, the Interrelated Water
20 Review Board process provided in section 46-719 for disputes arising from
21 developing, implementing, and enforcing a basin-wide plan developed under
22 this section.

23 **Sec. 248.** Section 46-801, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-801 No person shall drain, lower, or in any manner reduce or
26 divert the water supply of any natural or perennial lake, if the area
27 exceeds twenty acres at low water stage or if the lake is of such depth
28 and character as to have more economic importance for aquaculture,
29 hunting, or other purpose than the bed of such lake would have for
30 agricultural purposes. Any person intending to drain, lower, divert, or
31 in any way reduce the waters or water supply of any natural or perennial

1 lake shall, before commencing the construction of any such work for
2 drainage or diversion, make application to the Chief Water Officer of the
3 Department of Water, Energy, and Environment ~~Natural Resources~~ for a
4 permit to do so.

5 **Sec. 249.** Section 46-802, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-802 On the receipt of such application in the form prescribed by
8 the Chief Water Officer ~~Department of Natural Resources~~, the Chief Water
9 Officer ~~department~~ shall cause the same to be recorded in the Chief Water
10 Officer's ~~its~~ office. The Chief Water Officer ~~department~~ shall make a
11 careful examination to ascertain whether it sets forth all the facts
12 necessary to enable the Chief Water Officer ~~department~~ to determine the
13 nature and extent of the proposed work of drainage and diversion. If such
14 an examination shows the application to be in any way defective, the
15 Chief Water Officer ~~it~~ shall return the same to the applicant for
16 correction.

17 **Sec. 250.** Section 46-803, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-803 If the proposed work of drainage or diversion will not result
20 in injury or damage to any person and will not be otherwise detrimental
21 to the public welfare but will result in economic benefit to the state,
22 the Chief Water Officer ~~Department of Natural Resources~~ shall approve the
23 same by endorsement thereon. The Chief Water Officer ~~It~~ shall make a
24 record of such endorsement thereon in some proper manner in the Chief
25 Water Officer's ~~its~~ office. The Chief Water Officer ~~It~~ shall also return
26 the same so endorsed to the applicant. Such applicant shall, upon receipt
27 thereof, be authorized to proceed with the work and to take such measures
28 as may be necessary to its completion.

29 **Sec. 251.** Section 46-804, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-804 If it appears to the Chief Water Officer ~~Department of~~

1 ~~Natural Resources~~ that the proposed works of drainage or diversion will
2 result in injury or damage to any person or will be detrimental to the
3 public welfare and not result in economic benefit to the state, the Chief
4 Water Officer ~~department~~ shall refuse to approve the application. The
5 party making such application shall not prosecute such work so long as
6 such refusal shall continue in force.

7 **Sec. 252.** Section 46-1001, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-1001 As used in sections 46-1001 to 46-1020, unless the context
10 otherwise requires:

11 (1) District means a rural water district organized pursuant to
12 sections 46-1001 to 46-1020;

13 (2) Board means the governing body of a district;

14 (3) The terms county board and county clerk mean, respectively, the
15 county board and county clerk of the county in which the greatest portion
16 of the territory of any existing or proposed rural water district is
17 located;

18 (4) Participating member means an individual, firm, partnership,
19 limited liability company, association, or corporation which owns land
20 located within a district and which has subscribed to one or more benefit
21 units of such district; and

22 (5) Chief Water Officer means the Chief Water Officer of the
23 Department of Water, Energy, and Environment ~~Director means the Director~~
24 ~~of Natural Resources.~~

25 **Sec. 253.** Section 46-1004, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-1004 Whenever a petition as provided in section 46-1003 is filed
28 with the county clerk, the county clerk shall thereupon give notice to
29 the county board of the filing and pendency of such petition and the
30 county board shall forthwith fix a time and place within thirty days
31 after the date of filing of the petition for a hearing of the same, and

1 the county clerk shall, at least seven days before the date fixed for
2 such hearing, give or send by registered or certified mail written notice
3 thereof to each of the petitioners and shall transmit to the Chief Water
4 Officer ~~director~~ one copy of the petition and notice of the time and
5 place the same is set for consideration. The county clerk shall also, at
6 least seven days before the date fixed for such hearing, cause to be
7 published in a newspaper of general circulation in the county a notice of
8 the hearing. The published notice shall (1) define the boundaries of the
9 proposed district; (2) state the time and place of hearing; (3) state
10 that all owners of land within such boundaries may appear and be heard;
11 and (4) state that a rural water district, if incorporated, shall have no
12 power or authority to levy any taxes whatsoever.

13 **Sec. 254.** Section 46-1005, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-1005 At the time and place set for the hearing and consideration
16 of the petition, it shall be the duty of the county board to ascertain
17 (1) whether proper notice of the hearing has been given to the signers of
18 the petition, the Chief Water Officer ~~director~~, and the landowners in the
19 district as required by section 46-1004; (2) whether lands within the
20 area defined in the petition are without an adequate water supply; (3)
21 whether the construction and maintenance of ponds, reservoirs, pipelines,
22 wells, check dams, pumping installations, or any other facility for the
23 storage, transportation, or utilization of water or the construction and
24 maintenance of any combination of such proposed projects are necessary
25 for the improvement of the area. The county board shall make no
26 affirmative finding that any proposed project is necessary if the
27 construction and maintenance of such project would encourage the
28 cultivation of lands which are submarginal and which should be devoted to
29 other uses in the public interest. The county board shall make no
30 affirmative finding that any proposed project is necessary unless the
31 Chief Water Officer ~~director~~ has approved such project; (4) whether such

1 improvement or works will be conducive to and will tend to promote the
2 public health, convenience, and welfare; and (5) whether the boundaries
3 of the proposed district lie within five miles of any incorporated city
4 or village and whether approval for incorporation of the district has
5 been given by the governing body of such city or village. If upon such
6 consideration it is found that such petition is in conformity with the
7 requirements of sections 46-1001 to 46-1020, the county board shall
8 thereupon immediately declare the district within the boundaries defined
9 in the petition to constitute a public corporation and to be incorporated
10 as a rural water district under the name of Rural Water District
11 No., County, Nebraska (inserting number in order of
12 incorporation and name of county) and thereupon shall enter upon its
13 records full minutes of such hearing, together with a declaration that
14 thenceforth such district shall constitute a body politic and corporate
15 under such corporate name for the purposes of sections 46-1001 to
16 46-1020.

17 **Sec. 255.** Section 46-1011, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-1011 Plans and specifications for any proposed improvement
20 authorized by sections 46-1001 to 46-1020 shall be filed with the Chief
21 Water Officer ~~director~~, the Department of Water, Energy, and Environment
22 ~~Environment and Energy~~, and the secretary of the district. No
23 construction of any such improvement shall begin until the plans and
24 specifications for such improvement have been approved by ~~the director~~
25 ~~and the Chief Water Officer~~ Department of Environment and Energy, except
26 that if the improvement involves a public water system as defined in
27 section 71-5301, only the department ~~Department of Environment and Energy~~
28 shall be required to review the plans and specifications for such
29 improvement and approve the same if in compliance with the Nebraska Safe
30 Drinking Water Act and departmental regulations adopted thereunder.

31 The total benefits of any such improvement shall be divided into a

1 suitable number of benefit units. Each landowner within the district
2 shall subscribe to a number of such units in proportion to the extent he
3 or she desires to participate in the benefits of the improvements. As
4 long as the capacity of the district's facilities permits, participating
5 members of the district may subscribe to additional units upon payment of
6 a unit fee for each such unit. Owners of land located within the district
7 who are not participating members may subscribe to such units as the
8 board in its discretion may grant, and upon payment of the unit fee for
9 each such unit shall be entitled to the same rights as original
10 participating members. If the capacity of the district's facilities
11 permits, the district may sell water to persons engaged in hauling water
12 and to any political subdivision organized under the laws of the State of
13 Nebraska.

14 **Sec. 256.** Section 46-1023, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-1023 Whenever a petition as provided in section 46-1022 is filed
17 with the county clerk, the county clerk shall thereupon give notice to
18 the county board of the filing and pendency of such petition and the
19 county board shall forthwith fix a time and place within thirty days
20 after the date of filing of the petition for a hearing of the same, and
21 the county clerk shall, at least seven days before the date fixed for
22 such hearing, give or send by registered or certified mail written notice
23 thereof to the chairperson of each district seeking consolidation and
24 shall transmit to the Chief Water Officer ~~director~~ one copy of the
25 petition and notice of the time and place the same is set for hearing.
26 The county clerk shall also, at least seven days before the date fixed
27 for such hearing, cause a notice of the hearing to be published in a
28 newspaper of general circulation in the county. The published notice
29 shall (1) identify by name the districts seeking consolidation; (2) state
30 the time and place of the hearing; (3) state that all interested persons
31 may appear and be heard; and (4) state that a consolidated water district

1 shall have no power or authority to levy any taxes whatsoever.

2 **Sec. 257.** Section 46-1102, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-1102 The Legislature finds that the use of chemigation throughout
5 the state is increasing and that, although chemigation provides a viable
6 alternative to other means of chemical application, if an irrigation
7 distribution system is not properly equipped or if a chemical is not used
8 with proper precautions, there exists a potential to contaminate the
9 water.

10 The Legislature also finds that complete information as to the
11 occurrences and use of chemigation in this state is essential to the
12 development of a sound state water management policy.

13 For these reasons, the Legislature deems it necessary to provide the
14 natural resources districts and the Department of Water, Energy, and
15 Environment ~~Environment and Energy~~ with the authority to document,
16 monitor, regulate, and enforce chemigation practices in Nebraska.

17 **Sec. 258.** Section 46-1108, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-1108 Department shall mean the Department of Water, Energy, and
20 Environment ~~Environment and Energy~~.

21 **Sec. 259.** Section 46-1109, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-1109 Director shall mean the Director of Water, Energy, and
24 Environment ~~Environment and Energy~~.

25 **Sec. 260.** Section 46-1204.01, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 46-1204.01 Abandoned water well means any water well (1) the use of
28 which has been accomplished or permanently discontinued, (2) which has
29 been decommissioned as described in the rules and regulations of the
30 department ~~Department of Environment and Energy~~, and (3) for which the
31 notice of abandonment required by subsection (2) of section 46-602 has

1 been filed with the department ~~Department of Natural Resources~~ by the
2 licensed water well contractor or licensed pump installation contractor
3 who decommissioned the water well or by the water well owner if the owner
4 decommissioned the water well.

5 **Sec. 261.** Section 46-1207, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-1207 Department means the Department of Water, Energy, and
8 Environment ~~Environment and Energy~~.

9 **Sec. 262.** Section 46-1217, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-1217 (1) There is hereby created a Water Well Standards and
12 Contractors' Licensing Board. The board shall be composed of ten members,
13 six of whom shall be appointed by the Governor as follows: (a) A licensed
14 water well contractor representing irrigation water well contractors, (b)
15 a licensed water well contractor representing domestic water well
16 contractors, (c) a licensed water well contractor representing municipal
17 and industrial water well contractors, (d) a licensed pump installation
18 contractor, (e) a manufacturer or supplier of water well or pumping
19 equipment, and (f) a holder of a license issued under the Water Well
20 Standards and Contractors' Practice Act employed by a natural resources
21 district. The chief executive officer of the Department of Health and
22 Human Services or his or her designated representative, the Director of
23 Water, Energy, and Environment ~~Environment and Energy~~ or his or her
24 designated representative, ~~the Director of Natural Resources or his or~~
25 ~~her designated representative,~~ and the director of the Conservation and
26 Survey Division of the University of Nebraska or his or her designated
27 representative shall also serve as members of the board.

28 (2) Each member shall be a resident of the state. Each industry
29 representative shall have had at least five years of experience in the
30 business of his or her category prior to appointment and shall be
31 actively engaged in such business at the time of appointment and while

1 serving on the board. Each member representing a category subject to
2 licensing under the Water Well Standards and Contractors' Practice Act
3 shall be licensed by the department pursuant to such act. In making
4 appointments, the Governor may consider recommendations made by the trade
5 associations of each category.

6 **Sec. 263.** Section 46-1222, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-1222 No board member shall take any action or make any decision
9 in the discharge of the duties of a member of the board that may
10 constitute a conflict of interest. As soon as a member is aware of a
11 potential conflict or should reasonably be aware of such potential
12 conflict, whichever is sooner, the member shall submit a written
13 statement to the Director of Water, Energy, and Environment ~~Environment~~
14 ~~and Energy~~ describing the matter requiring action or decision and the
15 nature of the potential conflict. The member shall take such action as
16 the director shall advise or prescribe to remove the member from
17 influence over the action or decision on the matter. For purposes of this
18 section, conflict of interest includes financial, professional, or
19 personal obligations that may compromise or present the appearance of
20 compromising the judgment of a member in the performance of the duties of
21 a member of the board. The director may establish a definition of
22 conflicts of interest for members of the board and may establish
23 procedures in case such a conflict arises.

24 **Sec. 264.** Section 46-1224, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-1224 (1) Except as otherwise provided in subsections (3) and (4)
27 of this section, the board shall set reasonable fees in an amount
28 calculated to recover the costs incurred by the department and the board
29 in administering and carrying out the purposes of the Water Well
30 Standards and Contractors' Practice Act. Such fees shall be paid to the
31 department and remitted to the State Treasurer for credit to the Water

1 Well Standards and Contractors' Licensing Fund, which fund is hereby
2 created. Such fund shall be used by the department and the board for the
3 purpose of administering the Water Well Standards and Contractors'
4 Practice Act. Additionally, such fund shall be used to pay any required
5 fee to a contractor which provides the online services for registration
6 of water wells. Any discount in the amount paid the state by a credit
7 card, charge card, or debit card company or a third-party merchant bank
8 for such registration fees shall be deducted from the portion of the
9 registration fee collected pursuant to this section. Any money in the
10 fund available for investment shall be invested by the state investment
11 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
12 State Funds Investment Act.

13 (2) The board shall set fees for licensing individuals under the
14 Water Well Standards and Contractors' Practice Act for application for,
15 issuance of, and renewal of licenses. The fees shall be waived for
16 initial licenses for low-income individuals, military families, and young
17 workers as those terms are defined in the Uniform Credentialing Act.

18 (3) The board shall set a fee of not less than twenty-five dollars
19 and not more than forty dollars for each water well which is required to
20 be registered and which is designed and constructed to pump fifty gallons
21 per minute or less and each monitoring and observation well and a fee of
22 not less than forty dollars and not more than eighty dollars for each
23 water well which is required to be registered and which is designed and
24 constructed to pump more than fifty gallons per minute. For water wells
25 permitted pursuant to the Industrial Ground Water Regulatory Act, the fee
26 set pursuant to this subsection shall be collected for each of the first
27 ten such water wells registered, and for each group of ten or fewer such
28 water wells registered thereafter, the fee shall be collected as if only
29 one water well was being registered. For a series of two or more water
30 wells completed and pumped into a common carrier, as defined in section
31 46-601.01, as part of a single site plan for irrigation purposes, the fee

1 set pursuant to this subsection shall be collected for each of the first
2 two such water wells registered. For a series of water wells completed
3 for purposes of installation of a ground heat exchanger for a structure
4 for utilizing the geothermal properties of the ground, the fee set
5 pursuant to this subsection shall be collected as if only one water well
6 was being registered. For water wells constructed as part of a single
7 site plan for monitoring ground water, obtaining hydrogeologic
8 information, or extracting contaminants from the ground and for water
9 wells constructed as part of remedial action approved by the department
10 ~~Department of Environment and Energy~~ pursuant to section 66-1525,
11 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall
12 be collected for each of the first five such water wells registered, and
13 for each group of five or fewer such water wells registered thereafter,
14 the fee shall be collected as if only one water well was being
15 registered. The fees shall be remitted to the department ~~Director of~~
16 ~~Natural Resources~~ with the registration form required by section 46-602
17 and shall be in addition to the fee in section 46-606. The department
18 ~~director~~ shall remit the fee to the State Treasurer for credit to the
19 Water Well Standards and Contractors' Licensing Fund.

20 (4) The board shall set an application fee for a declaratory ruling
21 or variance of not less than fifty dollars and not more than one hundred
22 dollars. The fee shall be remitted to the State Treasurer for credit to
23 the Water Well Standards and Contractors' Licensing Fund.

24 **Sec. 265.** Section 46-1235, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-1235 In cases other than those relating to failure to meet the
27 requirements for an initial license, the Director of Water, Energy, and
28 Environment ~~Environment and Energy~~ may deny, refuse renewal of, suspend,
29 or revoke licenses or may take other disciplinary action following notice
30 and an opportunity for a hearing for any of the following acts or
31 offenses:

1 (1) Violation of the Water Well Standards and Contractors' Practice
2 Act or any standards, rules, or regulations adopted and promulgated
3 pursuant to such act;

4 (2) Fraud or deception by the applicant or licensee;

5 (3) Failure to exercise reasonable care in the practice of the
6 trade;

7 (4) Inability to properly perform the practice of the trade;

8 (5) Failure to comply with continuing education requirements for
9 licensure under the act;

10 (6) Conduct or practices detrimental to the health or safety of
11 persons hiring the services of the licensee or of members of the general
12 public;

13 (7) Practice of the trade while the license to do so is suspended or
14 practice of the trade in contravention of any limitation placed upon the
15 license;

16 (8) Failing to file a water well registration required by subsection
17 (1), (2), (3), (4), or (5) of section 46-602 or failing to file a notice
18 required by subsection (7) of such section; or

19 (9) Failing to file a properly completed notice of abandonment of a
20 water well required by subsection (8) of section 46-602.

21 **Sec. 266.** Section 46-1301, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-1301 The Legislature finds that (1) existing monitoring of ground
24 water quality performed by natural resources districts is excellent and
25 deserves recognition, (2) substantial efforts have been undertaken by the
26 Department of Water, Energy, and Environment ~~Environment and Energy~~ to
27 monitor surface water quality, and (3) it is within the state's capacity
28 to develop a comprehensive, integrated statewide water quality monitoring
29 system.

30 **Sec. 267.** Section 46-1304, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-1304 The Department of Water, Energy, and Environment ~~Environment~~
2 ~~and Energy~~ shall prepare a report outlining the extent of ground water
3 quality monitoring conducted by natural resources districts during the
4 preceding calendar year. The department shall analyze the data collected
5 for the purpose of determining whether or not ground water quality is
6 degrading or improving and shall present the results electronically to
7 the Natural Resources Committee of the Legislature beginning December 1,
8 2001, and each year thereafter. The districts shall submit in a timely
9 manner all ground water quality monitoring data collected to the
10 department or its designee. The department shall use the data submitted
11 by the districts in conjunction with all other readily available and
12 compatible data for the purposes of the annual ground water quality trend
13 analysis.

14 **Sec. 268.** Section 46-1403, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-1403 There is hereby created the Water Well Decommissioning Fund.
17 The State Treasurer shall credit to the fund for the uses and purposes of
18 sections 46-1401 to 46-1405 such money as is specifically appropriated
19 and such funds, fees, donations, gifts, services, or devises or bequests
20 of real or personal property received by the Department of Water, Energy,
21 and Environment ~~Natural Resources~~ from any source, federal, state,
22 public, or private, to be used by the department for the purpose of
23 accelerating the decommissioning of illegal water wells. The department
24 shall allocate money from the fund for purposes of sections 46-1401 to
25 46-1405. The fund shall be exempt from provisions relating to lapsing of
26 appropriations. Transfers may be made from the fund to the General Fund
27 at the direction of the Legislature. Any money in the Water Well
28 Decommissioning Fund available for investment shall be invested by the
29 state investment officer pursuant to the Nebraska Capital Expansion Act
30 and the Nebraska State Funds Investment Act.

31 **Sec. 269.** Section 46-1404, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-1404 The Water Well Decommissioning Fund shall be allocated by
3 contractual agreement with natural resources districts for the purpose of
4 accelerating the decommissioning of illegal water wells throughout the
5 state. The allocations each fiscal year shall be made by the Department
6 of Water, Energy, and Environment ~~Natural Resources~~ to natural resources
7 districts in a proportion based on the number of illegal water wells
8 decommissioned in each district in the previous fiscal year which were
9 part of the district's cost-share program to the total number of illegal
10 water wells decommissioned in the state in the previous fiscal year which
11 were part of a district cost-share program. Subsequent allocations for
12 any district which has had a cost-share program for three or more
13 consecutive years shall be based upon the previous three-year average.
14 The allocations may be adjusted on or after March 1 of any year if the
15 Director of Water, Energy, and Environment ~~Natural Resources~~ determines
16 that one or more districts cannot reasonably be expected to use their
17 full allocation for that fiscal year. Actual disbursement to each
18 district shall be on a reimbursement basis and shall not exceed the
19 amount expended by the district consistent with sections 46-1401 to
20 46-1405. The Nebraska Natural Resources Commission shall adopt and
21 promulgate rules and regulations to carry out such sections.

22 **Sec. 270.** Section 46-1502, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-1502 For purposes of the Wellhead Protection Area Act:

25 (1) Controlling entity means a city, a village, a natural resources
26 district, a rural water district, any other entity, including, but not
27 limited to, a privately owned public water supply system, or any
28 combination thereof operating under an agreement pursuant to the
29 Interlocal Cooperation Act or the Joint Public Agency Act that operates a
30 public water supply system;

31 (2) Department means the Department of Water, Energy, and

1 Environment ~~Environment and Energy~~;

2 (3) Director means the Director of Water, Energy, and Environment
3 ~~Environment and Energy~~; and

4 (4) Wellhead protection area means the surface and subsurface area
5 surrounding a water well or well field, supplying a public water system,
6 through which contaminants are reasonably likely to move toward and reach
7 such water well or well field.

8 **Sec. 271.** Section 46-1605, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-1605 Alterations means alterations to an existing dam that
11 directly affect the safety of the dam or reservoir, as determined by the
12 Chief Water Officer ~~department~~, but does not include maintenance and
13 repair of the dam to retain its initial structural integrity.

14 **Sec. 272.** Section 46-1606, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-1606 Application approval means authorization in writing issued
17 by the Chief Water Officer ~~department~~ to an owner who has applied to the
18 Chief Water Officer ~~department~~ for permission to construct, reconstruct,
19 enlarge, alter, breach, remove, or abandon a dam and which specifies the
20 conditions or limitations under which work is to be performed by the
21 owner or under which approval is granted.

22 **Sec. 273.** Section 46-1607, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-1607 Approval to operate means authorization in writing issued by
25 the Chief Water Officer ~~department~~ to an owner who has completed
26 construction, reconstruction, enlargement, or alteration of a dam.

27 **Sec. 274.** Section 46-1611, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-1611 (1) Dam means any artificial barrier, including appurtenant
30 works, with the ability to impound water, wastewater, or liquid-borne
31 materials and which (a) is twenty-five feet or more in height from the

1 natural bed of the stream or watercourse measured at the downstream toe
2 of the barrier, or from the lowest elevation of the outside limit of the
3 barrier if it is not across a stream channel or watercourse, to the
4 maximum storage elevation or (b) has an impounding capacity at maximum
5 storage elevation of fifty acre-feet or more, except that any barrier
6 described in this subsection which is not in excess of six feet in height
7 or which has an impounding capacity at maximum storage elevation of not
8 greater than fifteen acre-feet shall be exempt, unless such barrier, due
9 to its location or other physical characteristics, is classified as a
10 high hazard potential dam.

11 (2) Dam does not include:

12 (a) An obstruction in a canal used to raise or lower water;

13 (b) A fill or structure for highway or railroad use, but if such
14 structure serves, either primarily or secondarily, additional purposes
15 commonly associated with dams it shall be subject to review by the Chief
16 Water Officer ~~department~~;

17 (c) Canals, including the diversion structure, and levees; or

18 (d) Water storage or evaporation ponds regulated by the United
19 States Nuclear Regulatory Commission.

20 **Sec. 275.** Section 46-1613, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-1613 Department means the Department of Water, Energy, and
23 Environment ~~Natural Resources~~.

24 **Sec. 276.** Section 46-1614, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-1614 Chief Water Officer means the Chief Water Officer of the
27 Department of Water, Energy, and Environment ~~Director means the Director~~
28 ~~of Natural Resources~~.

29 **Sec. 277.** Section 46-1636, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-1636 The Safety of Dams and Reservoirs Act does not relieve the

1 owner or operator of a dam or reservoir from obtaining any necessary
2 approvals from the Chief Water Officer ~~department~~ under sections 46-233
3 to 46-241 or from any other local, state, or federal regulatory
4 authority.

5 **Sec. 278.** Section 46-1637, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-1637 (1) Except as provided in subsections (2) and (4) of this
8 section, no city, village, or county may, by ordinance or resolution
9 enacted by the legislative body thereof or adopted by the people, (a)
10 regulate, supervise, or provide for the regulation or supervision of any
11 dams and associated reservoirs or the construction, reconstruction,
12 enlargement, repair, alteration, operation, breach, removal, or
13 abandonment thereof or (b) limit the size or the impounding capacity of a
14 dam if such action would conflict with the power and authority vested in
15 the Chief Water Officer ~~department~~ pursuant to the Safety of Dams and
16 Reservoirs Act.

17 (2) A city, village, or county may adopt ordinances or resolutions
18 (a) regulating, supervising, or providing for the regulation or
19 supervision of dams and reservoirs that are not within the state's
20 jurisdiction and are not subject to regulation, owned, or operated by
21 another public agency or body or (b) which apply only to adjacent
22 structures not germane to the safety of the dam, such as, but not limited
23 to, roads and fences.

24 (3) A city, village, or county may institute overlay zoning
25 precluding construction of structures downstream of a state-permitted dam
26 that is classified as having other than a high hazard potential if a
27 breach-inundation study performed by an engineer, in accordance with
28 generally accepted engineering practice, determines that construction of
29 such structures would require that such dam be reclassified as having a
30 high hazard potential. The owners of such dam shall provide such
31 engineering study as a condition to requesting such overlay zoning.

1 (4) The Safety of Dams and Reservoirs Act does not preempt or
2 supersede any local zoning ordinances, resolutions, rules, or regulations
3 regarding special use permits enacted by a political subdivision with
4 respect to permit applications for livestock waste control facilities.

5 **Sec. 279.** Section 46-1639, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-1639 (1) No action shall be brought against the state, the Chief
8 Water Officer, the department, or its agents or employees for the
9 recovery of damages caused by the partial or total failure of any dam by
10 reason of control and regulation thereof pursuant to the Safety of Dams
11 and Reservoirs Act, including, but not limited to, any of the following:

12 (a) Design and construction application approval of the dam or
13 approval of interim flood routing plans during construction,
14 reconstruction, enlargement, alteration, breach, removal, or abandonment;

15 (b) The issuance or enforcement of orders relative to maintenance or
16 operation of the dam;

17 (c) Control and regulation of the dam;

18 (d) Measures taken to protect against failure of the dam during an
19 emergency, except for negligent acts of the department or the Chief Water
20 Officer in assuming control of a dam during an emergency; or

21 (e) Failure to act.

22 (2) The Safety of Dams and Reservoirs Act does not relieve an owner
23 or operator of a dam of the legal duties, obligations, or liabilities
24 incident to the ownership or operation of the dam.

25 **Sec. 280.** Section 46-1640, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-1640 The findings and orders of the Chief Water Officer
28 ~~department~~, an application approval, and an approval to operate any dam
29 issued by the Chief Water Officer ~~department~~ are final, conclusive, and
30 binding upon all owners and state agencies, regulatory or otherwise, as
31 to the safety of design, construction, reconstruction, enlargement,

1 alteration, breach, removal, or abandonment of any dam.

2 The Chief Water Officer ~~department~~ may report all dam incidents as
3 defined by the National Performance of Dams Program to the National
4 Performance of Dams Program archive.

5 **Sec. 281.** Section 46-1641, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-1641 The owner of any dam subject to the Safety of Dams and
8 Reservoirs Act shall notify the Chief Water Officer ~~department~~ of any
9 change in the ownership of the dam. Notification shall be in such form
10 and include such evidence of ownership as the Chief Water Officer
11 ~~director~~ may by rule and regulation require.

12 **Sec. 282.** Section 46-1642, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-1642 An applicant for a permit for a livestock waste control
15 facility which includes a dam, holding pond, or lagoon for which approval
16 by the Chief Water Officer ~~Department of Natural Resources~~ is not
17 otherwise required but for which approval ~~by the Department of~~
18 ~~Environment and Energy~~ under section 54-2429 is required shall submit an
19 application for approval along with plans, drawings, and specifications
20 to the Chief Water Officer ~~Department of Natural Resources~~ and obtain
21 approval from the Chief Water Officer ~~Department of Natural Resources~~
22 before beginning construction. The Chief Water Officer ~~Department of~~
23 ~~Natural Resources~~ shall approve or deny the dam, holding pond, or lagoon
24 pursuant to this section within sixty days after such application is
25 submitted.

26 **Sec. 283.** Section 46-1645, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-1645 When the safety and technical considerations pertaining to
29 an application approval, an approval to operate, or the plans and
30 specifications of a dam require it, or when requested in writing by the
31 owner, the Chief Water Officer ~~department~~ shall appoint a consulting

1 board of three or more consultants to report to the Chief Water Officer
2 ~~department~~ on the safety features involved. The cost and expense of a
3 consulting board, if appointed at the request of an owner, shall be paid
4 by the owner.

5 **Sec. 284.** Section 46-1646, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-1646 (1) The Chief Water Officer ~~department~~ shall review and
8 approve the design, construction, reconstruction, enlargement,
9 alteration, breach, removal, or abandonment of all dams in the state for
10 the protection of life and property as provided in the Safety of Dams and
11 Reservoirs Act.

12 (2) No person shall construct, reconstruct, enlarge, alter, breach,
13 remove, or abandon any dam without approval by the Chief Water Officer
14 ~~department~~.

15 (3) An owner of a dam who has entered into a cooperative agreement
16 with the Chief Water Officer ~~department~~ pursuant to subdivision (2)(d) of
17 section 46-1663 shall be deemed to be in compliance with the act.

18 **Sec. 285.** Section 46-1647, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 46-1647 (1) In order to protect life and property, the owner of
21 every high hazard potential dam shall develop and periodically test and
22 update an emergency action plan to be implemented in the event of an
23 emergency involving such dam. In order to protect life and property, the
24 Chief Water Officer ~~department~~ may require the owners of any significant
25 hazard potential dam to develop and periodically test and update an
26 emergency action plan to be implemented in the event of an emergency
27 involving such dams.

28 (2) Such emergency action plan shall include, but not be limited to,
29 the following elements:

30 (a) Emergency notification plan with flowchart;

31 (b) A statement of purpose;

- 1 (c) A project description;
- 2 (d) Emergency detection, evaluation, and classification;
- 3 (e) General responsibilities;
- 4 (f) Preparedness;
- 5 (g) Inundation maps or other acceptable description of the inundated
- 6 area; and
- 7 (h) Appendices.

8 (3) For purposes of evaluating the adequacy of an emergency action
9 plan, the Chief Water Officer ~~department~~ shall review, evaluate for
10 adequacy, and approve or disapprove each emergency action plan submitted
11 under this section. The Chief Water Officer ~~department~~ shall accept
12 emergency action plans developed for dams under a federal dam safety
13 program.

14 (4) If the Chief Water Officer ~~department~~ determines that a dam
15 constitutes an immediate risk to life or property, the Chief Water
16 Officer ~~department~~ shall order the owner to take such action as is
17 necessary to remove such risk.

18 **Sec. 286.** Section 46-1648, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 46-1648 In making any investigation or inspection necessary to
21 enforce or implement the Safety of Dams and Reservoirs Act, the Chief
22 Water Officer or the Chief Water Officer's representatives ~~department or~~
23 ~~its representatives~~, upon reasonable notice, may enter upon private
24 property of the dam and reservoir owner as necessary. Such right of entry
25 shall extend to all employees, surveyors, or other agents of the
26 department in the official performance of their duties, and such persons
27 shall not be liable for prosecution for trespass when performing their
28 official duties.

29 **Sec. 287.** Section 46-1649, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-1649 (1) The Chief Water Officer ~~department~~ may investigate and

1 gather or cause the owner to gather such data, including advances made in
2 safety practices elsewhere, as may be needed for a proper review and
3 study of the various features of the design, construction,
4 reconstruction, enlargement, alteration, breach, removal, or abandonment
5 of dams.

6 (2) The Chief Water Officer ~~department~~ may make or cause the owner
7 to make such watershed investigations and studies as are necessary to
8 keep abreast of developments affecting runoff and peak storm discharges
9 in the vicinity of a dam.

10 (3) The Chief Water Officer ~~department~~ may make or cause the owner
11 to make such seismic investigations and studies as may be necessary to
12 keep abreast of developments affecting seismic stability of a dam.

13 **Sec. 288.** Section 46-1650, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-1650 (1) The Chief Water Officer ~~department~~ may take any
16 administrative or legal action necessary for the enforcement of the
17 Safety of Dams and Reservoirs Act.

18 (2) An action or proceeding under this section may be initiated
19 whenever any owner or any person acting as an agent of any owner:

20 (a) Fails to comply with the requirements imposed by the act or by
21 any application approval, approval to operate, order, rule, regulation,
22 or requirement of the Chief Water Officer ~~department~~ under the act; or

23 (b) Commits or allows the commission of violations of the act or of
24 any application approval, approval to operate, order, rule, regulation,
25 or requirement of the Chief Water Officer ~~department~~ under the act.

26 (3) Any action or proceeding under this section shall be initiated
27 either administratively or in a court in a jurisdiction in which:

28 (a) The dam, area of hazard potential, or some part thereof exists;

29 (b) The person named in the complaint has its principal place of
30 business; or

31 (c) The person named in the complaint resides.

1 **Sec. 289.** Section 46-1651, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 46-1651 (1) The Chief Water Officer ~~department~~ may adopt and
4 promulgate rules and regulations containing standards for the design,
5 inspection, construction, reconstruction, enlargement, alteration,
6 breach, removal, abandonment, and periodic testing of emergency action
7 plans of dams to carry out the purposes of the Safety of Dams and
8 Reservoirs Act. Such rules and regulations may also include, but are not
9 limited to, establishing:

10 (a) Standards and criteria for the siting and design of dams,
11 considering both existing and projected conditions which may affect the
12 safety of a project during its construction and operational life;

13 (b) Requirements for operation of dams, including operational plans
14 to be prepared and implemented by owners;

15 (c) Requirements for monitoring, inspection, and reporting of
16 conditions affecting the safety of dams; and

17 (d) Requirements for emergency action plans to be prepared and
18 implemented by owners in cooperation with emergency management
19 authorities.

20 (2) In adopting rules and regulations applicable to dams which may
21 have a high hazard potential or a significant hazard potential, the Chief
22 Water Officer ~~department~~ may consider:

23 (a) The state of scientific and technological knowledge and good
24 engineering practices relating to various types of dams;

25 (b) The economic impact of a failure of a structure upon the state
26 and its citizens; and

27 (c) The relationship of dams in hydrologic management in the
28 watershed as a whole.

29 **Sec. 290.** Section 46-1652, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-1652 (1) Construction of any new dam or the enlargement of any

1 dam shall not commence until the owner has applied for and obtained from
2 the Chief Water Officer ~~department~~ written application approval of plans
3 and specifications.

4 (2) A separate application for each dam shall be filed with the
5 Chief Water Officer ~~department~~ upon forms provided by the Chief Water
6 Officer ~~department~~. Plans and specifications signed and sealed by the
7 design engineer shall accompany the application.

8 (3) The application shall provide the following information:

9 (a) The name and address of the owner;

10 (b) The name and address of the applicant, if different from the
11 owner;

12 (c) The name and address of the operator or other person to be
13 contacted regarding arrangements for inspections or other matters
14 associated with the dam;

15 (d) The location, type, size, purpose, and height of the proposed
16 dam;

17 (e) The reservoir surface areas and associated storage capacity at
18 elevation intervals not exceeding two feet;

19 (f) Plans for proposed permanent instrument installations in the
20 dam;

21 (g) The area of the drainage basin, rainfall records, streamflow
22 records, and flood flow records and estimates, if available;

23 (h) Maps and design drawings showing plans, elevations, and sections
24 of all principal structures and appurtenant works with other features of
25 the project in sufficient detail, including design analyses, to determine
26 safety, adequacy, and suitability of design;

27 (i) The estimated construction cost of the dam; and

28 (j) Such other pertinent information as the Chief Water Officer
29 ~~department~~ requires.

30 (4) The Chief Water Officer ~~department~~ may, when in the Chief Water
31 Officer's ~~its~~ judgment it is necessary, also require the following:

1 (a) Data concerning subsoil and rock foundation conditions and the
2 materials involved in the construction of the dam;

3 (b) Investigations of, and reports on, subsurface conditions,
4 exploratory pits, trenches and adits, drilling, coring, and geophysical
5 tests to measure in place and in the laboratory the properties and
6 behavior of foundation materials at the dam site;

7 (c) Investigations and reports on the geology of the dam site,
8 possible geologic hazards, seismic activity, faults, weak seams and
9 joints, availability and quality of construction materials, and other
10 pertinent features; and

11 (d) Other appropriate information.

12 (5) If an application is incomplete or defective, it shall be
13 returned to the applicant to complete or to correct the defects. The
14 application shall be corrected and returned to the Chief Water Officer
15 ~~department~~ within ninety days after it is returned to the applicant or
16 within such additional time as may be allowed by the Chief Water Officer
17 ~~department~~. If the application is returned to the Chief Water Officer
18 ~~department~~ after expiration of such time period, it shall be dismissed.

19 **Sec. 291.** Section 46-1653, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-1653 (1) Before commencing the reconstruction or alteration of a
22 dam or the abandonment, breach, or removal of a dam so that it no longer
23 constitutes a dam, the owner shall file an application and secure the
24 written application approval of the Chief Water Officer ~~department~~.

25 (2) The application shall give such pertinent information or data
26 concerning the dam as may be required by the Chief Water Officer
27 ~~department~~.

28 (3) The application shall give the name and address of the applicant
29 and shall adequately detail, with appropriate references to the existing
30 dam, the proposed reconstruction, alteration, abandonment, breach, or
31 removal of the dam. The application shall be accompanied by plans and

1 specifications signed and sealed by the design engineer. The Chief Water
2 Officer ~~department~~ may waive any of the requirements of this section if
3 the requirements are unnecessary for the application approval.

4 (4) If an application is incomplete or defective, it shall be
5 returned to the applicant to complete or to correct the defects. The
6 application shall be corrected and returned to the Chief Water Officer
7 ~~department~~ within ninety days after it is returned to the applicant or
8 within such additional time as may be allowed by the Chief Water Officer
9 ~~department~~. If the application is returned to the Chief Water Officer
10 ~~department~~ after expiration of such time period, it shall be dismissed.

11 (5) In case of an emergency in which the Chief Water Officer
12 ~~department~~ declares that repairs or breaching of the dam are necessary to
13 safeguard life and property, repairs or breaching shall be started
14 immediately by the owner or by the Chief Water Officer ~~department~~ at the
15 owner's expense. The Chief Water Officer ~~department~~ shall be notified
16 within twenty-four hours of emergency repairs or breaching when
17 instituted by the owner.

18 (6) The proposed repairs or breaching shall conform to any orders
19 issued by the Chief Water Officer ~~department~~.

20 **Sec. 292.** Section 46-1654, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-1654 (1) Approval of applications for which approval under
23 sections 46-233 to 46-242 is not required shall be issued within ninety
24 days after receipt of the completed application plus any extensions of
25 time required to resolve matters diligently pursued by the applicant. At
26 the discretion of the Chief Water Officer ~~department~~, one or more public
27 hearings may be held on an application.

28 (2) Approval of applications under the Safety of Dams and Reservoirs
29 Act, for which approval under sections 46-233 to 46-242 is required,
30 shall not be issued until all pending matters before the Chief Water
31 Officer ~~department~~ under the Safety of Dams and Reservoirs Act or such

1 sections have been resolved and approved.

2 (3) Application approval shall be granted with terms, conditions,
3 and limitations necessary to safeguard life and property.

4 (4) If actual construction, reconstruction, enlargement, alteration,
5 breach, removal, or abandonment of the dam is not commenced within the
6 time established by the Chief Water Officer ~~department~~, the application
7 approval becomes void, except that the Chief Water Officer ~~department~~
8 may, upon written application and for good cause shown, extend the time
9 for commencing construction, reconstruction, enlargement, alteration,
10 breach, removal, or abandonment. If approval under sections 46-233 to
11 46-242 is also required, the Chief Water Officer ~~department~~ may not
12 extend the time for commencing construction without following the
13 procedures and granting a similar extension under subsection (2) of
14 section 46-238.

15 (5) Written notice shall be provided to the Chief Water Officer
16 ~~department~~ at least ten days before construction, reconstruction,
17 enlargement, alteration, breach, removal, or abandonment is to begin and
18 such other notices shall be given to the Chief Water Officer ~~department~~
19 as the Chief Water Officer ~~it~~ may require.

20 **Sec. 293.** Section 46-1655, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-1655 (1) The application for approval of construction,
23 reconstruction, enlargement, alteration, breach, removal, or abandonment
24 of a dam shall be accompanied by a filing fee as established by rule and
25 regulation of the Chief Water Officer ~~department~~ but not to exceed (a)
26 two hundred dollars for a dam less than twenty-five feet in height, (b)
27 three hundred dollars for a dam twenty-five feet in height to not more
28 than fifty feet in height, and (c) four hundred dollars for a dam in
29 excess of fifty feet in height.

30 (2) Only one filing fee shall be collected for an enlargement by
31 flashboards, sandbags, earthen levees, gates, or other works, devices, or

1 obstructions which are from time to time to be removed and replaced or
2 opened and shut and thereby operated so as to vary the surface elevation
3 of the reservoir.

4 (3) A dam subject to the Safety of Dams and Reservoirs Act and for
5 which plans and specifications have been approved prior to September 4,
6 2005, shall not be required to pay any additional fee or submit an
7 additional application for approval unless such dam requires
8 reconstruction, enlargement, alteration, breach, removal, or abandonment.

9 (4) An application shall not be considered by the Chief Water
10 Officer ~~department~~ until the filing fee is received.

11 (5) Fees collected by the department under this section shall be
12 remitted to the State Treasurer for credit to the Dam Safety Cash Fund.

13 **Sec. 294.** Section 46-1656, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-1656 The Dam Safety Cash Fund is created. The fund shall consist
16 of fees credited pursuant to section 46-1655 and any money specifically
17 appropriated to the fund by the Legislature. Money in the fund shall not
18 be subject to any fiscal-year limitation or provision for lapse of
19 unexpended balance at the end of any fiscal year or biennium. The fund
20 shall be administered by the department. Money in the fund may be
21 expended by the department for costs incurred by the department or the
22 Chief Water Officer in the administration of the Safety of Dams and
23 Reservoirs Act. Any money in the fund available for investment shall be
24 invested by the state investment officer pursuant to the Nebraska Capital
25 Expansion Act and the Nebraska State Funds Investment Act.

26 **Sec. 295.** Section 46-1657, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-1657 (1) Upon completion of a new or reconstructed dam and
29 reservoir or of the enlargement of a dam and reservoir, the owner shall
30 file with the Chief Water Officer ~~department~~, without a filing fee, a
31 completion certification accompanied by supplementary drawings or

1 descriptive matter signed and sealed by the design engineer, showing or
2 describing the work as actually completed. Such supplementary materials
3 may include, but need not be limited to, the following as determined by
4 the Chief Water Officer ~~department~~:

5 (a) A record of all geological boreholes and grout holes and
6 grouting;

7 (b) A record of permanent location points, benchmarks, and
8 instruments embedded in the structure;

9 (c) A record of tests of concrete or other material used in the
10 construction, reconstruction, or enlargement of the dam; and

11 (d) A record of initial seepage flows and embedded instrument
12 readings.

13 (2) In connection with the enlargement of a dam, the supplementary
14 drawings and descriptive matter need apply only to the new work.

15 (3) An approval to operate shall be issued by the Chief Water
16 Officer ~~department~~ upon a finding by the Chief Water Officer ~~department~~
17 that the dam is safe to impound within the limitations prescribed in the
18 application approval. No impoundment by the structure shall occur prior
19 to issuance of the approval to operate.

20 **Sec. 296.** Section 46-1658, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-1658 (1) Upon completion of the alteration of any dam, the owner
23 shall file with the Chief Water Officer ~~department~~ a completion
24 certification accompanied by supplementary drawings or descriptive
25 matter, as determined by the Chief Water Officer ~~department~~, signed and
26 sealed by the design engineer, showing or describing the work as actually
27 completed.

28 (2) An approval to operate shall be issued upon a finding by the
29 Chief Water Officer ~~department~~ that the dam is safe to impound within the
30 limitations prescribed in the application approval. Pending issuance of a
31 new or revised approval to operate, the owner of the dam shall not cause

1 the dam to impound beyond the limitations prescribed in the existing
2 application approval.

3 **Sec. 297.** Section 46-1659, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-1659 (1) Upon completion of the removal, breach, or abandonment
6 of a dam, the design engineer shall file with the Chief Water Officer
7 ~~department~~ a completion certification.

8 (2) Before final approval of the removal of a dam is issued, the
9 Chief Water Officer ~~department~~ may inspect the site of the work and
10 determine that all work was accomplished in substantial conformance with
11 the application approval.

12 (3) Following the removal of a dam, the Chief Water Officer
13 ~~department~~ may report such removal to the National Performance of Dams
14 Program and to the National Inventory of Dams.

15 **Sec. 298.** Section 46-1660, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-1660 (1) Each approval to operate issued by the Chief Water
18 Officer ~~department~~ under the Safety of Dams and Reservoirs Act shall
19 contain such terms and conditions as the Chief Water Officer ~~department~~
20 may prescribe.

21 (2) The Chief Water Officer ~~department~~ shall revoke, suspend, or
22 amend any approval to operate whenever it determines that the dam
23 constitutes a danger to life and property.

24 (3) Before any approval to operate is revoked by the Chief Water
25 Officer ~~department~~, the Chief Water Officer ~~department~~ shall hold a
26 public hearing. Written notice of the time and place of the hearing shall
27 be mailed to the owner at least thirty days before the date set for the
28 hearing. Any interested persons may appear at the hearing and present
29 their views and objections to the proposed action.

30 **Sec. 299.** Section 46-1661, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-1661 (1) Upon receipt of a written complaint alleging that the
2 person or property of the complainant is endangered by the construction,
3 reconstruction, enlargement, alteration, breach, removal, or abandonment
4 of any dam, the Chief Water Officer ~~department~~ shall cause an inspection
5 and investigation to be made unless the data, records, and inspection
6 reports on file are found adequate to make a determination whether the
7 complaint is valid. The complainant shall be provided with a copy of the
8 official report of the inspection and investigation.

9 (2) If it is found that an unsafe condition exists, the Chief Water
10 Officer ~~department~~ shall notify the owner of the dam to take such action
11 as is necessary to correct the condition, including breaching or removal
12 of any dam found to be beyond repair.

13 **Sec. 300.** Section 46-1662, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-1662 (1) During the construction, reconstruction, enlargement,
16 alteration, breach, removal, or abandonment of any dam, the Chief Water
17 Officer ~~department~~ may make periodic inspections for the purpose of
18 ascertaining compliance with the approved plans and specifications. The
19 Chief Water Officer ~~department~~ shall require the owner to direct the
20 design engineer to provide adequate supervision during construction,
21 reconstruction, enlargement, alteration, breach, removal, or abandonment
22 and to provide sufficient information to enable the Chief Water Officer
23 ~~department~~ to determine that conformity with the approved plans and
24 specifications is being attained.

25 (2) If, after any inspection or investigation, during the
26 construction, reconstruction, enlargement, alteration, breach, removal,
27 or abandonment of a dam or at any time prior to issuance of an approval
28 to operate, it is found by the Chief Water Officer ~~department~~ that
29 modifications or changes are necessary to ensure the safety of the dam,
30 the Chief Water Officer ~~department~~ shall order the owner to revise his or
31 her plans and specifications. The owner may, pursuant to section 46-1645,

1 request an independent consulting board to review the order of the Chief
2 Water Officer ~~department~~.

3 (3) If at any time during construction, reconstruction, enlargement,
4 alteration, breach, removal, or abandonment of any dam, the Chief Water
5 Officer ~~department~~ finds that the work is not being done in accordance
6 with the approved plans and specifications, the Chief Water Officer
7 ~~department~~ shall deliver a written notice of noncompliance to the owner.
8 The notice shall be delivered by registered mail or by personal service
9 to the owner, shall state the particulars in which the approved plans and
10 specifications are not being or have not been complied with, and shall
11 order immediate compliance with the approved plans and specifications.
12 The Chief Water Officer ~~department~~ may order that no further work be done
13 until such compliance has been effected and approved by the department.

14 (4) Failure to comply with the notice delivered under subsection (3)
15 of this section may cause revocation of application approval by the Chief
16 Water Officer ~~department~~. If compliance with the notice has not occurred
17 within sixty days after the date of the notice, the Chief Water Officer
18 ~~department~~ shall order the incomplete structure removed sufficiently to
19 eliminate any safety hazard to life.

20 **Sec. 301.** Section 46-1663, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-1663 (1) The Chief Water Officer ~~department~~ shall require owners
23 to keep original records and any modifications to construction available
24 and in good order.

25 (2) The Chief Water Officer ~~department~~ may:

26 (a) Adopt such rules and regulations and issue such orders as
27 necessary to secure adequate maintenance, operation, and inspection by
28 owners;

29 (b) Require engineering and geologic investigations to safeguard
30 life and property;

31 (c) Accept approvals and reports of equivalent inspections prepared

1 for dams under a federal dam safety program; and

2 (d) Enter into cooperative agreements with the owners of dams which
3 are required to comply with a federal dam safety program that has
4 objectives, standards, and requirements that meet or exceed the purposes
5 of the Safety of Dams and Reservoirs Act.

6 **Sec. 302.** Section 46-1664, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-1664 (1) The Chief Water Officer ~~department~~ shall inspect dams
9 for the purpose of determining their safety. The normal inspection
10 frequency shall be annually for high hazard potential dams, biennially
11 for significant hazard potential dams, and every five years for low
12 hazard potential dams and every five years or more for minimal hazard
13 potential dams. The Chief Water Officer ~~department~~ may vary the
14 inspection frequency of some sites based on an evaluation of the site
15 performance history. The Chief Water Officer ~~department~~ may conduct
16 additional inspections at any time. If serious safety concerns are found
17 by the Chief Water Officer ~~department~~ during the inspections, the Chief
18 Water Officer ~~department~~ shall require the owner to conduct tests and
19 investigations sufficient for the Chief Water Officer ~~department~~ to
20 determine the condition of the dam. After review of the tests or
21 investigations, the Chief Water Officer ~~department~~ may require
22 modification, removal, or breach of the dam or alteration of operating
23 procedures to restore or improve the safety of the dam and may require
24 installation of instrumentation to monitor the performance of the dam.

25 (2) The Chief Water Officer ~~department~~ may report the results of dam
26 inspections that determine unsafe conditions or noncompliance to the
27 National Performance of Dams Program.

28 **Sec. 303.** Section 46-1665, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-1665 (1) The owner of a dam has the primary responsibility for
31 determining when an emergency exists. When the owner of a dam determines

1 that an emergency exists involving a dam, the owner shall immediately
2 implement the emergency action plan as required pursuant to section
3 46-1647. The owner shall immediately notify any persons who may be
4 endangered if the dam should fail, notify emergency management
5 organizations in the area, take necessary remedial action to prevent or
6 mitigate the consequences of failure, and notify the Chief Water Officer
7 ~~department~~. The Chief Water Officer ~~department~~ shall take any remedial
8 action necessary to protect life and property if, in the Chief Water
9 Officer's ~~its~~ judgment, either:

10 (a) The condition of any dam is so dangerous to the safety of life
11 or property as not to permit time for the issuance and enforcement of an
12 order relative to maintenance or operation; or

13 (b) Passing or imminent floods or any other condition threatens the
14 safety of any dam.

15 (2) In applying the remedial means provided for in this section, the
16 Chief Water Officer ~~department~~ may in an emergency, with the Chief Water
17 Officer's ~~its~~ own forces or by other means at the Chief Water Officer's
18 ~~its~~ disposal, do any or all of the following:

19 (a) Take full charge and control of any dam;

20 (b) Lower the water level by releasing water from the reservoir;

21 (c) Completely drain the reservoir;

22 (d) Perform any necessary remedial or protective work at the site;

23 or

24 (e) Take such other steps as may be essential to safeguard life and
25 property.

26 (3) The Chief Water Officer ~~department~~ shall continue in full charge
27 and control of such dam and its appurtenant works until they are rendered
28 safe or the emergency occasioning the action has ceased and the owner is
29 able to take back full charge and control. The Chief Water Officer's
30 ~~department's~~ taking full charge and control under this section does not
31 relieve the owner of such dam of liability for any negligent acts of such

1 owner.

2 (4) The Chief Water Officer ~~department~~ may report emergency actions
3 involving the safety of a dam to the National Performance of Dams Program
4 in a timely manner.

5 **Sec. 304.** Section 46-1666, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-1666 (1) Violation of the Safety of Dams and Reservoirs Act or of
8 any application approval, approval to operate, order, rule, regulation,
9 or requirement of the Chief Water Officer ~~department~~ under the act is a
10 Class V misdemeanor. Each day that the violation continues constitutes a
11 separate and distinct offense.

12 (2) Any person who willfully obstructs, hinders, or prevents the
13 Chief Water Officer ~~department~~ from performing the duties imposed by the
14 act commits a Class IV misdemeanor.

15 (3) Any owner or any person who engages in the construction,
16 reconstruction, enlargement, alteration, breach, removal, or abandonment
17 of any dam or who knowingly does work on or permits work to be done on
18 the dam without the approval of the Chief Water Officer ~~department~~ or in
19 violation of the act and who fails to immediately notify the Chief Water
20 Officer ~~department~~ thereof commits a Class V misdemeanor.

21 **Sec. 305.** Section 46-1667, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-1667 (1) If the Chief Water Officer ~~department~~ has reason to
24 believe that an owner or other person is violating or has violated the
25 Safety of Dams and Reservoirs Act, an application approval, an approval
26 to operate, a rule, a regulation, an order, or a requirement of the Chief
27 Water Officer ~~department~~ issued or adopted pursuant to the act, the Chief
28 Water Officer ~~department~~ shall give the owner or person written notice by
29 certified mail that the owner or person appears to be in violation of the
30 act. The owner or other person shall have thirty days from the mailing of
31 such notice to respond or to request a hearing before the Chief Water

1 ~~Officer~~ department as to why the owner or other person should not be
2 ordered to cease and desist from the violation. The notice shall inform
3 the owner or other person how to request the hearing and the consequences
4 of failure to request a hearing.

5 (2) If the Chief Water Officer ~~department~~ finds that an owner or
6 person is constructing, reconstructing, enlarging, altering, breaching,
7 removing, or abandoning a dam without having first obtained the required
8 application approval, the Chief Water Officer ~~department~~ shall issue a
9 temporary order for the owner or person to cease and desist the
10 construction, reconstruction, enlargement, alteration, breach, removal,
11 or abandonment pending final action by the Chief Water Officer ~~department~~
12 pursuant to subsection (3) of this section. The temporary order shall
13 include written notice by certified mail to the owner or person of the
14 time and date set by the Chief Water Officer ~~department~~ for a hearing to
15 show cause why the temporary order should be vacated.

16 (3) After a response to a notice or a hearing pursuant to subsection
17 (1) or (2) of this section or after the expiration of time to request a
18 hearing, the Chief Water Officer ~~department~~ shall issue a decision and
19 final order. The decision and final order may take such form as the Chief
20 Water Officer ~~department~~ determines to be reasonable and appropriate and
21 may include a determination of violation, a cease and desist order, the
22 recommendation of a civil penalty, and an order directing that positive
23 steps be taken to abate or ameliorate any harm or damage arising from the
24 violation. The owner or person affected may appeal the hearing decision
25 as provided in section 61-207.

26 (4) If the owner or person continues the violation after the Chief
27 Water Officer ~~department~~ has issued a final decision and order pursuant
28 to subsection (3) of this section or a temporary order pursuant to
29 subsection (2) of this section, the Chief Water Officer ~~department~~ may
30 apply for a temporary restraining order or preliminary or permanent
31 injunction from a court of competent jurisdiction. A decision to seek

1 injunctive relief does not preclude other forms of relief or enforcement
2 against the violator.

3 **Sec. 306.** Section 46-1668, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-1668 (1) Any person who violates the Safety of Dams and
6 Reservoirs Act or an application approval, an approval to operate, a
7 rule, a regulation, an order, or a requirement of the Chief Water Officer
8 ~~department~~ under the act may be assessed a civil penalty in an amount not
9 to exceed five hundred dollars per day for each day the violation
10 continues.

11 (2) The Chief Water Officer ~~department~~ shall bring an action to
12 recover a penalty imposed under this section in a court in the
13 jurisdiction in which the violation occurred.

14 (3) In determining the amount of the penalty, the court shall
15 consider the degree of harm to the public, whether the violation was
16 knowing or willful, the past conduct of the defendant, whether the
17 defendant has taken steps to cease, remove, or mitigate the violation,
18 and any other relevant information.

19 **Sec. 307.** Section 46-1669, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-1669 Any affected person aggrieved by any final order or decision
22 made by the Chief Water Officer ~~director~~ pursuant to the Safety of Dams
23 and Reservoirs Act may appeal the order as provided in section 61-207.
24 For purposes of this section, affected person means the applicant or
25 holder of any approvals under the act and any owner of an estate or
26 interest in or concerning land or water whose interest is or may be
27 impacted in a direct and significant manner by such final order or
28 decision.

29 **Sec. 308.** Section 46-1670, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-1670 (1) Every owner of a dam subject to the Safety of Dams and

1 Reservoirs Act that was completed prior to September 4, 2005, and not
2 previously approved by the department when departmental approval was
3 otherwise required shall file an application with the Chief Water Officer
4 ~~department~~ for approval of such dam.

5 (2) A separate application for each dam shall be filed with the
6 Chief Water Officer ~~department~~ upon forms supplied by the Chief Water
7 Officer ~~department~~ and shall include such appropriate information
8 concerning the dam as the Chief Water Officer ~~department~~ requires.

9 (3) The Chief Water Officer ~~department~~ may give notice, by certified
10 mail to the owner's last address of record in the office of the county
11 assessor of the county in which the dam is located, to the owner of dams
12 required under this section to file an application who or which have
13 failed to do so, and a failure to file within sixty days after receipt of
14 such notice shall be punishable as provided in the act.

15 (4) The Chief Water Officer ~~department~~ may make inspections of such
16 dams and may require owners of such dams and reservoirs to perform, at
17 the owner's expense, such work or tests as may reasonably be required to
18 disclose information sufficient to enable the Chief Water Officer
19 ~~department~~ to determine whether to issue an approval to operate or to
20 issue orders directing further work at the owner's expense necessary to
21 safeguard life and property. For this purpose, the Chief Water Officer
22 ~~department~~ may require an owner to lower the water level of or to drain
23 the reservoir.

24 (5) If, upon inspection or upon completion to the satisfaction of
25 the Chief Water Officer ~~department~~ of all work ordered, the Chief Water
26 Officer ~~department~~ finds that the dam is safe to impound, an approval to
27 operate shall be issued.

28 (6) If at any time the Chief Water Officer ~~department~~ finds that the
29 dam is not safe to impound, the Chief Water Officer ~~department~~ shall
30 notify the owner in writing and shall set a time and place for hearing on
31 the matter. The owner of such dam shall ensure that such dam does not

1 impound following receipt of such notice. Written notice of the time and
2 place of the hearing shall be mailed, at least thirty days prior to the
3 date set for the hearing, to the owner. Any interested person may appear
4 at the hearing and present his or her views and objections to the
5 proposed action.

6 **Sec. 309.** Section 49-506, Revised Statutes Cumulative Supplement,
7 2024, is amended to read:

8 49-506 After the Secretary of State has made the distribution
9 provided by section 49-503, he or she shall deliver additional copies of
10 the session laws and the journal of the Legislature pursuant to this
11 section in print or electronic format as he or she determines, upon
12 recommendation by the Clerk of the Legislature and approval of the
13 Executive Board of the Legislative Council.

14 One copy of the session laws shall be delivered to the Lieutenant
15 Governor, the State Treasurer, the Auditor of Public Accounts, the
16 Reporter of Decisions, the State Court Administrator, the State Fire
17 Marshal, the Department of Administrative Services, the Department of
18 Agriculture, the Department of Banking and Finance, the State Department
19 of Education, ~~the Department of Environment and Energy,~~ the Department of
20 Insurance, the Department of Labor, the Department of Motor Vehicles, the
21 Department of Revenue, the Department of Transportation, the Department
22 of Veterans' Affairs, the Department of Water, Energy, and Environment
23 ~~Natural Resources~~, the Military Department, the Nebraska State Patrol,
24 the Nebraska Commission on Law Enforcement and Criminal Justice, each of
25 the Nebraska state colleges, the Game and Parks Commission, the Nebraska
26 Library Commission, the Nebraska Liquor Control Commission, the Nebraska
27 Accountability and Disclosure Commission, the Public Service Commission,
28 the State Real Estate Commission, the Nebraska State Historical Society,
29 the Public Employees Retirement Board, the Risk Manager, the Legislative
30 Fiscal Analyst, the Public Counsel, the materiel division of the
31 Department of Administrative Services, the State Records Administrator,

1 the budget division of the Department of Administrative Services, the Tax
2 Equalization and Review Commission, the inmate library at all state penal
3 and correctional institutions, the Commission on Public Advocacy, and the
4 Library of Congress; two copies to the Governor, the Secretary of State,
5 the Commission of Industrial Relations, and the Coordinating Commission
6 for Postsecondary Education, one of which shall be for use by the
7 community colleges; three copies to the Department of Health and Human
8 Services; four copies to the Nebraska Publications Clearinghouse; five
9 copies to the Attorney General; nine copies to the Revisor of Statutes;
10 sixteen copies to the Supreme Court and the Legislative Council; and
11 thirty-five copies to the University of Nebraska College of Law.

12 One copy of the journal of the Legislature shall be delivered to the
13 Governor, the Lieutenant Governor, the State Treasurer, the Auditor of
14 Public Accounts, the Reporter of Decisions, the State Court
15 Administrator, the Nebraska State Historical Society, the Legislative
16 Fiscal Analyst, the Tax Equalization and Review Commission, the
17 Commission on Public Advocacy, and the Library of Congress; two copies to
18 the Secretary of State and the Commission of Industrial Relations; four
19 copies to the Nebraska Publications Clearinghouse; five copies to the
20 Attorney General and the Revisor of Statutes; eight copies to the Clerk
21 of the Legislature; thirteen copies to the Supreme Court and the
22 Legislative Council; and thirty-five copies to the University of Nebraska
23 College of Law. The remaining copies shall be delivered to the State
24 Librarian who shall use the same, so far as required for exchange
25 purposes, in building up the State Library and in the manner specified in
26 sections 49-507 to 49-509.

27 **Sec. 310.** Section 49-617, Revised Statutes Cumulative Supplement,
28 2024, is amended to read:

29 49-617 The Revisor of Statutes shall cause the statutes to be
30 printed. The printer shall deliver all completed copies to the Supreme
31 Court. These copies shall be held and disposed of by the court as

1 follows: Sixty copies to the State Library to exchange for statutes of
2 other states; five copies to the State Library to keep for daily use; not
3 to exceed twenty-five copies to the Legislative Council for bill drafting
4 and related services to the Legislature and executive state officers; as
5 many copies to the Attorney General as he or she has attorneys on his or
6 her staff; as many copies to the Commission on Public Advocacy as it has
7 attorneys on its staff; up to sixteen copies to the State Court
8 Administrator; thirteen copies to the Tax Commissioner; eight copies to
9 the Nebraska Publications Clearinghouse; six copies to the Public Service
10 Commission; four copies to the Secretary of State; three copies to the
11 Tax Equalization and Review Commission; four copies to the Clerk of the
12 Legislature for use in his or her office and three copies to be
13 maintained in the legislative chamber, one copy on each side of the
14 chamber and one copy at the desk of the Clerk of the Legislature, under
15 control of the sergeant at arms; three copies to the Department of Health
16 and Human Services; two copies each to the Governor of the state, the
17 Chief Justice and each judge of the Supreme Court, each judge of the
18 Court of Appeals, the Clerk of the Supreme Court, the Reporter of
19 Decisions, the Commissioner of Labor, the Auditor of Public Accounts, and
20 the Revisor of Statutes; one copy each to the Secretary of State of the
21 United States, each Indian tribal court located in the State of Nebraska,
22 the library of the Supreme Court of the United States, the Adjutant
23 General, the Air National Guard, the Commissioner of Education, the State
24 Treasurer, the Board of Educational Lands and Funds, the Director of
25 Agriculture, the Director of Administrative Services, the Director of
26 Economic Development, the director of the Nebraska Public Employees
27 Retirement Systems, the Director-State Engineer, the Director of Banking
28 and Finance, the Director of Insurance, the Director of Motor Vehicles,
29 the Director of Veterans' Affairs, the Director of Water, Energy, and
30 Environment ~~Natural Resources~~, the Director of Correctional Services, the
31 Nebraska Emergency Operating Center, each judge of the Nebraska Workers'

1 Compensation Court, each commissioner of the Commission of Industrial
2 Relations, the Nebraska Liquor Control Commission, the State Real Estate
3 Commission, the secretary of the Game and Parks Commission, the Board of
4 Pardons, each state institution under the Department of Health and Human
5 Services, each state institution under the State Department of Education,
6 the State Surveyor, the Nebraska State Patrol, the materiel division of
7 the Department of Administrative Services, the personnel division of the
8 Department of Administrative Services, the Nebraska Motor Vehicle
9 Industry Licensing Board, the Board of Trustees of the Nebraska State
10 Colleges, each of the Nebraska state colleges, each district judge of the
11 State of Nebraska, each judge of the county court, each judge of a
12 separate juvenile court, the Lieutenant Governor, each United States
13 Senator from Nebraska, each United States Representative from Nebraska,
14 each clerk of the district court for the use of the district court, the
15 clerk of the Nebraska Workers' Compensation Court, each clerk of the
16 county court, each county attorney, each county public defender, each
17 county law library, and the inmate library at all state penal and
18 correctional institutions, and each member of the Legislature shall be
19 entitled to two complete sets, and two complete sets of such volumes as
20 are necessary to update previously issued volumes, but each member of the
21 Legislature and each judge of any court referred to in this section shall
22 be entitled, on request, to an additional complete set. Copies of the
23 statutes distributed without charge, as listed in this section, shall be
24 the property of the state or governmental subdivision of the state and
25 not the personal property of the particular person receiving a copy.
26 Distribution of statutes to the library of the College of Law of the
27 University of Nebraska shall be as provided in sections 85-176 and
28 85-177.

29 **Sec. 311.** Section 54-2417, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 54-2417 For purposes of the Livestock Waste Management Act:

1 (1) Animal feeding operation means a location where beef cattle,
2 dairy cattle, horses, swine, sheep, poultry, or other livestock have
3 been, are, or will be stabled or confined and fed or maintained for a
4 total of forty-five days or more in any twelve-month period and crops,
5 vegetation, forage growth, or post-harvest residues are not sustained in
6 the normal growing season over any portion of the location. Two or more
7 animal feeding operations under common ownership are deemed to be a
8 single animal feeding operation if they are adjacent to each other or if
9 they utilize a common area or system for the disposal of livestock waste.
10 Animal feeding operation does not include aquaculture as defined in
11 section 2-3804.01;

12 (2) Best management practices means schedules of activities,
13 prohibitions, maintenance procedures, and other management practices
14 found to be the most effective methods based on the best available
15 technology achievable for specific sites to prevent or reduce the
16 discharge of pollutants to waters of the state and control odor where
17 appropriate. Best management practices also includes operating procedures
18 and practices to control site runoff, spillage, leaks, sludge or waste
19 disposal, or drainage from raw material storage;

20 (3) Construct means the initiation of physical onsite activities;

21 (4) Construction and operating permit means the state permit to
22 construct and operate a livestock waste control facility, including
23 conditions imposed on the livestock waste control facility and the
24 associated animal feeding operation;

25 (5) Construction approval means an approval issued prior to December
26 1, 2006, by the department allowing construction of a livestock waste
27 control facility;

28 (6) Council means the Environmental Quality Council;

29 (7) Department means the Department of Water, Energy, and
30 Environment ~~Environment and Energy~~;

31 (8) Discharge means the spilling, leaking, pumping, pouring,

1 emitting, emptying, or dumping of pollutants into any waters of the state
2 or in a place which will likely reach waters of the state;

3 (9) Existing livestock waste control facility means a livestock
4 waste control facility in existence prior to April 15, 1998, that does
5 not hold a permit and which has requested an inspection prior to January
6 1, 2000;

7 (10) Livestock waste control facility means any structure or
8 combination of structures utilized to control livestock waste at an
9 animal feeding operation until it can be used, recycled, or disposed of
10 in an environmentally acceptable manner. Such structures include, but are
11 not limited to, diversion terraces, holding ponds, debris basins, liquid
12 manure storage pits, lagoons, and other such devices utilized to control
13 livestock waste;

14 (11) Major modification means an expansion or increase to the lot
15 area or feeding area; change in the location of the animal feeding
16 operation; change in the methods of waste treatment, waste storage, or
17 land application of waste; increase in the number of animals; change in
18 animal species; or change in the size or location of the livestock waste
19 control facility;

20 (12) National Pollutant Discharge Elimination System permit means
21 either a general permit or an individual permit issued by the department
22 pursuant to subsection (11) of section 81-1505. A general permit
23 authorizes categories of disposal practices or livestock waste control
24 facilities and covers a geographic area corresponding to existing
25 geographic or political boundaries, though it may exclude specified areas
26 from coverage. General permits are limited to the same or similar types
27 of animal feeding operations or livestock waste control facilities which
28 require the same or similar monitoring and, in the opinion of the
29 Director of Water, Energy, and Environment ~~Environment and Energy~~, are
30 more appropriately controlled under a general permit than under an
31 individual permit;

1 (13) New animal feeding operation means an animal feeding operation
2 constructed after July 16, 2004;

3 (14) New livestock waste control facility means any livestock waste
4 control facility for which a construction permit, an operating permit, a
5 National Pollutant Discharge Elimination System permit, a construction
6 approval, or a construction and operating permit, or an application
7 therefor, is submitted on or after April 15, 1998;

8 (15) Operating permit means a permit issued prior to December 1,
9 2006, by the department after the completion of the livestock waste
10 control facility in accordance with the construction approval and the
11 submittal of a completed certification form to the department;

12 (16) Person has the same meaning as in section 81-1502; and

13 (17) Waters of the state has the same meaning as in section 81-1502.

14 **Sec. 312.** Section 54-2421, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 54-2421 A map delineating segments and watershed boundaries for cold
17 water class A streams, as designated prior to May 25, 1999, and prepared
18 by the department ~~Department of Environment and Energy and the Department~~
19 ~~of Natural Resources~~, shall be maintained by the department ~~Department of~~
20 ~~Environment and Energy~~ and used by the department for determinations made
21 concerning cold water class A streams and stream watersheds under the
22 Livestock Waste Management Act unless changed by the council. Beginning
23 on May 25, 1999, the council may designate and may redesignate previously
24 designated waters of this state as cold water class A streams for
25 purposes of the act based on the determination by the council that the
26 waters provide or could provide habitat of sufficient water volume or
27 flow, water quality, substrate composition, and water temperature capable
28 of maintaining year-round populations of cold water biota, including
29 reproduction of a salmonoid (trout) population. The council shall not
30 designate or redesignate a stream as a cold water class A stream unless
31 the stream has supported the reproduction of a salmonoid (trout)

1 population within the previous five years. The department shall revise
2 and maintain the cold water class A stream and stream watershed map to
3 incorporate all designations and redesignations of the council.

4 **Sec. 313.** Section 54-2429, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 54-2429 (1) An applicant for a National Pollutant Discharge
7 Elimination System permit or a construction and operating permit under
8 the Environmental Protection Act or the Livestock Waste Management Act
9 shall not be issued a permit until the applicant has obtained ~~, before~~
10 ~~issuance by the Department of Environment and Energy, obtain any~~
11 necessary approvals from the Chief Water Officer ~~Department of Natural~~
12 ~~Resources~~ under the Safety of Dams and Reservoirs Act and ~~certify such~~
13 ~~approvals to the Department of Environment and Energy.~~ The department
14 ~~Department of Environment and Energy, with the concurrence of the~~
15 ~~Department of Natural Resources,~~ may require the applicant to obtain
16 approval from the Chief Water Officer ~~Department of Natural Resources~~ for
17 any dam, holding pond, or lagoon structure which would not otherwise
18 require approval under the Safety of Dams and Reservoirs Act but which in
19 the event of a failure could result in a significant discharge into
20 waters of the state and have a significant impact on the environment. The
21 ~~Department of Environment and Energy may provide for the payment of such~~
22 ~~costs of the Department of Natural Resources with revenue generated under~~
23 ~~section 54-2428.~~

24 (2) An applicant required to obtain a National Pollutant Discharge
25 Elimination System permit is subject to the requirements of the Engineers
26 and Architects Regulation Act.

27 (3) An applicant who has a large concentrated animal feeding
28 operation, as defined in 40 C.F.R. 122 and 123, as such regulations
29 existed on January 1, 2004, and who is required to obtain a construction
30 and operating permit is subject to the requirements of the Engineers and
31 Architects Regulation Act.

1 (4) An applicant who has a small or medium animal feeding operation,
2 as defined in 40 C.F.R. 122 and 123, as such regulations existed on
3 January 1, 2004, and who is required to obtain a construction and
4 operating permit, but not required to obtain a National Pollutant
5 Discharge Elimination System permit, is exempt from the Engineers and
6 Architects Regulation Act.

7 (5) The department may require an engineering evaluation or
8 assessment performed by a licensed professional engineer for a livestock
9 waste control facility if after an inspection: (a) The department
10 determines that the facility has (i) visible signs of structural breakage
11 below the permanent pool, (ii) signs of discharge or proven discharge due
12 to structural weakness, (iii) improper maintenance, or (iv) inadequate
13 capacity; or (b) the department has reason to believe that an animal
14 feeding operation with a livestock waste control facility has violated or
15 threatens to violate the Environmental Protection Act, the Livestock
16 Waste Management Act, or any rules or regulations adopted and promulgated
17 under such acts. Animal feeding operations not required to have a permit
18 under the Environmental Protection Act, the Livestock Waste Management
19 Act, or the rules and regulations adopted and promulgated pursuant to
20 such acts are exempt from the Engineers and Architects Regulation Act.

21 **Sec. 314.** Section 54-2430, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 54-2430 (1) Except as provided in this section, no new livestock
24 waste control facility shall be constructed and no physical onsite
25 activities specific to a new livestock waste control facility, except the
26 use of a borrow site for construction of other components of the animal
27 feeding operation, shall be initiated unless surface water runoff from
28 the upstream area, except incidental runoff, is adequately diverted
29 around the structure and is not permitted to enter the reservoir area.
30 For purposes of this section, incidental runoff means the runoff that
31 drains from the slope of the embankments, the top of the dam, the

1 reservoir area, the feedlots, the associated roadways, and up to twenty-
2 five acres of additional area that cannot be diverted. Incidental runoff
3 capacity from a twenty-five-year frequency, twenty-four-hour storm shall
4 be provided for in the waste reservoir in addition to the capacity
5 required for the waste effluent or stored materials.

6 (2) The department ~~Department of Natural Resources~~ shall permit a
7 requested increase in the twenty-five-acre limitation for a new livestock
8 waste control facility for an animal feeding operation for which an
9 inspection was requested prior to January 1, 2000, unless the department
10 determines that the detriment to existing water users that would result
11 from permitting the acreage increase would outweigh the detriment to the
12 operator of the animal feeding operation if the increase were not
13 permitted.

14 (3) For other new livestock waste control facilities, the department
15 ~~Department of Natural Resources~~ may permit an increase in the twenty-
16 five-acre limitation if it determines that (a) the applicant has no
17 reasonable way to limit the amount of the additional runoff acreage to
18 twenty-five acres or less at the proposed location of the livestock waste
19 control facility, (b) the applicant has no reasonable alternative for
20 relocating the livestock waste control facility so that the additional
21 runoff acreage would not exceed twenty-five acres, and (c) either (i) an
22 increase in the permitted runoff acreage would not reduce water supplies
23 to the detriment of existing water users or (ii)(A) the requested
24 facility is for a proposed expansion of an animal feeding operation in
25 existence and in compliance with the Livestock Waste Management Act as of
26 January 1, 2003, (B) the amount of the runoff acreage permitted in excess
27 of the twenty-five-acre limitation is not more than fifteen percent of
28 total permitted feedlot area, and (C) any detriment to existing water
29 users that would result from permitting the acreage increase would be
30 outweighed by the detriment to the operator of the animal feeding
31 operation if the increase were not permitted.

1 **Sec. 315.** Section 54-2940, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 54-2940 In carrying out its duties to prevent, suppress, control,
4 and eradicate dangerous diseases the department may:

5 (1) Issue quarantines to any person or public or private premises
6 within the state where an affected animal, suspected affected animal, or
7 regulated article is or was located, and upon any animal imported into
8 Nebraska in violation of the Animal Health and Disease Control Act, the
9 Exotic Animal Auction or Exchange Venue Act, and any importation rules or
10 regulations until such quarantine is released by the State Veterinarian.
11 Whenever additional animals are placed within a quarantined premises or
12 area, such quarantine may be amended accordingly by the department.
13 Births and death loss shall be included on inventory documentation
14 pursuant to the quarantine;

15 (2) Regulate or prohibit animal or regulated article movement into,
16 within, or through the state through quarantines, controlled movement
17 orders, importation orders, or embargoes as deemed necessary by the State
18 Veterinarian;

19 (3) Require an affected animal or suspected affected animal to be
20 (a) euthanized, detained, slaughtered, or sold for immediate slaughter at
21 a federally inspected slaughter establishment or (b) inspected, tested,
22 treated, subjected to an epidemiological investigation, monitored, or
23 vaccinated. The department may require tested animals to be identified by
24 an official identification eartag. Costs for confinement, restraint, and
25 furnishing the necessary assistance and facilities for such activities
26 shall be the responsibility of the owner or custodian of the animal;

27 (4) Seek an emergency proclamation by the Governor in accordance
28 with section 81-829.40 when deemed appropriate. All state agencies and
29 political subdivisions of the state shall cooperate with the
30 implementation of any emergency procedures and measures developed
31 pursuant to such proclamation;

1 (5)(a) Access records or animals and enter any premises related to
2 the purposes of the Animal Health and Disease Control Act or the Exotic
3 Animal Auction or Exchange Venue Act without being subject to any action
4 for trespass or reasonable damages if reasonable care is exercised; and

5 (b) Obtain an inspection warrant in the manner prescribed in
6 sections 29-830 to 29-835 if any person refuses to allow the department
7 access or entry as authorized under this subdivision;

8 (6) Adopt and promulgate rules and regulations to enforce and
9 effectuate the general purpose and provisions of the Animal Health and
10 Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, and
11 any other provisions the department deems necessary for carrying out its
12 duties under such acts including:

13 (a) Standards for program diseases to align with USDA/APHIS/VS
14 program standards;

15 (b) Provisions for maintaining a livestock disease reporting system;

16 (c) Procedures for establishing and maintaining accredited,
17 certified, validated, or designated disease-free animals, herds, or
18 flocks;

19 (d) In consultation with the Department of Water, Energy, and
20 Environment ~~Environment and Energy~~ and the Department of Health and Human
21 Services, best management practices for the disposal of carcasses of dead
22 livestock;

23 (e) In consultation with the Department of Water, Energy, and
24 Environment ~~Environment and Energy~~ and the University of Nebraska,
25 operating procedures governing composting of livestock carcasses;

26 (f) Recommendations of where and how any available federal funds and
27 state personnel and materials are to be allocated for the purpose of
28 program disease activities; and

29 (g) Provisions for secure food supply plans to ensure the continuity
30 of business is maintained during a foreign animal or transboundary
31 disease outbreak;

1 (7) When funds are available, develop a livestock emergency response
2 system capable of coordinating and executing a rapid response to the
3 incursion or potential incursion of a dangerous livestock disease episode
4 which poses a threat to the health of the state's livestock and could
5 cause a serious economic impact on the state, international trade, or
6 both;

7 (8) When funds are available, support planning for and assistance
8 with catastrophic livestock mortality disposal, including the acquisition
9 of equipment and supplies and securing of services, to augment
10 preparedness for and response to a disease, natural disaster, or other
11 emergency event resulting in catastrophic livestock mortality or
12 euthanization;

13 (9) Allow animals intended for direct slaughter to move to a
14 controlled feedlot for qualified purposes; and

15 (10) Approve qualified commuter herd agreements and livestock
16 producer plans and, when appropriate, allow for exceptions to
17 requirements by written compliance agreements.

18 **Sec. 316.** Section 57-1407, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 57-1407 (1) After receipt of an application under section 57-1405,
21 the commission shall:

22 (a) Within sixty days, schedule a public hearing;

23 (b) Notify the pipeline carrier of the time, place, and purpose of
24 the public hearing;

25 (c) Publish a notice of the time, place, and purpose of the public
26 hearing in at least one newspaper of general circulation in each county
27 in which the major oil pipeline is to be constructed; and

28 (d) Serve notice of the public hearing upon the governing bodies of
29 the counties and municipalities through which the proposed route of the
30 major oil pipeline would be located as specified in subdivision (2)(d) of
31 section 57-1405.

1 (2) The commission may hold additional public meetings for the
2 purpose of receiving input from the public at locations as close as
3 practicable to the proposed route of the major oil pipeline. The
4 commission shall make the public input part of the record.

5 (3) If requested by the commission, the following agencies shall
6 file a report with the commission, prior to the hearing on the
7 application, regarding information within the respective agencies' area
8 of expertise relating to the impact of the major oil pipeline on any area
9 within the respective agencies' jurisdiction, including in such report
10 opinions regarding the advisability of approving, denying, or modifying
11 the location of the proposed route of the major oil pipeline: The
12 Department of Water, Energy, and Environment ~~Environment and Energy, the~~
13 ~~Department of Natural Resources,~~ the Department of Revenue, the
14 Department of Transportation, the Game and Parks Commission, the Nebraska
15 Oil and Gas Conservation Commission, the Nebraska State Historical
16 Society, the State Fire Marshal, and the Board of Educational Lands and
17 Funds. The agencies may submit a request for reimbursement of reasonable
18 and necessary expenses incurred for any consultants hired pursuant to
19 this subsection.

20 (4) An application under the Major Oil Pipeline Siting Act shall be
21 approved if the proposed route of the major oil pipeline is determined by
22 the Public Service Commission to be in the public interest. The pipeline
23 carrier shall have the burden to establish that the proposed route of the
24 major oil pipeline would serve the public interest. In determining
25 whether the pipeline carrier has met its burden, the commission shall not
26 evaluate safety considerations, including the risk or impact of spills or
27 leaks from the major oil pipeline, but the commission shall evaluate:

28 (a) Whether the pipeline carrier has demonstrated compliance with
29 all applicable state statutes, rules, and regulations and local
30 ordinances;

31 (b) Evidence of the impact due to intrusion upon natural resources

1 and not due to safety of the proposed route of the major oil pipeline to
2 the natural resources of Nebraska, including evidence regarding the
3 irreversible and irretrievable commitments of land areas and connected
4 natural resources and the depletion of beneficial uses of the natural
5 resources;

6 (c) Evidence of methods to minimize or mitigate the potential
7 impacts of the major oil pipeline to natural resources;

8 (d) Evidence regarding the economic and social impacts of the major
9 oil pipeline;

10 (e) Whether any other utility corridor exists that could feasibly
11 and beneficially be used for the route of the major oil pipeline;

12 (f) The impact of the major oil pipeline on the orderly development
13 of the area around the proposed route of the major oil pipeline;

14 (g) The reports of the agencies filed pursuant to subsection (3) of
15 this section; and

16 (h) The views of the governing bodies of the counties and
17 municipalities in the area around the proposed route of the major oil
18 pipeline.

19 **Sec. 317.** Section 57-1502, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 57-1502 For purposes of sections 57-1501 to 57-1503:

22 (1) Department means the Department of Water, Energy, and
23 Environment ~~Environment and Energy~~;

24 (2) Oil pipeline means a pipeline which is larger than eight inches
25 in inside diameter and which is constructed in Nebraska for the
26 transportation of petroleum, or petroleum components, products, or
27 wastes, including crude oil or any fraction of crude oil, within,
28 through, or across Nebraska, but does not include in-field and gathering
29 lines; and

30 (3) Pipeline carrier means an individual, a company, a corporation,
31 an association, or any other legal entity that engages in owning,

1 operating, or managing an oil pipeline.

2 **Sec. 318.** Section 57-1609, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 57-1609 Before issuing a permit, the commission shall consult with
5 the Department of Water, Energy, and Environment ~~Environment and Energy~~
6 and the Underground Injection Control program permitting authority.

7 **Sec. 319.** Section 57-1614, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 57-1614 (1) The commission shall take action to ensure that a
10 storage facility does not cause pollution or create a nuisance. For the
11 purposes of this provision and in applying other laws, carbon dioxide
12 streams stored, and which remain in storage under a commission permit,
13 are not a pollutant and do not constitute a nuisance.

14 (2) The commission's authority in subsection (1) of this section
15 does not limit the jurisdiction held by the Department of Water, Energy,
16 and Environment ~~Environment and Energy~~. Nothing else in the Nebraska
17 Geologic Storage of Carbon Dioxide Act limits the jurisdiction held by
18 the Department of Water, Energy, and Environment ~~Environment and Energy~~.

19 (3) The commission shall take action to ensure that substances that
20 compromise the objectives of the act or the integrity of a storage
21 reservoir do not enter a storage reservoir.

22 (4) The commission shall take action to ensure that carbon dioxide
23 does not escape from a storage facility.

24 **Sec. 320.** Section 57-1619, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 57-1619 (1) After carbon dioxide injections into a reservoir end and
27 upon application by the storage operator, the commission shall consider
28 issuing a certificate of project completion.

29 (2) The certificate may only be issued after public notice and
30 hearing. The commission shall establish notice requirements for such
31 hearing.

1 (3) The certificate may only be issued after the commission has
2 consulted with the Department of Water, Energy, and Environment
3 ~~Environment and Energy~~ and the Underground Injection Control program
4 permitting authority.

5 (4) The certificate may only be issued if the storage operator:

6 (a) Is in full compliance with all laws governing the storage
7 facility;

8 (b) Shows that it has addressed all pending claims regarding the
9 storage facility's operation;

10 (c) Shows that it has received an authorization of site closure from
11 the applicable underground injection control program permitting authority
12 for each storage facility injection well; and

13 (d) Shows that any wells, equipment, and facilities to be used in
14 the post-closure period are in good condition and retain mechanical
15 integrity.

16 (5) Once a certificate is issued:

17 (a) Title to the storage facility and to the stored carbon dioxide
18 transfers, without payment of any compensation, to the State of Nebraska;

19 (b) Title acquired by the state includes all rights and interests
20 in, and all responsibilities associated with, the stored carbon dioxide;

21 (c) The storage operator and all persons who generated any injected
22 carbon dioxide streams are released from all regulatory requirements
23 associated with the storage facility;

24 (d) Any financial assurance provided by the storage operator shall
25 be released; and

26 (e) Monitoring and managing the storage facility is the state's
27 responsibility to be overseen by the commission.

28 **Sec. 321.** Section 58-202, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 58-202 (1) The Legislature hereby finds and declares that:

31 (a) The high cost of agricultural loans and the general

1 unavailability of such loans at favorable rates and terms for farmers,
2 particularly beginning farmers, and other agricultural enterprises have
3 resulted in decreased crop, livestock, and business productivity and
4 prevented farmers and other agricultural enterprises from acquiring
5 modern agricultural equipment and processes. These problems have made it
6 difficult for farmers and other agricultural enterprises to maintain or
7 increase their present number of employees and have decreased the supply
8 of agricultural commodities available to fulfill the needs of the
9 citizens of this state; and

10 (b) There exists in this state an inadequate supply of and a
11 pressing need for farm credit and agricultural loan financing at interest
12 rates and terms which are consistent with the needs of farmers,
13 particularly beginning farmers, and other agricultural enterprises.

14 (2) The Legislature hereby finds and declares that:

15 (a) From time to time the high rates of interest charged by mortgage
16 lenders seriously restrict existing housing transfers and new housing
17 starts and the resultant reduction in residential construction starts
18 causes a condition of substantial unemployment and underemployment in the
19 construction industry;

20 (b) Such conditions generally result in and contribute to the
21 creation of slums and blighted areas in the urban and rural areas of this
22 state and a deterioration of the quality of living conditions within this
23 state and necessitate excessive and disproportionate expenditures of
24 public funds for crime prevention and punishment, public health and
25 safety, fire and accident prevention, and other public services and
26 facilities; and

27 (c) There exists in the urban and rural areas of this state an
28 inadequate supply of and a pressing need for sanitary, safe, and
29 uncrowded housing at prices at which low-income and moderate-income
30 persons, particularly first-time homebuyers, can afford to purchase,
31 construct, or rent and as a result such persons are forced to occupy

1 unsanitary, unsafe, and overcrowded housing.

2 (3) The Legislature hereby finds and declares that:

3 (a) Adequate and reliable energy supplies are a basic necessity of
4 life and sufficient energy supplies are essential to supplying adequate
5 food and shelter;

6 (b) The cost and availability of energy supplies has been and will
7 continue to be a matter of state and national concern;

8 (c) The increasing cost and decreasing availability of energy
9 supplies for purposes of residential heating will limit the ability of
10 many of Nebraska's citizens to provide the basic necessities of life and
11 will result in a deterioration in living conditions and a threat to the
12 health and welfare of the citizens of this state;

13 (d) Energy conservation through building modifications including,
14 but not limited to, insulation, weatherization, and the installation of
15 alternative energy devices has been shown to be a prudent means of
16 reducing energy consumption costs and the need for additional costly
17 facilities to produce and supply energy;

18 (e) Because of the high cost of available capital, the purchase of
19 energy conservation devices is not possible for many Nebraskans. The
20 prohibitively high interest rates for private capital create a situation
21 in which the necessary capital cannot be obtained solely from private
22 enterprise sources and there is a need for the stimulation of investment
23 of private capital, thereby encouraging the purchase of energy
24 conservation devices and energy conserving building modifications;

25 (f) The increased cost per capita of supplying adequate life-
26 sustaining energy needs has reduced the amount of funds, both public and
27 private, available for providing other necessities of life, including
28 food, health care, and safe, sanitary housing; and

29 (g) The continuing purchase of energy supplies results in the
30 transfer of ever-increasing amounts of capital to out-of-state energy
31 suppliers.

1 (4) The Legislature hereby finds and declares that:

2 (a) There exist within this state unemployment and underemployment
3 especially in areas of basic economic activity, caused by economic
4 decline and need for diversification of the economic base, needlessly
5 increasing public expenditures for unemployment compensation and welfare,
6 decreasing the tax base, reducing tax revenue, and resulting in economic
7 and social liabilities to the entire state;

8 (b) Such unemployment and underemployment cause areas of the state
9 to deteriorate and become substandard and blighted and such conditions
10 result in making such areas economic or social liabilities harmful to the
11 economic and social well-being of the entire state and the communities in
12 which they exist, needlessly increasing public expenditures, imposing
13 onerous state and municipal burdens, decreasing the tax base, reducing
14 tax revenue, substantially impairing or arresting the sound growth of the
15 state and the municipalities, depreciating general state and community-
16 wide values, and contributing to the spread of disease and crime which
17 necessitate excessive and disproportionate expenditures of public funds
18 for the preservation of the public health and safety, for crime
19 prevention, correction, prosecution, and punishment, for the treatment of
20 juvenile delinquency, for the maintenance of adequate police, fire, and
21 accident protection, and for other public services and facilities;

22 (c) There exist within this state conditions resulting from the
23 concentration of population of various counties, cities, and villages
24 which require the construction, maintenance, and operation of adequate
25 hospital and nursing facilities for the care of the public health. Since
26 these conditions cannot be remedied by the ordinary operations of private
27 enterprises and since provision of adequate hospital, nursing, and
28 medical care is a public use, it is in the public interest that adequate
29 hospital and medical facilities and care be provided in order to care for
30 and protect the public health and welfare;

31 (d) Creation of basic economic jobs in the private sector and the

1 promotion of health and welfare by the means provided under the Nebraska
2 Investment Finance Authority Act and the resulting reduction of needless
3 public expenditures, expansion of the tax base, provision of hospitals
4 and health care and related facilities, and increase of tax revenue are
5 needed within this state; and

6 (e) Stimulation of economic development throughout the state and the
7 provision of health care at affordable prices are matters of state
8 policy, public interest, and statewide concern and within the powers and
9 authority inherent in and reserved to the state in order that the state
10 and its municipalities shall not continue to be endangered by areas which
11 consume an excessive proportion of their revenue, in order that the
12 economic base of the state may be broadened and stabilized thereby
13 providing jobs and necessary tax base, and in order that adequate health
14 care services be provided to all residents of this state.

15 (5) The Legislature hereby finds and declares that:

16 (a) There is a need within this state for financing to assist
17 municipalities, as defined in section 81-15,149, in providing wastewater
18 treatment facilities and safe drinking water facilities. The federal
19 funding provided for wastewater treatment facilities is extremely limited
20 while the need to provide and improve wastewater treatment facilities and
21 safe drinking water facilities is great;

22 (b) The construction, development, rehabilitation, and improvement
23 of modern and efficient sewer systems and wastewater treatment facilities
24 are essential to protecting and improving the state's water quality, the
25 provision of adequate wastewater treatment facilities and safe drinking
26 water facilities is essential to economic growth and development, and new
27 sources of financing for such projects are needed;

28 (c) The federal government has acted to end the system of federal
29 construction grants for clean water projects and has instead provided for
30 capitalization grants to capitalize state revolving funds for wastewater
31 treatment projects and will soon expand that to include safe drinking

1 water facilities, and the state has created or is expected to create
2 appropriate funds or accounts for such purpose. The state is required or
3 expected to be required to provide matching funds for deposit into such
4 funds or accounts, and there is a need for financing in excess of the
5 amount which can be provided by the federal money and the state match;
6 and

7 (d) Additional assistance can be provided to municipalities as
8 defined in section 81-15,149 to alleviate the problems of water pollution
9 or the provision of safe drinking water by providing for the issuance of
10 revenue bonds, the proceeds of which shall be deposited into the
11 Wastewater Treatment Facilities Construction Loan Fund or the comparable
12 state fund to finance safe drinking water facilities. Nothing in this
13 section shall prohibit the provision of loans ~~, including loans made~~
14 ~~pursuant to the Conservation Corporation Act,~~ to a municipality as
15 defined in section 81-15,149 for the construction, development,
16 rehabilitation, operation, maintenance, and improvement of wastewater
17 treatment facilities or safe drinking water facilities.

18 (6) The Legislature hereby finds and declares that:

19 (a) There is a need within this state for financing to assist public
20 school boards and school districts and private for-profit or not-for-
21 profit schools in connection with removal of materials determined to be
22 hazardous to the health and well-being of the residents of the state and
23 the reduction or elimination of accessibility barriers and that the
24 federal funding provided for such projects is extremely limited and the
25 need and requirement to remove such materials and to reduce or eliminate
26 accessibility barriers from school buildings is great;

27 (b) The financing of the removal of such environmental hazards and
28 the reduction or elimination of accessibility barriers is essential to
29 protecting and improving the facilities in the state which provide
30 educational benefits and services;

31 (c) The federal government has directed schools to remove such

1 hazardous materials and to reduce or eliminate accessibility barriers;
2 and

3 (d) The problems enumerated in this subsection cannot be remedied
4 through the operation of private enterprise or individual communities or
5 both but may be alleviated through the assistance of the authority to
6 encourage the investment of private capital and assist in the financing
7 of the removal of environmental hazards and the reduction or elimination
8 of accessibility barriers in educational facilities in this state in
9 order to provide for a clean, safe, and accessible environment to protect
10 the health and welfare of the citizens and residents of this state.

11 (7) The Legislature hereby finds and declares that:

12 (a) The rapidly rising volume of waste deposited by society
13 threatens the capacity of existing and future landfills. The nature of
14 waste disposal means that unknown quantities of potentially toxic and
15 hazardous materials are being buried and pose a constant threat to the
16 ground water supply. In addition, the nature of the waste and the
17 disposal methods utilized allow the waste to remain basically inert for
18 decades, if not centuries, without decomposition;

19 (b) Wastes filling Nebraska's landfills may at best represent a
20 potential resource, but without proper management wastes are hazards to
21 the environment and to the public health and welfare;

22 (c) The growing concern with ground water protection and the desire
23 to avoid financial risks inherent in ground water contamination have
24 caused many smaller landfills to close in favor of using higher-volume
25 facilities. Larger operations allow for better ground water protection at
26 a relatively lower and more manageable cost;

27 (d) The reduction of solid waste at the source and the recycling of
28 reusable waste materials will reduce the flow of waste to landfills and
29 increase the supply of reusable materials for the use of the public;

30 (e) There is a need within this state for financing to assist
31 counties, cities, villages, entities created under the Interlocal

1 Cooperation Act and the Joint Public Agency Act, and private persons with
2 the construction and operation of new solid waste disposal areas or
3 facilities and with the closure, monitoring, and remediation of existing
4 solid waste disposal areas and facilities;

5 (f) Financing the construction and operation of new solid waste
6 disposal areas and facilities and financing the closure, monitoring, and
7 remediation of existing and former solid waste disposal areas and
8 facilities in the state is essential to protect the environment and the
9 public health and welfare;

10 (g) The federal government has directed that effective October 1,
11 1993, all solid waste disposal areas and facilities shall be upgraded to
12 meet stringent siting, design, construction, operation, closure,
13 monitoring, and remediation requirements; and

14 (h) The problems enumerated in this subsection cannot be remedied
15 through the operation of private enterprise or individual communities or
16 both but may be alleviated through the assistance of the authority to
17 encourage the investment of private capital and to assist in the
18 financing of solid waste disposal areas and facilities and in the removal
19 of environmental hazards in solid waste disposal areas and facilities in
20 this state in order to provide for a clean environment to protect the
21 health and welfare of the citizens and residents of this state.

22 (8) The Legislature hereby finds and declares that:

23 (a) During emergencies the resources of political subdivisions must
24 be effectively directed and coordinated to public safety agencies to save
25 lives, to protect property, and to meet the needs of citizens;

26 (b) There exists a need for public safety communication systems for
27 use by Nebraska's public safety agencies as defined in the Nebraska
28 Public Safety Communication System Act;

29 (c) Investment in the public safety communication infrastructure is
30 required to ensure the effectiveness of such public safety agencies.
31 Since the maintenance of public safety is a paramount concern but the

1 cost of purchasing and operating multiple communication infrastructures
2 is prohibitive, it is imperative that political subdivisions cooperate in
3 their efforts to obtain real and personal property to establish, operate,
4 maintain, and manage public safety communication systems; and

5 (d) There is a need within this state for financing to assist
6 political subdivisions and any entities created under the Interlocal
7 Cooperation Act and the Joint Public Agency Act with the acquisition,
8 construction, and operation of real and personal property of public
9 safety communication systems.

10 (9) The Legislature hereby finds and declares that, as of May 27,
11 2005, and in connection with the financing of agricultural projects,
12 there is a need to increase both the limit on individual net worth and
13 the limit on the aggregate loan amount that may be provided by the
14 authority. Such adjustments are necessary to address the inadequate
15 supply of and pressing need for farm credit and agricultural loan
16 financing at interest rates and terms that are consistent with the needs
17 of farmers, particularly beginning farmers, and other agricultural
18 enterprises.

19 (10) The Legislature hereby finds and declares that:

20 (a) The amount of funding and other resources available to remedy
21 the problems identified in this section has been, and continues to be,
22 insufficient. Accordingly, the authority must be provided with additional
23 powers to adequately address the problems identified in this section with
24 funding derived from public and private sources and state and federal
25 sources;

26 (b) Carrying out the purposes of the Nebraska Investment Finance
27 Authority Act may necessitate innovative agreements with public agencies
28 and private entities and it is the policy of this state to encourage such
29 public-private and intergovernmental cooperation; and

30 (c) Better, more broad-based sources of financing must be made
31 available to the authority and by the authority to the private sector of

1 the economy to enable the authority to address the problems identified in
2 this section.

3 **Sec. 322.** Section 58-221, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 58-221 Residential energy conservation device shall mean any prudent
6 means of reducing the demands for conventional fuels or increasing the
7 supply or efficiency of these fuels in residential housing and shall
8 include, but not be limited to:

9 (1) Caulking and weather stripping of doors and windows;

10 (2) Furnace efficiency modifications, including:

11 (a) Replacement burners, furnaces, heat pumps, or boilers or any
12 combination thereof which, as determined by the Director of Water,
13 Energy, and Environment ~~Environment and Energy~~, substantially increases
14 the energy efficiency of the heating system;

15 (b) Any device for modifying flue openings which will increase the
16 energy efficiency of the heating system; and

17 (c) Any electrical or mechanical furnace ignition system which
18 replaces a standing gas pilot light;

19 (3) A clock thermostat;

20 (4) Ceiling, attic, wall, and floor insulation;

21 (5) Water heater insulation;

22 (6) Storm windows and doors, multiglazed windows and doors, and
23 heat-absorbed or heat-reflective glazed window and door materials;

24 (7) Any device which controls demand of appliances and aids load
25 management;

26 (8) Any device to utilize solar energy, biomass, geothermal, or wind
27 power for any residential energy conservation purpose including heating
28 of water and space heating or cooling; and

29 (9) Any other conservation device, renewable energy technology, and
30 specific home improvement necessary to insure the effectiveness of the
31 energy conservation measures as the Director of Water, Energy, and

1 ~~Environment~~ ~~Environment and Energy~~ by rule or regulation identifies.

2 **Sec. 323.** Section 60-6,363, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 60-6,363 For purposes of sections 60-6,363 to 60-6,374:

5 (1) Diesel-powered motor vehicle shall mean a self-propelled vehicle
6 which is designed primarily for transporting persons or property on a
7 highway and which is powered by an internal combustion engine of the
8 compression ignition type;

9 (2) Motor vehicle shall mean a self-propelled vehicle with a gross
10 unloaded vehicle weight of ten thousand pounds or more or any combination
11 of vehicles of a type subject to registration which is towed by such a
12 vehicle;

13 (3) Smoke shall mean the solid or liquid matter, except water,
14 discharged from a motor vehicle engine which obscures the transmission of
15 light;

16 (4) Smokemeter shall mean a full-flow, light-extinction smokemeter
17 of a type approved by the Department of Water, Energy, and Environment
18 ~~Environment and Energy~~ and operating on the principles described in the
19 federal standards;

20 (5) Opacity shall mean the degree to which a smoke plume emitted
21 from a diesel-powered motor vehicle engine will block the passage of a
22 beam of light expressed as a percentage; and

23 (6) Smoke control system shall mean a system consisting of one or
24 more devices and adjustments designed to control the discharge of smoke
25 from diesel-powered motor vehicles.

26 **Sec. 324.** Section 60-6,364, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 60-6,364 Sections 60-6,363 to 60-6,374 shall apply to all diesel-
29 powered motor vehicles operated within this state with the exception of
30 the following:

31 (1) Emergency vehicles operated by federal, state, and local

1 governmental authorities;

2 (2) Vehicles which are not required to be registered in accordance
3 with the Motor Vehicle Registration Act;

4 (3) Vehicles used for research and development which have been
5 approved by the Director of Water, Energy, and Environment ~~Environment~~
6 ~~and Energy~~;

7 (4) Vehicles being operated while undergoing maintenance;

8 (5) Vehicles operated under emergency conditions;

9 (6) Vehicles being operated in the course of training programs which
10 have been approved by the director; and

11 (7) Other vehicles expressly exempted by the director.

12 **Sec. 325.** Section 60-6,367, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 60-6,367 (1) Officials of the Department of Water, Energy, and
15 Environment ~~Environment and Energy~~ and local enforcement officials shall
16 have the authority to issue citations to suspected violators of sections
17 60-6,363 to 60-6,374 on the basis of their visual evaluation of the smoke
18 emitted from a diesel-powered motor vehicle. A citation shall give the
19 suspected violator a reasonable time to furnish evidence to the
20 department that such alleged violation has been corrected or else such
21 suspected violator shall be subject to the penalties set out in section
22 60-6,373. A suspected violator may demand that the suspected vehicle be
23 tested by an approved smokemeter prior to a trial on the alleged
24 violation.

25 (2) Smokemeter tests shall be conducted (a) by or under the
26 supervision of a person or testing facility authorized by the Director of
27 Water, Energy, and Environment ~~Environment and Energy~~ to conduct such
28 tests and (b) by installing an approved smokemeter on the exhaust pipe
29 and operating the suspected vehicle at engine revolutions per minute
30 equivalent to the engine revolutions per minute at the time of the
31 alleged violation.

1 (3) The results of smokemeter tests run in accordance with this
2 section and after the alleged violation shall be admissible as evidence
3 in legal proceedings.

4 **Sec. 326.** Section 60-6,368, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 60-6,368 (1) The Director of Water, Energy, and Environment
7 ~~Environment and Energy~~ shall have the power, after public hearings on due
8 notice, to adopt and promulgate, consistent with and in furtherance of
9 the provisions of sections 60-6,363 to 60-6,374, rules and regulations in
10 accordance with which he or she will carry out his or her
11 responsibilities and obligations under such sections.

12 (2) Any rules or regulations promulgated by the director shall be
13 consistent with the provisions of the federal standards, if any, relating
14 to control of emissions from the diesel-powered motor vehicles affected
15 by such rules and regulations. The director shall not require, as a
16 condition for the sale of any diesel-powered motor vehicle covered by
17 sections 60-6,363 to 60-6,374, the inspection, certification, or other
18 approval of any feature or equipment designed for the control of noise or
19 emissions from such diesel-powered motor vehicles if such feature or
20 equipment has been certified, approved, or otherwise authorized pursuant
21 to laws or regulations of any federal governmental body as sufficient to
22 make lawful the sale of any diesel-powered motor vehicle covered by such
23 sections.

24 **Sec. 327.** Section 61-201, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 61-201 The Chief Water Officer of the Department of Water, Energy,
27 and Environment ~~Director of Natural Resources~~ shall be qualified by
28 training and business experience to manage and supervise the Division of
29 Water of the Department of Water, Energy, and Environment ~~Department of~~
30 ~~Natural Resources.~~ The Division of Water of the Department of Water,
31 Energy, and Environment shall assist the Chief Water Officer in carrying

1 out the Chief Water Officer's duties. The Chief Water Officer director
2 shall (1) be a professional engineer as provided in the Engineers and
3 Architects Regulation Act or a professional geologist as provided in the
4 Geologists Regulation Act and (2) have had at least five years'
5 experience in a position of responsibility in irrigation work. The Chief
6 Water Officer shall be appointed by the Governor, subject to confirmation
7 by the Legislature. The Chief Water Officer shall report directly to the
8 Director of Water, Energy, and Environment. The Chief Water Officer
9 shall, before assuming the duties of the office, take and subscribe an
10 oath, such as is required by state officers.

11 **Sec. 328.** Section 61-202, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 61-202 The Department of Water, Energy, and Environment ~~Director of~~
14 ~~Natural Resources~~ may employ such personnel, including legal and
15 technical advisors, as necessary to carry out the duties required of the
16 department, including the duties required of the Chief Water Officer
17 ~~director.~~

18 **Sec. 329.** Section 61-203, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 61-203 The Chief Water Officer ~~Director of Natural Resources~~ shall
21 adopt a seal. Copies of all records or other instruments related to the
22 duties of the Chief Water Officer in the Department of Water, Energy, and
23 Environment ~~Natural Resources~~ when certified by the Chief Water Officer
24 ~~department~~ as true copies and bearing the seal thereof shall be received
25 in any court as prima facie evidence of the original record or
26 instruments.

27 **Sec. 330.** Section 61-204, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 61-204 (1) The Chief Water Officer of the Department ~~Director of~~
30 Water, Energy, and Environment ~~Natural Resources~~ may adopt and promulgate
31 rules and regulations to carry out the duties of the Chief Water Officer

1 ~~for the Department of Natural Resources~~ except to the extent such power
2 is statutorily granted to the Nebraska Natural Resources Commission. The
3 Chief Water Officer ~~director~~ shall administer rules and regulations
4 adopted and promulgated by the commission.

5 (2) The rules, regulations, and orders of the Director of Water
6 Resources, the Department of Water Resources, ~~and the Nebraska Natural~~
7 ~~Resources Commission, the Director of Natural Resources, and the~~
8 Department of Natural Resources shall remain in effect unless changed or
9 eliminated by the Chief Water Officer or the Department of Water, Energy,
10 and Environment, as determined by their respective duties ~~Director of~~
11 ~~Natural Resources or the Department of Natural Resources~~ or by the
12 commission to the extent such power is statutorily granted to the
13 commission.

14 **Sec. 331.** Section 61-205, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 61-205 The Chief Water Officer of the Department of Water, Energy,
17 and Environment shall exercise the powers and perform the duties assigned
18 to the Department of Natural Resources prior to July 1, 2025, except
19 those duties assigned to the Director of the Department of Water, Energy,
20 and Environment or the Department of Water, Energy, and Environment. The
21 ~~Department of Natural Resources shall exercise the powers and perform the~~
22 ~~duties assigned to the Department of Water Resources prior to July 1,~~
23 ~~2000. The Department of Natural Resources shall exercise the powers and~~
24 ~~perform the duties assigned to the Nebraska Natural Resources Commission~~
25 ~~prior to July 1, 2000, except as otherwise specifically provided.~~

26 The Chief Water Officer ~~Director of Natural Resources~~ and his or her
27 duly authorized assistants shall have access at all reasonable times to
28 all dams, reservoirs, hydroelectric plants, water measuring devices, and
29 headgates, and other devices for diverting water, for the purpose of
30 performing the duties assigned to the Chief Water Officer ~~department~~.

31 **Sec. 332.** Section 61-206, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 61-206 (1) The Chief Water Officer ~~Department of Natural Resources~~
3 is given jurisdiction over all matters pertaining to water rights for
4 irrigation, power, or other useful purposes except as such jurisdiction
5 is specifically limited by statute. The Chief Water Officer ~~department~~
6 may adopt and promulgate rules and regulations governing matters coming
7 before the Chief Water Officer ~~it~~. The Chief Water Officer ~~It~~ may refuse
8 to allow any water to be used by claimants until their rights have been
9 determined and made of record. The Chief Water Officer ~~It~~ may request
10 information relative to irrigation and water power works from any county,
11 irrigation, or power officers and from any other persons. The Chief Water
12 Officer ~~It~~ may have hearings on complaints, petitions, or applications in
13 connection with any of such matters. Such hearings shall be had at the
14 time and place designated by the Chief Water Officer ~~department~~. The
15 Chief Water Officer ~~department~~ shall have power to certify official acts,
16 compel attendance of witnesses, take testimony by deposition as in suits
17 at law, and examine books, papers, documents, and records of any county,
18 party, or parties interested in any of the matters mentioned in this
19 section or have such examinations made by its qualified representative
20 and shall make and preserve a true and complete transcript of its
21 proceedings and hearings. If a final decision is made without a hearing,
22 a hearing shall be held at the request of any party to the proceeding if
23 the request is made within thirty days after the decision is rendered. If
24 a hearing is held at the request of one or more parties, the Chief Water
25 Officer ~~department~~ may require each such requesting party and each person
26 who requests to be made a party to such hearing to pay the proportional
27 share of the cost of such transcript. Upon any hearing, the Chief Water
28 Officer ~~department~~ shall receive any evidence relevant to the matter
29 under investigation and the burden of proof shall be upon the person
30 making the complaint, petition, and application. After such hearing and
31 investigation, the Chief Water Officer ~~department~~ shall render a decision

1 in the premises in writing and shall issue such order or orders duly
2 certified as the Chief Water Officer ~~it~~ may deem necessary.

3 (2) The Chief Water Officer ~~department~~ shall serve as the official
4 officer ~~agency~~ of the state in connection with water resources
5 development, soil and water conservation, flood prevention, watershed
6 protection, and flood control.

7 (3) The Chief Water Officer or the Chief Water Officer's authorized
8 representatives ~~department~~ shall:

9 (a) Offer assistance as appropriate to the supervisors or directors
10 of any subdivision of government with responsibilities in the area of
11 natural resources conservation, development, and use in the carrying out
12 of any of their powers and programs;

13 (b) Keep the supervisors or directors of each such subdivision
14 informed of the activities and experience of all other such subdivisions
15 and facilitate cooperation and an interchange of advice and experience
16 between such subdivisions;

17 (c) Coordinate the programs of such subdivisions so far as this may
18 be done by advice and consultation;

19 (d) Secure the cooperation and assistance of the United States, any
20 of its agencies, and agencies of this state in the work of such
21 subdivisions;

22 (e) Disseminate information throughout the state concerning the
23 activities and programs of such subdivisions;

24 (f) Plan, develop, and promote the implementation of a comprehensive
25 program of resource development, conservation, and utilization for the
26 soil and water resources of this state in cooperation with other local,
27 state, and federal agencies and organizations;

28 (g) When necessary for the proper administration of the functions of
29 the department, rent or lease space outside the State Capitol; and

30 (h) Assist such local governmental organizations as villages,
31 cities, counties, and natural resources districts in securing, planning,

1 and developing information on flood plains to be used in developing
2 regulations and ordinances on proper use of these flood plains.

3 **Sec. 333.** Section 61-207, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 61-207 If any county, party, or parties interested in irrigation or
6 water power work affected thereby are dissatisfied with the decision or
7 with any order adopted by the Chief Water Officer, such dissatisfied
8 county, party, or parties may appeal to the Court of Appeals to reverse,
9 vacate, or modify the order complained of. The procedure to obtain such
10 reversal, modification, or vacation of any such decision or order upon
11 which a hearing has been had before the Chief Water Officer ~~Department of~~
12 ~~Natural Resources~~ shall be governed by the same provisions in force with
13 reference to appeals and error proceedings from the district court. The
14 evidence presented before the Chief Water Officer ~~department~~ as reported
15 by the Chief Water Officer's ~~its~~ official stenographer and reduced to
16 writing, together with a transcript of the record and pleadings upon
17 which the decision is based, duly certified in such case under the seal
18 of the Department of Water, Energy, and Environment ~~department~~, shall
19 constitute the complete record and the evidence upon which the case shall
20 be presented to the appellate court. The time for perfecting such appeal
21 shall be limited to thirty days after the rendition of such decision or
22 order, and the appellate court shall advance such appeal to the head of
23 its docket.

24 **Sec. 334.** Section 61-208, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 61-208 The Chief Water Officer ~~Department of Natural Resources~~ may
27 make surveys of streams showing location of possible water power
28 developments and irrigation projects.

29 **Sec. 335.** Section 61-209, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 61-209 The Chief Water Officer ~~Department of Natural Resources~~ may

1 conduct special projects for water data collection on behalf of other
2 state agencies, political subdivisions, or federal agencies. Such data
3 shall be public information. The Chief Water Officer ~~department~~ may
4 charge a fee to cover in whole or in part the costs of collecting,
5 analyzing, and publishing the data and such fees shall be deposited in
6 the Department of Water, Energy, and Environment ~~Natural Resources~~ Cash
7 Fund.

8 **Sec. 336.** Section 61-210, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 61-210 The Department of Water, Energy, and Environment ~~Natural~~
11 ~~Resources~~ Cash Fund is created. The State Treasurer shall credit to such
12 fund such money as is specifically appropriated or reappropriated by the
13 Legislature. The State Treasurer shall also credit such fund with
14 payments, if any, accepted for services rendered by the department,
15 including the Chief Water Officer, and fees collected pursuant to
16 subsection (6) of section 46-606 and section 61-209. The funds made
17 available to the Department of Water, Energy, and Environment ~~Natural~~
18 ~~Resources~~ by the United States, through the Natural Resources
19 Conservation Service of the Department of Agriculture or through any
20 other agencies, shall be credited to the fund by the State Treasurer. Any
21 money in the fund available for investment shall be invested by the state
22 investment officer pursuant to the Nebraska Capital Expansion Act and the
23 Nebraska State Funds Investment Act. The Department of Water, Energy, and
24 Environment ~~Natural Resources~~ shall allocate money from the fund to pay
25 costs of the programs or activities of the department, including the
26 programs or activities of the Chief Water Officer. The Director of
27 Administrative Services, upon receipt of proper vouchers approved by the
28 department, shall issue warrants on the fund, and the State Treasurer
29 shall countersign and pay from, but never in excess of, the amounts to
30 the credit of the fund. Transfers may be made from the fund to the
31 General Fund at the direction of the Legislature.

1 **Sec. 337.** Section 61-211, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 61-211 The Chief Water Officer ~~Department of Natural Resources~~ may
4 direct managers or operators of interstate ditches to construct and
5 maintain suitable measuring devices at or near the state line in
6 Nebraska. A manager or operator shall within thirty days after receipt of
7 notice from the Chief Water Officer ~~department~~ construct and complete
8 installation of such a measuring device and shall furnish daily gauge
9 height reports to the Chief Water Officer ~~department~~ from the beginning
10 to the end of the irrigation season, in such form and manner as
11 recommended by the Chief Water Officer ~~department~~. Failure of any manager
12 or operator of an interstate ditch to comply with this section shall be a
13 Class V misdemeanor.

14 **Sec. 338.** Section 61-215, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 61-215 There shall be one or more division supervisors acting for
17 the Chief Water Officer ~~Department of Natural Resources~~ to administer the
18 public water of the state in water division No. 1 and water division No.
19 2, as the water divisions created by section 61-212. Such a division
20 supervisor, acting for the Chief Water Officer ~~department~~, shall have the
21 immediate direction and control of the distribution of water in such
22 manner as directed by the Chief Water Officer ~~department~~.

23 **Sec. 339.** Section 61-216, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 61-216 The division supervisor or supervisors shall, under the
26 direction of the Chief Water Officer ~~Department of Natural Resources~~, see
27 that the laws relative to the distribution of water are executed in
28 accordance with the rights of priority of appropriation.

29 **Sec. 340.** Section 61-218, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 61-218 (1) The Water Resources Cash Fund is created. The fund shall

1 be administered by the Department of Water, Energy, and Environment
2 ~~Natural Resources~~. Any money in the fund available for investment shall
3 be invested by the state investment officer pursuant to the Nebraska
4 Capital Expansion Act and the Nebraska State Funds Investment Act.

5 (2) The State Treasurer shall credit to the fund such money as is
6 (a) transferred to the fund by the Legislature, (b) paid to the state as
7 fees, deposits, payments, and repayments relating to the fund, both
8 principal and interest, (c) donated as gifts, bequests, or other
9 contributions to such fund from public or private entities, (d) made
10 available by any department or agency of the United States if so directed
11 by such department or agency, (e) allocated pursuant to section
12 81-15,175, and (f) received by the state for settlement of claims
13 relating to interstate river compacts or decrees.

14 (3)(a) The fund shall be expended by the department in any area that
15 has adopted an integrated management plan as provided in section 46-715.

16 (b) The fund shall be used in any such area:

17 (i) To aid management actions taken to reduce consumptive uses of
18 water;

19 (ii) To enhance streamflows or ground water recharge;

20 (iii) For any other activity deemed necessary by the department in
21 the development and implementation of an integrated management plan;

22 (iv) For purposes of the Resilient Soils and Water Quality Act; or

23 (v) For purposes of projects or proposals described in the grant
24 application as set forth in subdivision (2)(h) of section 81-15,175.

25 (c) To the extent funds are not expended pursuant to subdivision (b)
26 of this subsection, the department may conduct a statewide assessment of
27 short-term and long-term water management activities and funding needs to
28 meet statutory requirements in sections 46-713 to 46-718 and 46-739 and
29 any requirements of an interstate compact or decree or formal state
30 contract or agreement.

31 (d) The fund shall not be used to pay for administrative expenses or

1 any salaries for any political subdivision.

2 (4) It is the intent of the Legislature that three million three
3 hundred thousand dollars be transferred each fiscal year from the General
4 Fund to the Water Resources Cash Fund for FY2011-12 through FY2022-23,
5 except that for FY2012-13 it is the intent of the Legislature that four
6 million seven hundred thousand dollars be transferred from the General
7 Fund to the Water Resources Cash Fund. It is the intent of the
8 Legislature that the State Treasurer credit any money received from any
9 Republican River Compact settlement to the Water Resources Cash Fund in
10 the fiscal year in which it is received.

11 (5)(a) Expenditures from the Water Resources Cash Fund may be made
12 to natural resources districts eligible under subsection (3) of this
13 section for activities to either achieve a sustainable balance of
14 consumptive water uses or assure compliance with an interstate compact or
15 decree or a formal state contract or agreement and shall require a match
16 of local funding in an amount equal to or greater than forty percent of
17 the total cost of carrying out the eligible activity. The department
18 shall, no later than August 1 of each year, beginning in 2007, determine
19 the amount of funding that will be made available to natural resources
20 districts from the Water Resources Cash Fund and notify natural resources
21 districts of this determination. The department shall adopt and
22 promulgate rules and regulations governing application for and use of the
23 Water Resources Cash Fund by natural resources districts. Such rules and
24 regulations shall, at a minimum, include the following components:

25 (i) Require an explanation of how the planned activity will achieve
26 a sustainable balance of consumptive water uses or will assure compliance
27 with an interstate compact or decree or a formal state contract or
28 agreement as required by section 46-715 and the controls, rules, and
29 regulations designed to carry out the activity; and

30 (ii) A schedule of implementation of the activity or its components,
31 including the local match as set forth in subdivision (5)(a) of this

1 section.

2 (b) Any natural resources district that fails to implement and
3 enforce its controls, rules, and regulations as required by section
4 46-715 shall not be eligible for funding from the Water Resources Cash
5 Fund until it is determined by the department that compliance with the
6 provisions required by section 46-715 has been established.

7 (6) The Department of Water, Energy, and Environment ~~Natural~~
8 ~~Resources~~ shall submit electronically an annual report to the Legislature
9 no later than October 1 of each year, ~~beginning in the year 2007,~~ that
10 shall detail the use of the Water Resources Cash Fund in the previous
11 year. The report shall provide:

12 (a) Details regarding the use and cost of activities carried out by
13 the department; and

14 (b) Details regarding the use and cost of activities carried out by
15 each natural resources district that received funds from the Water
16 Resources Cash Fund.

17 (7)(a) Prior to the application deadline for fiscal year 2011-12,
18 the Department of Natural Resources shall apply for a grant of nine
19 million nine hundred thousand dollars from the Nebraska Environmental
20 Trust Fund, to be paid out in three annual installments of three million
21 three hundred thousand dollars. The purposes listed in the grant
22 application shall be consistent with the uses of the Water Resources Cash
23 Fund provided in this section and shall be used to aid management actions
24 taken to reduce consumptive uses of water, to enhance streamflows, to
25 recharge ground water, or to support wildlife habitat in any river basin
26 determined to be fully appropriated pursuant to section 46-714 or
27 designated as overappropriated pursuant to section 46-713.

28 (b) If the application is granted, funds received from such grant
29 shall be remitted to the State Treasurer for credit to the Water
30 Resources Cash Fund for the purpose of supporting the projects set forth
31 in the grant application. The department shall include in its grant

1 application documentation that the Legislature has authorized a transfer
2 of three million three hundred thousand dollars from the General Fund
3 into the Water Resources Cash Fund for each of fiscal years 2011-12 and
4 2012-13 and has stated its intent to transfer three million three hundred
5 thousand dollars to the Water Resources Cash Fund for fiscal year
6 2013-14.

7 (c) It is the intent of the Legislature that the department apply
8 for an additional three-year grant that would begin in fiscal year
9 2014-15, an additional three-year grant from the Nebraska Environmental
10 Trust Fund that would begin in fiscal year 2017-18, and an additional
11 three-year grant from the Nebraska Environmental Trust Fund that would
12 begin in fiscal year 2020-21 if the criteria established in subsection
13 (4) of section 81-15,175 are achieved.

14 (8) The department shall establish a subaccount within the Water
15 Resources Cash Fund for the accounting of all money received as a grant
16 from the Nebraska Environmental Trust Fund as the result of an
17 application made pursuant to subsection (7) of this section. At the end
18 of each calendar month, the department shall calculate the amount of
19 interest earnings accruing to the subaccount and shall notify the State
20 Treasurer who shall then transfer a like amount from the Water Resources
21 Cash Fund to the Nebraska Environmental Trust Fund.

22 (9) Any funds transferred from the Nebraska Environmental Trust Fund
23 to the Water Resources Cash Fund shall be expended in accordance with
24 section 81-15,168.

25 (10) The State Treasurer shall transfer one million dollars from the
26 Water Resources Cash Fund to the Nitrogen Reduction Incentive Cash Fund
27 as soon as administratively possible after July 19, 2024, but before June
28 30, 2025, on such dates and in such amounts as directed by the budget
29 administrator of the budget division of the Department of Administrative
30 Services.

31 **Sec. 341.** Section 61-222, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 61-222 The Water Sustainability Fund is created in the Department of
3 Water, Energy, and Environment ~~Natural Resources~~. The fund shall be used
4 in accordance with the provisions established in sections 2-1506 to
5 2-1513 and for costs directly related to the administration of the fund.
6 The Legislature shall not appropriate or transfer money from the Water
7 Sustainability Fund for any other purpose, except that transfers may be
8 made from the Water Sustainability Fund to the Department of Water,
9 Energy, and Environment ~~Natural Resources~~ Cash Fund and as a one-time
10 transfer to the General Fund as described in this section.

11 The Water Sustainability Fund shall consist of money transferred to
12 the fund by the Legislature, other funds as appropriated by the
13 Legislature, and money donated as gifts, bequests, or other contributions
14 from public or private entities. Funds made available by any department
15 or agency of the United States may also be credited to the fund if so
16 directed by such department or agency. Any money in the fund available
17 for investment shall be invested by the state investment officer pursuant
18 to the Nebraska Capital Expansion Act and the Nebraska State Funds
19 Investment Act. Prior to October 1, 2024, investment earnings from
20 investment of money in the fund shall be credited to the fund. Beginning
21 October 1, 2024, any investment earnings from investment of money in the
22 fund shall be credited to the General Fund.

23 It is the intent of the Legislature that twenty-one million dollars
24 be transferred from the General Fund to the Water Sustainability Fund in
25 fiscal year 2014-15 and that eleven million dollars be transferred from
26 the General Fund to the Water Sustainability Fund each fiscal year
27 beginning in fiscal year 2015-16.

28 The State Treasurer shall transfer one hundred seventy-five thousand
29 dollars from the Water Sustainability Fund to the Department of Water,
30 Energy, and Environment ~~Natural Resources~~ Cash Fund on or before June 30,
31 2021, on such dates and in such amounts as directed by the budget

1 administrator of the budget division of the Department of Administrative
2 Services.

3 The State Treasurer shall transfer four hundred twenty-five thousand
4 dollars from the Water Sustainability Fund to the Department of Water,
5 Energy, and Environment ~~Natural Resources~~ Cash Fund on or before June 30,
6 2021, on such dates and in such amounts as directed by the budget
7 administrator of the budget division of the Department of Administrative
8 Services.

9 The State Treasurer shall transfer five hundred thousand dollars
10 from the Water Sustainability Fund to the General Fund on or before June
11 30, 2021, on such dates and in such amounts as directed by the budget
12 administrator of the budget division of the Department of Administrative
13 Services.

14 The State Treasurer shall transfer four hundred seventy-five
15 thousand dollars from the Water Sustainability Fund to the Department of
16 Water, Energy, and Environment ~~Natural Resources~~ Cash Fund on or before
17 June 30, 2022, on such dates and in such amounts as directed by the
18 budget administrator of the budget division of the Department of
19 Administrative Services.

20 The State Treasurer shall transfer four hundred seventy-five
21 thousand dollars from the Water Sustainability Fund to the Department of
22 Water, Energy, and Environment ~~Natural Resources~~ Cash Fund on or before
23 June 30, 2023, on such dates and in such amounts as directed by the
24 budget administrator of the budget division of the Department of
25 Administrative Services.

26 **Sec. 342.** Section 61-224, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 61-224 There is hereby created the Critical Infrastructure
29 Facilities Cash Fund in the Department of Water, Energy, and Environment
30 ~~Natural Resources~~. The fund shall consist of funds appropriated or
31 transferred by the Legislature. The fund shall be used by the Department

1 of Water, Energy, and Environment ~~Natural Resources~~ (1) to provide a
2 grant to a natural resources district to offset costs related to soil and
3 water improvements intended to protect critical infrastructure facilities
4 within the district which includes military installations, transportation
5 routes, and wastewater treatment facilities, (2) to provide a grant to an
6 irrigation district for reimbursement of costs related to temporary
7 repairs to the main canal and tunnels of an interstate irrigation system
8 which experienced a failure, and (3) to provide a grant to an entity
9 within a county with a population exceeding one hundred thousand
10 inhabitants formed pursuant to the Interlocal Cooperation Act for the
11 purpose of funding a portion of the cost of a wastewater system. Any
12 funds remaining after all such project costs have been completely funded
13 shall be transferred to the General Fund. Transfers may be made from the
14 Critical Infrastructure Facilities Cash Fund to the General Fund at the
15 direction of the Legislature. Any money in the Critical Infrastructure
16 Facilities Cash Fund available for investment shall be invested by the
17 state investment officer pursuant to the Nebraska Capital Expansion Act
18 and the Nebraska State Funds Investment Act, and any interest earned by
19 the fund shall be credited to the General Fund.

20 **Sec. 343.** Section 61-226, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 61-226 The Department of Water, Energy, and Environment ~~Natural~~
23 ~~Resources~~ shall develop a state flood mitigation plan as a stand-alone
24 document to be annexed into the state hazard mitigation plan maintained
25 by the Nebraska Emergency Management Agency. Such plan shall be
26 structured in accordance with Federal Emergency Management Agency
27 guidelines, and shall be comprehensive, collaborative, and statewide in
28 scope with opportunities for input from diverse stakeholders.

29 **Sec. 344.** Section 61-227, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 61-227 The Department of Water, Energy, and Environment ~~Natural~~

1 ~~Resources~~ shall convene a plan development group which shall be housed
2 and staffed for administrative purposes within such department. The
3 Department of Water, Energy, and Environment ~~Natural Resources~~ shall
4 engage with federal, state, and local agency and community stakeholders
5 in the development of the state flood mitigation plan, including, but not
6 limited to, the Department of Transportation, ~~the Department of~~
7 ~~Environment and Energy~~, the Department of Economic Development, the
8 Department of Agriculture, the Nebraska Emergency Management Agency,
9 natural resources districts, the United States Department of Agriculture,
10 the United States Army Corps of Engineers, the United States Geological
11 Survey, the Federal Emergency Management Agency, the University of
12 Nebraska, representatives of counties, municipalities, and other
13 political subdivisions, and the Natural Resources Committee of the
14 Legislature. The Department of Water, Energy, and Environment ~~Natural~~
15 ~~Resources~~ may engage other sources to provide technical expertise as
16 needed.

17 **Sec. 345.** Section 61-228, Revised Statutes Cumulative Supplement,
18 2024, is amended to read:

19 61-228 The Department of Water, Energy, and Environment ~~Natural~~
20 ~~Resources~~ shall:

21 (1) Evaluate the flood issues that occurred in 2019, and identify
22 cost-effective flood mitigation strategies that should be adopted to
23 reduce the disruption of lives and livelihoods and prioritize making
24 Nebraska communities more resilient;

25 (2) Identify opportunities to implement flood hazard mitigation
26 strategies with the intent to reduce the impact of flood events;

27 (3) Work to improve knowledge and understanding of available
28 recovery resources while identifying potential gaps in current disaster
29 program delivery;

30 (4) Identify potential available funding sources that can be
31 accessed to improve the resilience of the state through flood mitigation

1 and post-flood disaster recovery. The funding sources shall include, but
2 not be limited to, assistance from (a) the Federal Emergency Management
3 Agency's Flood Mitigation Assistance Grant Program, Building Resilient
4 Infrastructure and Communities Grant Program, Hazard Mitigation Grant
5 Program, Public Assistance Program, and Individual Assistance Program,
6 (b) the United States Department of Housing and Urban Development's
7 Community Development Block Grant Program and Community Development Block
8 Grant Disaster Recovery Program, and (c) programs of the United States
9 Department of Agriculture's Natural Resources Conservation Service.
10 Identification of such funding sources shall be in addition to grants and
11 cost-sharing programs available through other agencies that support flood
12 hazard mitigation planning in communities;

13 (5) Compile a centralized list of critical infrastructure and state-
14 owned facilities and identify those with the highest risk of flooding. In
15 compiling such list, the Department of Water, Energy, and Environment
16 ~~Natural Resources~~ shall consult and collaborate with other state and
17 local agencies that have information that identifies vulnerable
18 facilities;

19 (6) Evaluate state laws, rules, regulations, policies, and programs
20 related to flood hazard mitigation and development in flood hazard-prone
21 areas to support the state's administration of the Federal Emergency
22 Management Agency's National Flood Insurance Program, Community Rating
23 System, and Risk Mapping, Assessment, and Planning Program;

24 (7) Examine existing law and, if necessary, recommend statutory or
25 administrative changes to help ensure collaboration and coordination
26 between state and local entities in statewide flood mitigation planning;
27 and

28 (8) Hold two public hearings, one prior to the first state flood
29 mitigation plan development meeting and one prior to the completion of
30 such plan. Notice of each hearing shall be published at least thirty days
31 prior to the hearing date.

1 **Sec. 346.** Section 61-303, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 61-303 The Department of Water, Energy, and Environment ~~Natural~~
4 ~~Resources~~ shall have the necessary authority to develop, construct,
5 manage, and operate the Perkins County Canal Project consistent with the
6 terms of the South Platte River Compact and pursuant to the Perkins
7 County Canal Project Act. The department's powers under the act shall
8 include: (a) Contracting for services, (b) acquiring permits, (c)
9 acquiring and owning real property, (d) acquiring, holding, and
10 exercising water rights, (e) employing personnel, (f) accepting grants,
11 loans, donations, gifts, bequests, or other contributions from any person
12 or entity, public or private, including any funds made available by any
13 department or agency of the United States, (g) managing and expending
14 such funds as are made available to it from the Perkins County Canal
15 Project Fund, and (h) any other necessary functions consistent with the
16 compact and pursuant to the act in protecting Nebraska's full entitlement
17 to flows of the South Platte River. For purposes of the Perkins County
18 Canal Project Act, the Department of Water, Energy, and Environment
19 ~~Natural Resources~~ is authorized to acquire real estate or access thereto
20 in the name of the State of Nebraska by the use of eminent domain as
21 provided under section 76-725. The department is also authorized to
22 resolve all disputes that may arise, including the initiation or defense
23 of legal actions of any kind, as necessary to achieve the purposes of the
24 act.

25 **Sec. 347.** Section 61-305, Revised Statutes Cumulative Supplement,
26 2024, is amended to read:

27 61-305 (1) The Perkins County Canal Project Fund is created. The
28 fund shall be administered by the Department of Water, Energy, and
29 Environment ~~Natural Resources~~. The State Treasurer shall credit to the
30 fund any money transferred by the Legislature and such grants, loans,
31 donations, gifts, bequests, or other money received from any federal or

1 state agency or public or private source for use by the department for
2 the canal project. Any fees collected for water delivery may be credited
3 to the fund. Any money in the Perkins County Canal Project Fund available
4 for investment shall be invested by the state investment officer pursuant
5 to the Nebraska Capital Expansion Act and the Nebraska State Funds
6 Investment Act. Any investment earnings from investment of money in the
7 Perkins County Canal Project Fund shall be credited to such fund, except
8 that for fiscal years 2023-24, 2024-25, and 2025-26, such investment
9 earnings shall be credited as provided in section 84-622.

10 (2)(a) The department shall use the Perkins County Canal Project
11 Fund to identify the optimal route and purchase land for and develop,
12 construct, manage, and operate the Perkins County Canal as outlined by
13 the South Platte River Compact and to contract with an independent firm
14 for the purposes of completing a study of such canal. The study shall
15 include, but may not be limited to, the following:

16 (i) Costs of completion of a canal and adjoining reservoirs as
17 outlined in the South Platte River Compact;

18 (ii) A timeline for completion of a canal and adjoining reservoirs
19 as outlined in the South Platte River Compact;

20 (iii) A cost-effectiveness study examining alternatives, including
21 alternatives that may reduce environmental or financial impacts; and

22 (iv) The impacts of the canal on drinking water supplies for the
23 cities of Lincoln and Omaha.

24 (b) The department shall provide the findings of such study
25 electronically to the Clerk of the Legislature and present the findings
26 at a public hearing held by the Appropriations Committee of the
27 Legislature on or before December 31, 2022.

28 **Sec. 348.** Section 61-401, Revised Statutes Cumulative Supplement,
29 2024, is amended to read:

30 61-401 Sections 61-401 to 61-405 ~~61-404~~ shall be known and may be
31 cited as the Jobs and Economic Development Initiative Act and may also be

1 referred to as the JEDI Act.

2 **Sec. 349.** Section 61-403, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 61-403 (1) The Department of Water, Energy, and Environment ~~Natural~~
5 ~~Resources~~ is granted all power necessary to carry out the purposes of the
6 Jobs and Economic Development Initiative Act, including, but not limited
7 to, the power to:

8 (a) Purchase, sell, or lease land;

9 (b) Enter into contracts, including, but not limited to, contracts
10 relating to the provision of construction services, management services,
11 legal services, auditor services, and other consulting services or advice
12 as the department may require in the performance of its duties; and

13 (c) Enter into agreements with natural resources districts to
14 accomplish the purposes of the act. In any such agreement, a natural
15 resources district may use the full powers granted to it by law.

16 (2) It is the intent of the Legislature that the department engage
17 private parties and entities to construct and develop the lake and enter
18 into contracts or public-private partnerships that the department deems
19 advantageous to the construction and development of the lake, and land
20 adjacent thereto, and to advance the purposes of the act.

21 (3) Notwithstanding any other provision of law, the department shall
22 give preference to:

23 (a) Contract proposals relating to the development or management of
24 the lake from a Nebraska nonprofit corporation whose board of directors
25 include at least four directors who are appointed by the Governor with
26 the approval of a majority of the Legislature, one representative of the
27 Game and Parks Commission who is a nonvoting, ex officio member of such
28 board of directors, and one member of the Legislature who is appointed by
29 the Executive Board of the Legislative Council and who is a nonvoting, ex
30 officio member of such board of directors. All such directors must agree
31 to be bound by the conflict-of-interest provisions in sections 49-1493 to

1 49-14,104. Any such nonprofit corporation shall be bound by the Open
2 Meetings Act and sections 84-712 to 84-712.09 and shall publicly let
3 contracts valued in excess of twenty-five thousand dollars; and

4 (b) Contract proposals which provide for a public-private
5 partnership with the state in constructing, developing, or managing the
6 lake.

7 (4) The department is granted authority to select the land upon
8 which the lake will be built. In making such selection, the following
9 shall apply:

10 (a) The land shall be located in or near a county having a
11 population of at least one hundred thousand but not more than three
12 hundred thousand inhabitants and within the flood plain or floodway of
13 the Platte River;

14 (b) Preference shall be given to locations that were materially
15 underwater when the Platte River flooded in 2019;

16 (c) It is the intent of the Legislature that the lake be at least
17 three thousand six hundred surface acres in size;

18 (d) No dam shall be constructed on the main channel of the Platte
19 River in order to construct the lake; and

20 (e) No city or village, or any part thereof, shall be flooded in
21 order to construct the lake.

22 (5) The department is granted authority to designate the land
23 selected for the lake under subsection (4) of this section, and land near
24 or adjacent thereto, as the Lake Development District.

25 (6) The department may, in the performance of its duties, seek input
26 and advice from any natural resources district that encompasses any of
27 the area included in the Lake Development District.

28 (7) It is the intent of the Legislature that the department engage
29 local stakeholders as the department carries out its duties under this
30 section.

31 (8) The land selected for the lake shall be owned by the state, and

1 the department shall ensure that the general public has complete access
2 to the lake. No private entity involved in the constructing, developing,
3 or managing of the lake shall designate any portion of the lake for
4 exclusively private use. Nothing in this subsection shall preclude
5 reasonable limitations on the number of people using the lake, a marina,
6 or any other access point so long as such limitation does not restrict
7 access to a designated class of private parties.

8 (9) Neither the Director of Water, Energy, and Environment ~~Natural~~
9 ~~Resources~~ nor any employee of the Department of Water, Energy, and
10 Environment ~~Natural Resources~~ shall have a financial interest, either
11 personally or through an immediate family member, in any purchase, sale,
12 or lease of real property relating to the construction or development of
13 the lake or in any contract entered into by the department relating to
14 the construction, development, or management of the lake. For purposes of
15 this subsection, immediate family member means a spouse, child, sibling,
16 parent, grandparent, or grandchild.

17 **Sec. 350.** Section 61-404, Revised Statutes Cumulative Supplement,
18 2024, is amended to read:

19 61-404 Notwithstanding any other provision of law, no land within
20 the Lake Development District, as designated by the Department of Water,
21 Energy, and Environment ~~Natural Resources~~ pursuant to section 61-403,
22 shall be annexed.

23 **Sec. 351.** Section 61-405, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 61-405 (1) The Jobs and Economic Development Initiative Fund is
26 created. The fund shall be administered by the Department of Water,
27 Energy, and Environment ~~Natural Resources~~. The State Treasurer shall
28 credit to the fund any money transferred to the fund by the Legislature
29 and such donations, gifts, bequests, or other money received from any
30 federal or state agency or public or private source. The fund shall be
31 used for water and recreational projects pursuant to the Jobs and

1 Economic Development Initiative Act. Transfers may be made from the fund
2 to the Cash Reserve Fund or the Roads Operations Cash Fund at the
3 direction of the Legislature. Any money in the Jobs and Economic
4 Development Initiative Fund available for investment shall be invested by
5 the state investment officer pursuant to the Nebraska Capital Expansion
6 Act and the Nebraska State Funds Investment Act. Prior to October 1,
7 2024, any investment earnings from investment of money in the fund shall
8 be credited to the fund. Beginning October 1, 2024, any investment
9 earnings from investment of money in the fund shall be credited to the
10 General Fund.

11 (2) An amount, not to exceed twenty million dollars, shall be
12 available for site selection costs, feasibility and public water supply
13 studies, and flood mitigation costs of the Department of Water, Energy,
14 and Environment ~~Natural Resources~~ related to any projects pursuant to the
15 Jobs and Economic Development Initiative Act. The Department of Water,
16 Energy, and Environment ~~Natural Resources~~ shall, in cooperation with
17 impacted communities, including, but not limited to, any city of the
18 primary class and metropolitan utilities district, contract with an
19 independent consultant to conduct a study on the consequences of any lake
20 located in the Lower Platte River Basin to the public water supply of
21 such communities. Such study shall consider all aspects of water quality,
22 water quantity, and water infrastructure, and any other issues necessary
23 to protect the public water supply, including the impact to future water
24 supply opportunities to the impacted communities.

25 (3) No funds shall be expended for any project, other than those
26 enumerated in subsection (2) of this section, from the Jobs and Economic
27 Development Initiative Fund unless the Director of Water, Energy, and
28 Environment ~~Natural Resources~~ certifies to the budget administrator of
29 the budget division of the Department of Administrative Services that the
30 Department of Water, Energy, and Environment ~~Natural Resources~~ has
31 conducted any environmental, hydrological, or other feasibility studies

1 the director deems necessary to establish the feasibility of any projects
2 pursuant to the Jobs and Economic Development Initiative Act and that,
3 based on the results of such studies, the director has deemed the
4 projects feasible.

5 **Sec. 352.** Section 61-502, Revised Statutes Cumulative Supplement,
6 2024, is amended to read:

7 61-502 For purposes of the Public Water and Natural Resources
8 Project Contracting Act:

9 (1) Alternative technical concept means changes suggested by a
10 qualified, eligible, short-listed design-builder to the department's
11 basic configurations, project scope, design, or construction criteria;

12 (2) Best value-based selection process means a process of selecting
13 a design-builder using price, schedule, and qualifications for evaluation
14 factors;

15 (3) Construction manager means the legal entity which proposes to
16 enter into a construction manager-general contractor contract pursuant to
17 the act;

18 (4) Construction manager-general contractor contract means a
19 contract which is subject to a qualification-based selection process
20 between the department and a construction manager to furnish
21 preconstruction services during the design development phase of the
22 project and, if an agreement can be reached which is satisfactory to the
23 department, construction services for the construction phase of the
24 project;

25 (5) Construction services means activities associated with building
26 the project;

27 (6) Department means the Department of Water, Energy, and
28 Environment ~~Natural Resources~~;

29 (7) Design-build contract means a contract between the department
30 and a design-builder which is subject to a best value-based selection
31 process to furnish (a) architectural, engineering, and related design

1 services and (b) labor, materials, supplies, equipment, and construction
2 services;

3 (8) Design-builder means the legal entity which proposes to enter
4 into a design-build contract;

5 (9) Preconstruction services means all nonconstruction-related
6 services that a construction manager performs in relation to the design
7 of the project before execution of a contract for construction services.
8 Preconstruction services includes, but is not limited to, cost
9 estimating, value engineering studies, constructability reviews, delivery
10 schedule assessments, and life-cycle analysis;

11 (10) Private partner means any entity that is a partner in a public-
12 private partnership other than the State of Nebraska, any agency of the
13 State of Nebraska, the federal government, any agency of the federal
14 government, any other state government, or any agency of any government
15 at any level;

16 (11) Progressive design-build means a project-delivery process in
17 which both the design and construction of a project are procured from a
18 single entity that is selected through a qualification-based selection
19 process at the earliest feasible stage of the project;

20 (12) Project performance criteria means the performance requirements
21 of the project suitable to allow the design-builder to make a proposal.
22 Performance requirements shall include, but are not limited to, the
23 following, if required by the project: Capacity, durability, standards,
24 ingress and egress requirements, description of the site, surveys, soil
25 and environmental information concerning the site, material quality
26 standards, design and milestone dates, site development requirements,
27 compliance with applicable law, and other criteria for the intended use
28 of the project;

29 (13) Proposal means an offer in response to a request for proposals
30 (a) by a design-builder to enter into a design-build contract or (b) by a
31 construction manager to enter into a construction manager-general

1 contractor contract;

2 (14) Public-private partnership means a project delivery method for
3 construction or financing of capital projects or procurement of services
4 under a written public-private partnership agreement entered into
5 pursuant to section 61-520 between at least one private partner and the
6 State of Nebraska or any agency of the state;

7 (15) Qualification-based selection process means a process of
8 selecting a construction manager or progressive design-builder based on
9 qualifications;

10 (16) Request for proposals means the documentation by which the
11 department solicits proposals; and

12 (17) Request for qualifications means the documentation or
13 publication by which the department solicits qualifications.

14 **Sec. 353.** Section 61-520, Revised Statutes Cumulative Supplement,
15 2024, is amended to read:

16 61-520 (1) A public-private partnership delivery method may be used
17 for projects under the Public Water and Natural Resources Project
18 Contracting Act as provided in this section and rules and regulations
19 adopted and promulgated pursuant to this section only to the extent
20 allowed under the Constitution of Nebraska. State contracts using this
21 method shall be awarded by competitive negotiation.

22 (2) The department utilizing a public-private partnership shall
23 continue to be responsible for oversight of any function that is
24 delegated to or otherwise performed by a private partner.

25 (3) On or before July 1, 2024, the Director of Water, Energy, and
26 Environment ~~Natural Resources~~ shall adopt and promulgate rules and
27 regulations setting forth criteria to be used in determining when a
28 public-private partnership is to be used for a particular project. The
29 rules and regulations shall reflect the intent of the Legislature to
30 promote and encourage the use of public-private partnerships in the State
31 of Nebraska. The Director of Water, Energy, and Environment ~~Natural~~

1 ~~Resources~~ shall consult with design-builders, progressive design-
2 builders, construction managers, other contractors and design
3 professionals, including engineers and architects, and other appropriate
4 professionals during the development of the rules and regulations.

5 (4) A request for proposals for a project utilizing a public-private
6 partnership shall include at a minimum:

7 (a) The parameters of the proposed public-private partnership
8 agreement;

9 (b) The duties and responsibilities to be performed by the private
10 partner or private partners;

11 (c) The methods of oversight to be employed by the department;

12 (d) The duties and responsibilities that are to be performed by the
13 department and any other parties to the contract;

14 (e) The evaluation factors and the relative weight of each factor to
15 be used in the scoring of awards;

16 (f) Plans for financing and operating the project and the revenue,
17 service payments, bond financings, and appropriations of public funds
18 needed for the qualifying project;

19 (g) Comprehensive documentation of the experience, capabilities,
20 capitalization and financial condition, and other relevant qualifications
21 of the private entity submitting the proposal;

22 (h) The ability of a private partner or private partners to quickly
23 respond to the needs presented in the request for proposals and the
24 importance of economic development opportunities represented by the
25 project. In evaluating proposals, preference shall be given to a plan
26 that includes the involvement of small businesses as subcontractors, to
27 the extent that small businesses can provide services in a competitive
28 manner, unless any preference interferes with the qualification for
29 federal or other funds; and

30 (i) Other information required by the department to evaluate the
31 proposals submitted and the overall proposed public-private partnership.

1 (5) A private entity desiring to be a private partner shall
2 demonstrate to the satisfaction of the department that it is capable of
3 performing any duty, responsibility, or function it may be authorized or
4 directed to perform as a term or condition of the public-private
5 partnership agreement.

6 (6) A request for proposals may be canceled, or all proposals may be
7 rejected, if it is determined in writing that such action is taken in the
8 best interest of the State of Nebraska and approved by the purchasing
9 officer.

10 (7) Upon execution of a public-private partnership agreement, the
11 department shall ensure that the contract clearly identifies that a
12 public-private partnership is being utilized.

13 (8) The department shall:

14 (a) Adhere to the rules and regulations adopted and promulgated
15 under this section when utilizing a public-private partnership for
16 financing capital projects; and

17 (b) Electronically report annually to the Natural Resources
18 Committee of the Legislature regarding private-public partnerships which
19 have been considered or are approved pursuant to this section.

20 **Sec. 354.** Section 66-203, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 66-203 (1) The Department of Water, Energy, and Environment
23 ~~Environment and Energy~~ shall offer a rebate for qualified clean-burning
24 motor vehicle fuel property.

25 (2)(a) The rebate for qualified clean-burning motor vehicle fuel
26 property as defined in subdivisions (4)(a) and (b) of section 66-202 is
27 the lesser of fifty percent of the cost of the qualified clean-burning
28 motor vehicle fuel property or four thousand five hundred dollars for
29 each motor vehicle.

30 (b) A qualified clean-burning motor vehicle fuel property is not
31 eligible for a rebate under this section if the person or entity applying

1 for the rebate has claimed another rebate or grant for the same motor
2 vehicle under any other state rebate or grant program.

3 (3) The rebate for qualified clean-burning motor vehicle fuel
4 property as defined in subdivision (4)(c) of section 66-202 is the lesser
5 of fifty percent of the cost of the qualified clean-burning motor vehicle
6 fuel property or two thousand five hundred dollars for each qualified
7 clean-burning motor vehicle fuel property.

8 (4) No qualified clean-burning motor vehicle fuel property shall
9 qualify for more than one rebate under this section.

10 **Sec. 355.** Section 66-204, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 66-204 (1) The Clean-burning Motor Fuel Development Fund is created.
13 The fund shall consist of grants, private contributions, and all other
14 sources.

15 (2) The fund shall be used by the Department of Water, Energy, and
16 Environment ~~Environment and Energy~~ to provide rebates under the Nebraska
17 Clean-burning Motor Fuel Development Act up to the amount transferred
18 under subsection (3) of this section. No more than thirty-five percent of
19 the money in the fund annually shall be used as rebates for flex-fuel
20 dispensers. The department may use the fund for necessary costs in the
21 administration of the act up to an amount not exceeding ten percent of
22 the fund annually.

23 (3) Within five days after August 30, 2015, the State Treasurer
24 shall transfer five hundred thousand dollars from the General Fund to the
25 Clean-burning Motor Fuel Development Fund to carry out the Nebraska
26 Clean-burning Motor Fuel Development Act.

27 (4) Any money in the fund available for investment shall be invested
28 by the state investment officer pursuant to the Nebraska Capital
29 Expansion Act and the Nebraska State Funds Investment Act.

30 (5) The State Treasurer shall transfer two hundred thousand dollars
31 from the Clean-burning Motor Fuel Development Fund to the General Fund on

1 or before June 30, 2018, on such dates and in such amounts as directed by
2 the budget administrator of the budget division of the Department of
3 Administrative Services.

4 **Sec. 356.** Section 66-301, Revised Statutes Cumulative Supplement,
5 2024, is amended to read:

6 66-301 For purposes of sections 66-301 to 66-304:

7 (1) Covered electric generating unit means a fossil fuel-fired
8 electric generating unit existing within the state prior to August 30,
9 2015, that is subject to regulation under the federal emission
10 guidelines;

11 (2) Federal emission guidelines means any final rules, regulations,
12 guidelines, or other requirements that the United States Environmental
13 Protection Agency may adopt for regulating carbon dioxide emissions from
14 covered electric generating units under section 111(d) of the federal
15 Clean Air Act, 42 U.S.C. 7411(d);

16 (3) State means the State of Nebraska; and

17 (4) State plan means any plan to establish and enforce carbon
18 dioxide emission control measures that the Department of Water, Energy,
19 and Environment ~~Environment and Energy~~ may adopt to implement the
20 obligations of the state under the federal emission guidelines.

21 **Sec. 357.** Section 66-302, Revised Statutes Cumulative Supplement,
22 2024, is amended to read:

23 66-302 The Department of Water, Energy, and Environment ~~Environment~~
24 ~~and Energy~~ shall not submit a state plan for regulating carbon dioxide
25 emissions from covered electric generating units to the United States
26 Environmental Protection Agency until the department has prepared a
27 report as required in section 66-303. Nothing in this section shall
28 prevent the department from complying with federally prescribed
29 deadlines.

30 **Sec. 358.** Section 66-303, Revised Statutes Cumulative Supplement,
31 2024, is amended to read:

1 66-303 (1) The Department of Water, Energy, and Environment
2 ~~Environment and Energy~~ shall also prepare a report that assesses the
3 effects of the state plan for regulating carbon dioxide emissions from
4 covered electric generating units on:

5 (a) The electric power sector, including:

6 (i) The type and amount of electric generating capacity within the
7 state that is likely to retire or switch to another fuel;

8 (ii) The stranded investment in electric generating capacity and
9 other infrastructure;

10 (iii) The amount of investment necessary to offset retirements of
11 electric generating capacity and maintain generation reserve margins;

12 (iv) Potential risks to electric reliability, including resource
13 adequacy risks and transmission constraints; and

14 (v) The amount by which retail electricity prices within the state
15 are forecast to increase or decrease; and

16 (b) Employment within the state, including direct and indirect
17 employment effects within affected sectors of the state's economy.

18 (2) The department shall complete the report required under this
19 section at least thirty days prior to submitting the state plan prepared
20 pursuant to section 66-302 and shall electronically submit to the
21 Legislature a copy of such report.

22 (3) If the Legislature is in session when it receives the report,
23 the Legislature may vote on a nonbinding legislative resolution endorsing
24 or disapproving the state plan based on the findings of the report.

25 **Sec. 359.** Section 66-304, Revised Statutes Cumulative Supplement,
26 2024, is amended to read:

27 66-304 Upon submitting a state plan to the United States
28 Environmental Protection Agency, the Department of Water, Energy, and
29 Environment ~~Environment and Energy~~ shall electronically submit to the
30 Legislature a copy of the state plan.

31 **Sec. 360.** Section 66-489.02, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 66-489.02 (1) For tax periods beginning on and after July 1, 2009,
3 at the time of filing the return required by section 66-488, the
4 producer, supplier, distributor, wholesaler, or importer shall, in
5 addition to the other taxes provided for by law, pay a tax at the rate of
6 five percent of the average wholesale price of gasoline for the gallons
7 of the motor fuels as shown by the return, except that there shall be no
8 tax on the motor fuels reported if they are otherwise exempted by
9 sections 66-482 to 66-4,149.

10 (2) The department shall calculate the average wholesale price of
11 gasoline on April 1, 2009, and on each April 1 and October 1 thereafter.
12 The average wholesale price on April 1 shall apply to returns for the tax
13 periods beginning on and after July 1, and the average wholesale price on
14 October 1 shall apply to returns for the tax periods beginning on and
15 after January 1. The average wholesale price shall be determined using
16 data available from the Department of Water, Energy, and Environment
17 ~~Environment and Energy~~ and shall be an average wholesale price per gallon
18 of gasoline sold in the state over the previous six-month period,
19 excluding any state or federal excise tax or environmental fees. The
20 change in the average wholesale price between two six-month periods shall
21 be adjusted so that the increase or decrease in the tax provided for in
22 this section or section 66-6,109.02 does not exceed one cent per gallon.

23 (3) All sums of money received under this section shall be credited
24 to the Highway Trust Fund. Credits and refunds of such tax allowed to
25 producers, suppliers, distributors, wholesalers, or importers shall be
26 paid from the Highway Trust Fund. The balance of the amount credited,
27 after credits and refunds, shall be allocated as follows:

28 (a) Sixty-six percent to the Highway Cash Fund for the Department of
29 Transportation;

30 (b) Seventeen percent to the Highway Allocation Fund for allocation
31 to the various counties for road purposes; and

1 (c) Seventeen percent to the Highway Allocation Fund for allocation
2 to the various municipalities for street purposes.

3 **Sec. 361.** Section 66-1004, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 66-1004 Energy conservation measure shall mean installing or using
6 any:

- 7 (1) Caulking or weatherstripping of doors or windows;
- 8 (2) Furnace efficiency modifications involving electric service;
- 9 (3) Clock thermostats;
- 10 (4) Water heater insulation or modification;
- 11 (5) Ceiling, attic, wall, or floor insulation;
- 12 (6) Storm windows or doors, multiglazed windows or doors, or heat
13 absorbing or reflective glazed window and door material;
- 14 (7) Devices which control demand of appliances and aid load
15 management;
- 16 (8) Devices to utilize solar energy, biomass, or wind power for any
17 energy conservation purpose, including heating of water and space heating
18 or cooling, which have been identified by the Department of Water,
19 Energy, and Environment ~~Environment and Energy~~ as an energy conservation
20 measure for the purposes of sections 66-1001 to 66-1011;
- 21 (9) High-efficiency lighting and motors;
- 22 (10) Devices which are designed to increase energy efficiency, the
23 utilization of renewable resources, or both; and
- 24 (11) Such other conservation measures as the department shall
25 identify.

26 **Sec. 362.** Section 66-1009, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 66-1009 (1) A customer borrowing from a utility under a plan adopted
29 pursuant to sections 66-1001 to 66-1011 shall be allowed to contract with
30 the utility for a repayment plan and shall be offered a repayment period
31 of not less than three years and not more than twenty years.

1 (2) Upon default on a loan by a customer, after expending reasonable
2 efforts to collect, a utility may treat the entire unpaid contract amount
3 as due, but services to a residential, agricultural, or commercial
4 customer may not be terminated as a result of such default. Default
5 occurs when any amount due a utility under a plan adopted pursuant to
6 sections 66-1001 to 66-1011, 70-625, 70-704, 81-1606 to 81-1626, and
7 84-162 to 84-167 is not paid within sixty days of the due date.

8 (3) Any customer obtaining a loan pursuant to section 66-1007 shall
9 only use the funds to accomplish the purposes agreed upon at the time of
10 the loan. If the borrower of any funds obtained pursuant to sections
11 66-1001 to 66-1011 uses such funds in a manner or for a purpose not
12 authorized by this section, the total amount of the loan shall
13 immediately become due and payable.

14 (4) Any amount due a utility on a loan pursuant to sections 66-1001
15 to 66-1011 which is not paid in full within sixty days of the due date
16 shall become a lien as provided in this section on the real property
17 concerned as to the full unpaid balance. No lien under this section shall
18 be valid unless (a) the loan was signed by the party or parties shown on
19 the indexes of the register of deeds to be the owners of record of such
20 real property on the date of the loan and (b) the lien is filed not more
21 than four months after the date of default, in the same office and in the
22 same manner as mortgages in the county in which the real property is
23 located. Such lien shall take effect and be in force from and after the
24 time of delivering the same to the register of deeds for recording, and
25 not before, as to all creditors and subsequent purchasers in good faith
26 without notice, and such lien shall be adjudged void as to all such
27 creditors and subsequent purchasers without notice whose deeds,
28 mortgages, or other instruments shall be first recorded, except that such
29 lien shall be valid between the parties. A publicly owned utility shall
30 not maintain possession of any property which it may acquire pursuant to
31 a lien authorized by this section for a period of time longer than is

1 reasonably necessary to dispose of such property.

2 (5) Any loan made under a plan adopted pursuant to sections 66-1001
3 to 66-1011 shall not exceed fifteen thousand dollars, subject to any
4 existing limitations under federal law. Any loan to be made by a utility
5 which exceeds ten thousand dollars shall only be made in participation
6 with a bank pursuant to a contract. The utility and the participating
7 bank shall determine the terms and conditions of the contract.

8 (6) The Director of Water, Energy, and Environment ~~Environment and~~
9 ~~Energy~~ may adopt and promulgate rules and regulations to carry out
10 sections 66-1001 to 66-1011.

11 **Sec. 363.** Section 66-1105, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 66-1105 Any person who desires to withdraw ground water within the
14 State of Nebraska for geothermal resource development shall, prior to
15 commencing construction of any wells, obtain from the Director of Water,
16 Energy, and Environment ~~Natural Resources~~ a permit to authorize the
17 withdrawal, transfer, and further use or reinjection of such ground
18 water. The Department of Water, Energy, and Environment ~~Natural Resources~~
19 shall adopt and promulgate rules and regulations governing the issuance
20 of such permits, consistent with sections 66-1101 to 66-1106 and with
21 Chapter 46, article 6. Such rules and regulations ~~shall provide for~~
22 ~~consultation with the Department of Environment and Energy pursuant to~~
23 ~~the issuance of such permits and~~ shall be compatible with rules and
24 regulations adopted and promulgated by the department ~~Department of~~
25 ~~Environment and Energy~~ under the Environmental Protection Act. Any
26 geothermal fluids produced incident to the development and production of
27 geothermal resources shall be reinjected into the same geologic formation
28 from which they were extracted in substantially the same volume and
29 substantially the same or higher quality as when extracted unless the
30 permit issued in accordance with this section authorizes further uses or
31 processing other than those incident to reinjection.

1 **Sec. 364.** Section 66-1344, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 66-1344 (1) Beginning June 1, 2000, during such period as funds
4 remain in the Ethanol Production Incentive Cash Fund, any ethanol
5 facility shall receive a credit of seven and one-half cents per gallon of
6 ethanol, before denaturing, for new production for a period not to exceed
7 thirty-six consecutive months. For purposes of this subsection, new
8 production means production which results from the expansion of an
9 existing facility's capacity by at least two million gallons first placed
10 into service after June 1, 1999, as certified by the facility's design
11 engineer to the Department of Revenue. For expansion of an existing
12 facility's capacity, new production means production in excess of the
13 average of the highest three months of ethanol production at an ethanol
14 facility during the twenty-four-month period immediately preceding
15 certification of the facility by the design engineer. No credits shall be
16 allowed under this subsection for expansion of an existing facility's
17 capacity until production is in excess of twelve times the three-month
18 average amount determined under this subsection during any twelve-
19 consecutive-month period beginning no sooner than June 1, 2000. New
20 production shall be approved by the Department of Revenue based on such
21 ethanol production records as may be necessary to reasonably determine
22 new production. This credit must be earned on or before December 31,
23 2003.

24 (2)(a) Beginning January 1, 2002, any new ethanol facility which is
25 in production at the minimum rate of one hundred thousand gallons
26 annually for the production of ethanol, before denaturing, and which has
27 provided to the Department of Revenue written evidence substantiating
28 that the ethanol facility has received the requisite authority from the
29 Department of Water, Energy, and Environment ~~Environment and Energy~~ and
30 from the United States Department of Justice, Bureau of Alcohol, Tobacco,
31 Firearms and Explosives, on or before June 30, 2004, shall receive a

1 credit of eighteen cents per gallon of ethanol produced for ninety-six
2 consecutive months beginning with the first calendar month for which it
3 is eligible to receive such credit and ending not later than June 30,
4 2012, if the facility is defined by subdivision (b)(i) of this
5 subsection, and for forty-eight consecutive months beginning with the
6 first calendar month for which it is eligible to receive such credit and
7 ending not later than June 30, 2008, if the facility is defined by
8 subdivision (b)(ii) of this subsection. The new ethanol facility shall
9 provide an analysis to the Department of Revenue of samples of the
10 product collected according to procedures specified by the department no
11 later than July 30, 2004, and at least annually thereafter. The analysis
12 shall be prepared by an independent laboratory meeting the International
13 Organization for Standardization standard ISO/IEC 17025:1999. Prior to
14 collecting the samples, the new ethanol facility shall notify the
15 department which may observe the sampling procedures utilized by the new
16 ethanol facility to obtain the samples to be submitted for independent
17 analysis. The minimum rate shall be established for a period of at least
18 thirty days. In this regard, the new ethanol facility must produce at
19 least eight thousand two hundred nineteen gallons of ethanol within a
20 thirty-day period. The ethanol must be finished product which is ready
21 for sale to customers.

22 (b) For purposes of this subsection, new ethanol facility means a
23 facility for the conversion of grain or other raw feedstock into ethanol
24 and other byproducts of ethanol production which (i) is not in production
25 on or before September 1, 2001, or (ii) has not received credits prior to
26 June 1, 1999. A new ethanol facility does not mean an expansion of an
27 existing ethanol plant that does not result in the physical construction
28 of an entire ethanol processing facility or which shares or uses in a
29 significant manner any existing plant's systems or processes and does not
30 include the expansion of production capacity constructed after June 30,
31 2004, of a plant qualifying for credits under this subsection. This

1 definition applies to contracts entered into after April 16, 2004.

2 (c) Not more than fifteen million six hundred twenty-five thousand
3 gallons of ethanol produced annually at an ethanol facility shall be
4 eligible for credits under this subsection. Not more than one hundred
5 twenty-five million gallons of ethanol produced at an ethanol facility by
6 the end of the ninety-six-consecutive-month period or forty-eight-
7 consecutive-month period set forth in this subsection shall be eligible
8 for credits under this subsection.

9 (3) The credits described in this section shall be given only for
10 ethanol produced at a plant in Nebraska at which all fermentation,
11 distillation, and dehydration takes place. No credit shall be given on
12 ethanol produced for or sold for use in the production of beverage
13 alcohol. Not more than ten million gallons of ethanol produced during any
14 twelve-consecutive-month period at an ethanol facility shall be eligible
15 for the credit described in subsection (1) of this section. The credits
16 described in this section shall be in the form of a nonrefundable,
17 transferable motor vehicle fuel tax credit certificate. No transfer of
18 credits will be allowed between the ethanol producer and motor vehicle
19 fuel licensees who are related parties.

20 (4) Ethanol production eligible for credits under this section shall
21 be measured by a device approved by the Division of Weights and Measures
22 of the Department of Agriculture. Confirmation of approval by the
23 division shall be provided by the ethanol facility at the time the
24 initial claim for credits provided under this section is submitted to the
25 Department of Revenue and annually thereafter. Claims submitted by the
26 ethanol producer shall be based on the total number of gallons of ethanol
27 produced, before denaturing, during the reporting period measured in
28 gross gallons.

29 (5) The Department of Revenue shall prescribe an application form
30 and procedures for claiming credits under this section. In order for a
31 claim for credits to be accepted, it must be filed by the ethanol

1 producer within three years of the date the ethanol was produced or by
2 September 30, 2012, whichever occurs first.

3 (6) Every producer of ethanol shall maintain records similar to
4 those required by section 66-487. The ethanol producer must maintain
5 invoices, meter readings, load-out sheets or documents, inventory
6 records, including work-in-progress, finished goods, and denaturant, and
7 other memoranda requested by the Department of Revenue relevant to the
8 production of ethanol. On an annual basis, the ethanol producer shall
9 also be required to furnish the department with copies of the reports
10 filed with the United States Department of Justice, Bureau of Alcohol,
11 Tobacco, Firearms and Explosives. The maintenance of all of this
12 information in a provable computer format or on microfilm is acceptable
13 in lieu of retention of the original documents. The records must be
14 retained for a period of not less than three years after the claim for
15 ethanol credits is filed.

16 (7) For purposes of ascertaining the correctness of any application
17 for claiming a credit provided in this section, the Tax Commissioner (a)
18 may examine or cause to have examined, by any agent or representative
19 designated by him or her for that purpose, any books, papers, records, or
20 memoranda bearing upon such matters, (b) may by summons require the
21 attendance of the person responsible for rendering the application or
22 other document or any officer or employee of such person or the
23 attendance of any other person having knowledge in the premises, and (c)
24 may take testimony and require proof material for his or her information,
25 with power to administer oaths or affirmations to such person or persons.
26 The time and place of examination pursuant to this subsection shall be
27 such time and place as may be fixed by the Tax Commissioner and as are
28 reasonable under the circumstances. In the case of a summons, the date
29 fixed for appearance before the Tax Commissioner shall not be less than
30 twenty days from the time of service of the summons. No taxpayer shall be
31 subjected to unreasonable or unnecessary examinations or investigations.

1 All records obtained pursuant to this subsection shall be subject to the
2 confidentiality requirements and exceptions thereto as provided in
3 section 77-27,119.

4 (8) To qualify for credits under this section, an ethanol producer
5 shall provide public notice for bids before entering into any contract
6 for the construction of a new ethanol facility. Preference shall be given
7 to a bidder residing in Nebraska when awarding any contract for
8 construction of a new ethanol facility if comparable bids are submitted.
9 For purposes of this subsection, bidder residing in Nebraska means any
10 person, partnership, foreign or domestic limited liability company,
11 association, or corporation authorized to engage in business in the state
12 with employees permanently located in Nebraska. If an ethanol producer
13 enters into a contract for the construction of a new ethanol facility
14 with a bidder who is not a bidder residing in Nebraska, such producer
15 shall demonstrate to the satisfaction of the Department of Revenue in its
16 application for credits that no comparable bid was submitted by a
17 responsible bidder residing in Nebraska. The department shall deny an
18 application for credits if it is determined that the contract was denied
19 to a responsible bidder residing in Nebraska without cause.

20 (9) The pertinent provisions of Chapter 66, article 7, relating to
21 the administration and imposition of motor fuel taxes shall apply to the
22 administration and imposition of assessments made by the Department of
23 Revenue relating to excess credits claimed by ethanol producers under the
24 Ethanol Development Act. These provisions include, but are not limited
25 to, issuance of a deficiency following an examination of records, an
26 assessment becoming final after sixty days absent a written protest,
27 presumptions regarding the burden of proof, issuance of deficiency within
28 three years of original filing, issuance of notice by registered or
29 certified mail, issuance of penalties and waiver thereof, issuance of
30 interest and waiver thereof, and issuance of corporate officer or
31 employee or limited liability company manager or member assessments. For

1 purposes of determining interest and penalties, the due date will be
2 considered to be the date on which the credits were used by the licensees
3 to whom the credits were transferred.

4 (10) If a written protest is filed by the ethanol producer with the
5 department within the sixty-day period in subsection (9) of this section,
6 the protest shall: (a) Identify the ethanol producer; (b) identify the
7 proposed assessment which is being protested; (c) set forth each ground
8 under which a redetermination of the department's position is requested
9 together with facts sufficient to acquaint the department with the exact
10 basis thereof; (d) demand the relief to which the ethanol producer
11 considers itself entitled; and (e) request that an evidentiary hearing be
12 held to determine any issues raised by the protest if the ethanol
13 producer desires such a hearing.

14 (11) For applications received after April 16, 2004, an ethanol
15 facility receiving benefits under the Ethanol Development Act shall not
16 be eligible for benefits under the Employment and Investment Growth Act,
17 the Invest Nebraska Act, the Nebraska Advantage Act, or the Imagine
18 Nebraska Act.

19 **Sec. 365.** Section 66-1504, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 66-1504 Department shall mean the Department of Water, Energy, and
22 Environment ~~Environment and Energy~~.

23 **Sec. 366.** Section 66-1518, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 66-1518 (1) The Environmental Quality Council shall adopt and
26 promulgate rules and regulations governing reimbursements authorized
27 under the Petroleum Release Remedial Action Act. Such rules and
28 regulations shall include:

29 (a) Procedures regarding the form and procedure for application for
30 payment or reimbursement from the fund, including the requirement for
31 timely filing of applications;

1 (b) Procedures for the requirement of submitting cost estimates for
2 phases or stages of remedial actions, procurement requirements to be
3 followed by responsible persons, and requirements for reuse of fixtures
4 and tangible personal property by responsible persons during a remedial
5 action;

6 (c) Procedures for investigation of claims for payment or
7 reimbursement;

8 (d) Procedures for determining the amount and type of costs that are
9 eligible for payment or reimbursement from the fund;

10 (e) Procedures for auditing persons who have received payments from
11 the fund;

12 (f) Procedures for reducing reimbursements made for a remedial
13 action for failure by the responsible person to comply with applicable
14 statutory or regulatory requirements. Reimbursement may be reduced as
15 much as one hundred percent; and

16 (g) Other procedures necessary to carry out the act.

17 (2) The Director of Water, Energy, and Environment ~~Environment and~~
18 ~~Energy~~ shall (a) estimate the cost to complete remedial action at each
19 petroleum contaminated site where the responsible party has been ordered
20 by the department to begin remedial action, and, based on such estimates,
21 determine the total cost that would be incurred in completing all
22 remedial actions ordered; (b) determine the total estimated cost of all
23 approved remedial actions; (c) determine the total dollar amount of all
24 pending claims for payment or reimbursement; (d) determine the total of
25 all funds available for reimbursement of pending claims; and (e) include
26 the determinations made pursuant to this subsection in the department's
27 annual report to the Legislature.

28 (3) The department ~~Department of Environment and Energy~~ shall make
29 available to the public a current schedule of reasonable rates for
30 equipment, services, material, and personnel commonly used for remedial
31 action. The department shall consider the schedule of reasonable rates in

1 reviewing all costs for the remedial action which are submitted in a
2 plan. The rates shall be used to determine the amount of reimbursement
3 for the eligible and reasonable costs of the remedial action, except that
4 (a) the reimbursement for the costs of the remedial action shall not
5 exceed the actual eligible and reasonable costs incurred by the
6 responsible person or his or her designated representative and (b)
7 reimbursement may be made for costs which exceed or are not included on
8 the schedule of reasonable rates if the application for such
9 reimbursement is accompanied by sufficient evidence for the department to
10 determine and the department does determine that such costs are
11 reasonable.

12 **Sec. 367.** Section 66-1529.02, Revised Statutes Cumulative
13 Supplement, 2024, is amended to read:

14 66-1529.02 (1) The department may undertake remedial actions in
15 response to a release first reported after July 17, 1983, and on or
16 before June 30, 2028, with money available in the fund if:

17 (a) The responsible person cannot be identified or located;

18 (b) An identified responsible person cannot or will not comply with
19 the remedial action requirements; or

20 (c) Immediate remedial action is necessary, as determined by the
21 Director of Water, Energy, and Environment ~~Environment and Energy~~, to
22 protect human health or the environment.

23 (2) The department may pay the costs of a third-party claim meeting
24 the requirements of subdivision (2)(f) of section 66-1525 with money
25 available in the fund if the responsible person cannot or will not pay
26 the third-party claim.

27 (3) Reimbursement for any damages caused by the department or a
28 person acting at the department's direction while investigating or
29 inspecting or during remedial action on property other than property on
30 which a release or suspected release has occurred shall be considered as
31 part of the cost of remedial action involving the site where the release

1 or suspected release occurred. The costs shall be reimbursed from money
2 available in the fund. If such reimbursement is deemed inadequate by the
3 party claiming the damages, the party's claim for damages caused by the
4 department shall be filed as provided in section 76-705.

5 (4) All expenses paid from the fund under this section, court costs,
6 and attorney's fees may be recovered in a civil action in the district
7 court of Lancaster County. The action may be brought by the county
8 attorney or Attorney General at the request of the director against the
9 responsible person. All recovered expenses shall be deposited into the
10 fund.

11 **Sec. 368.** Section 66-2001, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 66-2001 (1) The Natural Gas Fuel Board is hereby established to
14 advise the Department of Water, Energy, and Environment ~~Environment and~~
15 ~~Energy~~ regarding the promotion of natural gas as a motor vehicle fuel in
16 Nebraska. The board shall provide recommendations relating to:

17 (a) Distribution, infrastructure, and workforce development for
18 natural gas to be used as a motor vehicle fuel;

19 (b) Loans, grants, and tax incentives to encourage the use of
20 natural gas as a motor vehicle fuel for individuals and public and
21 private fleets; and

22 (c) Such other matters as it deems appropriate.

23 (2) The board shall consist of eight members appointed by the
24 Governor. The Governor shall make the initial appointments by October 1,
25 2012. The board shall include:

26 (a) One member representing a jurisdictional utility as defined in
27 section 66-1802;

28 (b) One member representing a metropolitan utilities district;

29 (c) One member representing the interests of the transportation
30 industry in the state;

31 (d) One member representing the interests of the business community

1 in the state, specifically fueling station owners or operators;

2 (e) One member representing natural gas marketers or pipelines in
3 the state;

4 (f) One member representing automobile dealerships or repair
5 businesses in the state;

6 (g) One member representing labor interests in the state; and

7 (h) One member representing environmental interests in the state,
8 specifically air quality.

9 (3) All appointments shall be subject to the approval of a majority
10 of the members of the Legislature if the Legislature is in session, and
11 if the Legislature is not in session, any appointment to fill a vacancy
12 shall be temporary until the next session of the Legislature, at which
13 time a majority of the members of the Legislature may approve or
14 disapprove such appointment.

15 (4) Members shall be appointed for terms of four years, except that
16 of the initial appointees the terms of the members representing a
17 jurisdictional utility and a metropolitan utilities district shall expire
18 on September 30, 2015, the terms of the members representing the
19 transportation industry, the business community, natural gas marketers or
20 pipelines, and automobile dealerships or repair businesses shall expire
21 on September 30, 2014, and the terms of the members representing labor
22 and environmental interests shall expire on September 30, 2013. Members
23 may be reappointed. A member shall serve until a successor is appointed
24 and qualified.

25 (5) A vacancy on the board shall exist in the event of death,
26 disability, resignation, or removal for cause of a member. Any vacancy on
27 the board arising other than from the expiration of a term shall be
28 filled by appointment for the unexpired portion of the term. An
29 appointment to fill a vacancy shall be made by the Governor with the
30 approval of a majority of the Legislature, and any person so appointed
31 shall have the same qualifications as the person whom he or she succeeds.

1 (6) The board shall meet at least once annually.

2 (7) The members shall not be reimbursed for expenses associated with
3 carrying out their duties as members.

4 (8) The department shall provide administrative support to the board
5 as necessary so that the board may carry out its duties.

6 **Sec. 369.** Section 66-2201, Revised Statutes Cumulative Supplement,
7 2024, is amended to read:

8 66-2201 For purposes of sections 66-2201 to 66-2207:

9 (1) Department means the Department of Water, Energy, and
10 Environment ~~Environment and Energy~~;

11 (2) E-15 means a blend of ethanol and gasoline in which ethanol
12 comprises fifteen percent of the blend by volume;

13 (3) E-85 means a blend of ethanol and gasoline in which ethanol
14 comprises seventy percent or more of the blend by volume;

15 (4) Motor fuel pump means a meter or similar commercial weighing and
16 measuring device used to measure and dispense motor fuel originating from
17 a motor fuel storage tank;

18 (5) Program means the Renewable Fuel Infrastructure Program created
19 in section 66-2202;

20 (6) Retail dealer means a person engaged in the business of storing
21 and dispensing motor fuel from a motor fuel pump for sale on a retail
22 basis; and

23 (7) Retail motor fuel site means a geographic location in this state
24 where a retail dealer sells and dispenses motor fuel from a motor fuel
25 pump on a retail basis.

26 **Sec. 370.** Section 66-2216, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 66-2216 Beginning in 2025, the Department of Revenue and the
29 Department of Water, Energy, and Environment ~~Environment and Energy~~ shall
30 annually issue a joint report that identifies the statewide ethanol blend
31 rate. The statewide ethanol blend rate shall be equal to the average

1 percentage of ethanol contained in each gallon of motor fuel sold in this
2 state. Retail dealers shall provide a quarterly report of the number of
3 gallons of each type of motor fuel sold and the percentage of ethanol in
4 each gallon to the Department of Revenue. Reports to the Department of
5 Revenue shall be submitted on a form and in the manner prescribed by the
6 Department of Revenue.

7 **Sec. 371.** Section 69-2011, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 69-2011 On and after October 1, 1993, a person shall not sell or
10 offer for sale at retail any disposable diaper which is constructed of a
11 material which is not biodegradable or photodegradable if the Director of
12 Water, Energy, and Environment ~~Environment and Energy~~ determines that
13 biodegradable or photodegradable disposable diapers are readily available
14 at a comparable price and quality. The determination of quality shall
15 include a study of the environmental impact and fate of such disposable
16 diapers. The director shall issue his or her determination to the
17 Legislature on or before October 1, 1992. For purposes of this section
18 (1) readily available shall mean available for purchase in sufficient
19 quantities to meet demand through usual retail channels throughout the
20 state and (2) comparable price and quality shall mean at a cost not in
21 excess of five percent above the average price for products of comparable
22 quality which are not biodegradable or photodegradable.

23 **Sec. 372.** Section 69-2502, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 69-2502 For purposes of the Plastic Container Coding Act:

26 (1) Code shall mean a molded, imprinted, or raised symbol on or near
27 the bottom of a plastic bottle or rigid plastic container;

28 (2) Department shall mean the Department of Water, Energy, and
29 Environment ~~Environment and Energy~~;

30 (3) Plastic shall mean any material made of polymeric organic
31 compounds and additives that can be shaped by flow;

1 (4) Plastic bottle shall mean a plastic container intended for a
2 single use that:

3 (a) Has a neck smaller than the body of the container;

4 (b) Is designed for a screw-top, snap cap, or other closure; and

5 (c) Has a capacity of not less than sixteen fluid ounces or more
6 than five gallons; and

7 (5) Rigid plastic container shall mean any formed or molded
8 container intended for a single use, composed predominately of plastic
9 resin, that has a relatively inflexible finite shape or form with a
10 capacity of not less than eight ounces or more than five gallons. Rigid
11 plastic container shall not include a plastic bottle.

12 **Sec. 373.** Section 70-669, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 70-669 No inferior right to the use of the waters of this state
15 shall be acquired by a superior right without just compensation therefor
16 to the inferior user. The just compensation paid to those using water for
17 power purposes shall not be greater than the cost of replacing the power
18 which would be generated in the plant or plants of the power user by the
19 water so acquired. The just compensation to be paid to a holder of an
20 instream-basin-management appropriation that has been changed from a
21 manufacturing of hydropower appropriation pursuant to section 46-290
22 shall be the cost per acre-foot of water subordinated for the hydropower
23 appropriation at the time of approval of the change. The amount of
24 compensation may be adjusted annually, except that any increase shall not
25 exceed the annual change in the Consumer Price Index from the time of
26 approval of the change. If publication of such index is discontinued, a
27 comparable index selected by the Chief Water Officer of the Department of
28 Water, Energy, and Environment ~~Director of Natural Resources~~ shall be
29 used.

30 **Sec. 374.** Section 70-1003, Revised Statutes Cumulative Supplement,
31 2024, is amended to read:

1 70-1003 (1)(a) There is hereby established an independent board to
2 be known as the Nebraska Power Review Board. The board shall consist of
3 five members, including at least one engineer, at least one attorney, and
4 three additional persons. No more than one person who is or who has
5 within four years preceding such person's appointment been either a
6 director, an officer, or an employee of any electric utility or an
7 elective state officer shall serve on the board at the same time. Any
8 board member who previously was either a director, an officer, or an
9 employee of any electric utility within four years preceding such board
10 member's appointment shall refrain from taking any action or making any
11 decision in any proceeding before the board that involves such electric
12 utility for a period of four years after the date such board member
13 ceased being a director, an officer, or an employee of such electric
14 utility.

15 (b) Members of the board shall be appointed by the Governor subject
16 to the approval of the Legislature. Upon expiration of the terms of the
17 members first appointed, the successors shall be appointed for terms of
18 four years. No member of the board shall serve more than three
19 consecutive terms. Any vacancy on the board arising other than from the
20 expiration of a term shall be filled by appointment for the unexpired
21 portion of the term, and any person appointed to fill a vacancy on the
22 board shall be eligible for reappointment for two more consecutive terms.
23 No more than three members of the board shall be registered members of
24 that political party represented by the Governor.

25 (2) Each member of the board shall receive one hundred dollars per
26 day for each day actually and necessarily engaged in the performance of
27 his or her duties, but not to exceed seven thousand dollars in any one
28 year, except for the member designated to represent the board on the
29 Southwest Power Pool Regional State Committee or its equivalent
30 successor, who shall receive two hundred fifty dollars for each day
31 actually and necessarily engaged in the performance of his or her duties,

1 not to exceed thirty-five thousand dollars in any one year. If the member
2 designated to represent the board on the Southwest Power Pool Regional
3 State Committee should for any reason no longer serve in that capacity
4 during a year, the pay received while serving in such capacity shall not
5 be used for purposes of calculating the seven-thousand-dollar limitation
6 for board members not serving in that capacity. When another board member
7 acts as the proxy for the designated Southwest Power Pool Regional State
8 Committee member, he or she shall receive the same pay as the designated
9 member would have for that activity. Pay received while serving as proxy
10 for such designated member shall not be used for purposes of determining
11 whether the seven-thousand-dollar limitation has been met for board
12 members not serving as such designated member. Total pay to board members
13 for activities related to the Southwest Power Pool shall not exceed an
14 aggregate total of forty thousand dollars in any one year. Each member
15 shall be reimbursed for expenses while so engaged as provided in sections
16 81-1174 to 81-1177. The board shall have jurisdiction as provided in
17 Chapter 70, article 10.

18 (3) The board shall elect from their members a chairperson and a
19 vice-chairperson. Decisions of the board shall require the approval of a
20 majority of the members of the board.

21 (4) The board shall employ an executive director and may employ such
22 other staff necessary to carry out the duties pursuant to Chapter 70,
23 article 10. The executive director shall serve at the pleasure of the
24 board and shall be solely responsible to the board. The executive
25 director shall be responsible for the administrative operations of the
26 board and shall perform such other duties as may be delegated or assigned
27 to him or her by the board. The board may obtain the services of experts
28 and consultants necessary to carry out the board's duties pursuant to
29 Chapter 70, article 10.

30 (5) The board shall publish and submit a biennial report with annual
31 data to the Governor, with copies to be filed with the Clerk of the

1 Legislature and with the Department of Water, Energy, and Environment
2 ~~Environment and Energy~~. The report submitted to the Clerk of the
3 Legislature shall be submitted electronically. The department shall
4 consider the information in the Nebraska Power Review Board's report when
5 the department prepares its own reports pursuant to sections 81-1606 and
6 81-1607. The report of the board shall include:

7 (a) The assessments for the fiscal year imposed pursuant to section
8 70-1020;

9 (b) The gross income totals for each category of the industry and
10 the industry total;

11 (c) The number of suppliers against whom the assessment is levied,
12 by category and in total;

13 (d) The projected dollar costs of generation, transmission, and
14 microwave applications, approved and denied;

15 (e) The actual dollar costs of approved applications upon
16 completion, and a summary of an informational hearing concerning any
17 significant divergence between the projected and actual costs;

18 (f) A description of Nebraska's current electric system and
19 information on additions to and retirements from the system during the
20 fiscal year, including microwave facilities;

21 (g) A statistical summary of board activities and an expenditure
22 summary;

23 (h) A roster of power suppliers in Nebraska and the assessment each
24 paid; and

25 (i) Appropriately detailed historical and projected electric supply
26 and demand statistics, including information on the total generating
27 capacity owned by Nebraska suppliers and the total peak load demand of
28 the previous year, along with an indication of how the industry will
29 respond to the projected situation.

30 (6) The board may, in its discretion, hold public hearings
31 concerning the conditions that may indicate that retail competition in

1 the electric industry would benefit Nebraska's citizens and what steps,
2 if any, should be taken to prepare for retail competition in Nebraska's
3 electricity market. In determining whether to hold such hearings, the
4 board shall consider the sufficiency of public interest.

5 (7) The board may, at any time deemed beneficial by the board,
6 submit a report to the Governor with copies to be filed with the Clerk of
7 the Legislature and the Natural Resources Committee of the Legislature.
8 The report filed with the Clerk of the Legislature and the committee
9 shall be filed electronically. The report may include:

10 (a) Whether or not a viable regional transmission organization and
11 adequate transmission exist in Nebraska or in a region which includes
12 Nebraska;

13 (b) Whether or not a viable wholesale electricity market exists in a
14 region which includes Nebraska;

15 (c) To what extent retail rates have been unbundled in Nebraska;

16 (d) A comparison of Nebraska's wholesale electricity prices to the
17 prices in the region; and

18 (e) Any other information the board believes to be beneficial to the
19 Governor, the Legislature, and Nebraska's citizens when considering
20 whether retail electric competition would be beneficial, such as, but not
21 limited to, an update on deregulation activities in other states and an
22 update on federal deregulation legislation.

23 (8) The board may establish working groups of interested parties to
24 assist the board in carrying out the powers set forth in subsections (6)
25 and (7) of this section.

26 **Sec. 375.** Section 71-2433, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 71-2433 A property owner with knowledge of a clandestine drug lab on
29 his or her property shall report such knowledge and location as soon as
30 practicable to the local law enforcement agency or to the Nebraska State
31 Patrol. A law enforcement agency that discovers a clandestine drug lab in

1 the State of Nebraska shall report the location of such lab to the
2 Nebraska State Patrol within thirty days after making such discovery.
3 Such report shall include the date of discovery of such lab, the county
4 where the property containing such lab is located, and a legal
5 description of the property or other description or address of such
6 property sufficient to clearly establish its location. As soon as
7 practicable after such discovery, the appropriate law enforcement agency
8 shall provide the Nebraska State Patrol with a complete list of the
9 chemicals, including methamphetamine, its precursors, solvents, and
10 related reagents, found at or removed from the location of such lab. Upon
11 receipt, the Nebraska State Patrol shall promptly forward a copy of such
12 report and list to the department, the Department of Water, Energy, and
13 Environment ~~Environment and Energy~~, the municipality or county where the
14 lab is located, the director of the local public health department
15 serving such municipality or county, and the property owner or owners.

16 **Sec. 376.** Section 71-3503, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 71-3503 For purposes of the Radiation Control Act, unless the
19 context otherwise requires:

20 (1) Radiation means ionizing radiation and nonionizing radiation as
21 follows:

22 (a) Ionizing radiation means gamma rays, X-rays, alpha and beta
23 particles, high-speed electrons, neutrons, protons, and other atomic or
24 nuclear particles or rays but does not include sound or radio waves or
25 visible, infrared, or ultraviolet light; and

26 (b) Nonionizing radiation means (i) any electromagnetic radiation
27 which can be generated during the operations of electronic products to
28 such energy density levels as to present a biological hazard to
29 occupational and public health and safety and the environment, other than
30 ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or
31 infrasonic waves which are emitted from an electronic product as a result

1 of the operation of an electronic circuit in such product and to such
2 energy density levels as to present a biological hazard to occupational
3 and public health and safety and the environment;

4 (2) Radioactive material means any material, whether solid, liquid,
5 or gas, which emits ionizing radiation spontaneously. Radioactive
6 material includes, but is not limited to, accelerator-produced material,
7 byproduct material, naturally occurring material, source material, and
8 special nuclear material;

9 (3) Radiation-generating equipment means any manufactured product or
10 device, component part of such a product or device, or machine or system
11 which during operation can generate or emit radiation except devices
12 which emit radiation only from radioactive material;

13 (4) Sources of radiation means any radioactive material, any
14 radiation-generating equipment, or any device or equipment emitting or
15 capable of emitting radiation or radioactive material;

16 (5) Undesirable radiation means radiation in such quantity and under
17 such circumstances as determined from time to time by rules and
18 regulations adopted and promulgated by the department;

19 (6) Person means any individual, corporation, partnership, limited
20 liability company, firm, association, trust, estate, public or private
21 institution, group, agency, political subdivision of this state, any
22 other state or political subdivision or agency thereof, and any legal
23 successor, representative, agent, or agency of the foregoing;

24 (7) Registration means registration with the department pursuant to
25 the Radiation Control Act;

26 (8) Department means the Department of Health and Human Services;

27 (9) Administrator means the administrator of radiation control
28 designated pursuant to section 71-3504;

29 (10) Electronic product means any manufactured product, device,
30 assembly, or assemblies of such products or devices which, during
31 operation in an electronic circuit, can generate or emit a physical field

1 of radiation;

2 (11) License means:

3 (a) A general license issued pursuant to rules and regulations
4 adopted and promulgated by the department without the filing of an
5 application with the department or the issuance of licensing documents to
6 particular persons to transfer, acquire, own, possess, or use quantities
7 of or devices or equipment utilizing radioactive materials;

8 (b) A specific license, issued to a named person upon application
9 filed with the department pursuant to the Radiation Control Act and rules
10 and regulations adopted and promulgated pursuant to the act, to use,
11 manufacture, produce, transfer, receive, acquire, own, or possess
12 quantities of or devices or equipment utilizing radioactive materials; or

13 (c) A license issued to a radon measurement specialist, radon
14 mitigation specialist, radon measurement business, or radon mitigation
15 business;

16 (12) Byproduct material means:

17 (a) Any radioactive material, except special nuclear material,
18 yielded in or made radioactive by exposure to the radiation incident to
19 the process of producing or utilizing special nuclear material;

20 (b) The tailings or wastes produced by the extraction or
21 concentration of uranium or thorium from any ore processed primarily for
22 its source material content, including discrete surface wastes resulting
23 from uranium or thorium solution extraction processes. Underground ore
24 bodies depleted by such solution extraction operations do not constitute
25 byproduct material;

26 (c)(i) Any discrete source of radium-226 that is produced,
27 extracted, or converted after extraction for use for a commercial,
28 medical, or research activity; or

29 (ii) Any material that (A) has been made radioactive by use of a
30 particle accelerator and (B) is produced, extracted, or converted after
31 extraction for use for a commercial, medical, or research activity; and

1 (d) Any discrete source of naturally occurring radioactive material,
2 other than source material, that:

3 (i) The United States Nuclear Regulatory Commission, in consultation
4 with the Administrator of the United States Environmental Protection
5 Agency, the United States Secretary of Energy, the United States
6 Secretary of Homeland Security, and the head of any other appropriate
7 federal agency, determines would pose a threat similar to the threat
8 posed by a discrete source of radium-226 to the public health and safety
9 or the common defense and security; and

10 (ii) Is extracted or converted after extraction for use in a
11 commercial, medical, or research activity;

12 (13) Source material means:

13 (a) Uranium or thorium or any combination thereof in any physical or
14 chemical form; or

15 (b) Ores which contain by weight one-twentieth of one percent or
16 more of uranium, thorium, or any combination thereof. Source material
17 does not include special nuclear material;

18 (14) Special nuclear material means:

19 (a) Plutonium, uranium 233, or uranium enriched in the isotope 233
20 or in the isotope 235 and any other material that the United States
21 Nuclear Regulatory Commission pursuant to the provisions of section 51 of
22 the federal Atomic Energy Act of 1954, as amended, determines to be
23 special nuclear material but does not include source material; or

24 (b) Any material artificially enriched by any material listed in
25 subdivision (14)(a) of this section but does not include source material;

26 (15) Users of sources of radiation means:

27 (a) Physicians using radioactive material or radiation-generating
28 equipment for human use;

29 (b) Natural persons using radioactive material or radiation-
30 generating equipment for education, research, or development purposes;

31 (c) Natural persons using radioactive material or radiation-

1 generating equipment for manufacture or distribution purposes;

2 (d) Natural persons using radioactive material or radiation-
3 generating equipment for industrial purposes; and

4 (e) Natural persons using radioactive material or radiation-
5 generating equipment for any other similar purpose;

6 (16) Civil penalty means any monetary penalty levied on a licensee
7 or registrant because of violations of statutes, rules, regulations,
8 licenses, or registration certificates but does not include criminal
9 penalties;

10 (17) Closure means all activities performed at a waste handling,
11 processing, management, or disposal site, such as stabilization and
12 contouring, to assure that the site is in a stable condition so that only
13 minor custodial care, surveillance, and monitoring are necessary at the
14 site following termination of licensed operation;

15 (18) Decommissioning means final operational activities at a
16 facility to dismantle site structures, to decontaminate site surfaces and
17 remaining structures, to stabilize and contain residual radioactive
18 material, and to carry out any other activities to prepare the site for
19 postoperational care;

20 (19) Disposal means the permanent isolation of low-level radioactive
21 waste pursuant to the Radiation Control Act and rules and regulations
22 adopted and promulgated pursuant to such act;

23 (20) Generate means to produce low-level radioactive waste when used
24 in relation to low-level radioactive waste;

25 (21) High-level radioactive waste means:

26 (a) Irradiated reactor fuel;

27 (b) Liquid wastes resulting from the operation of the first cycle
28 solvent extraction system or equivalent and the concentrated wastes from
29 subsequent extraction cycles or the equivalent in a facility for
30 reprocessing irradiated reactor fuel; and

31 (c) Solids into which such liquid wastes have been converted;

1 (22) Low-level radioactive waste means radioactive waste not defined
2 as high-level radioactive waste, spent nuclear fuel, or byproduct
3 material as defined in subdivision (12)(b) of this section;

4 (23) Management of low-level radioactive waste means the handling,
5 processing, storage, reduction in volume, disposal, or isolation of such
6 waste from the biosphere in any manner;

7 (24) Source material mill tailings or mill tailings means the
8 tailings or wastes produced by the extraction or concentration of uranium
9 or thorium from any ore processed primarily for its source material
10 content, including discrete surface wastes resulting from underground
11 solution extraction processes, but not including underground ore bodies
12 depleted by such solution extraction processes;

13 (25) Source material milling means any processing of ore, including
14 underground solution extraction of unmined ore, primarily for the purpose
15 of extracting or concentrating uranium or thorium therefrom and which
16 results in the production of source material and source material mill
17 tailings;

18 (26) Spent nuclear fuel means irradiated nuclear fuel that has
19 undergone at least one year of decay since being used as a source of
20 energy in a power reactor. Spent nuclear fuel includes the special
21 nuclear material, byproduct material, source material, and other
22 radioactive material associated with fuel assemblies;

23 (27) Transuranic waste means radioactive waste material containing
24 alpha-emitting radioactive elements, with radioactive half-lives greater
25 than five years, having an atomic number greater than 92 in
26 concentrations in excess of one hundred nanocuries per gram;

27 (28) Licensed practitioner means a person licensed to practice
28 medicine, dentistry, podiatry, chiropractic, osteopathic medicine and
29 surgery, or as an osteopathic physician;

30 (29) X-ray system means an assemblage of components for the
31 controlled production of X-rays, including, but not limited to, an X-ray

1 high-voltage generator, an X-ray control, a tube housing assembly, a
2 beam-limiting device, and the necessary supporting structures. Additional
3 components which function with the system are considered integral parts
4 of the system; and

5 ~~(30) Licensed facility operator means any person or entity who has~~
6 ~~obtained a license under the Low-Level Radioactive Waste Disposal Act to~~
7 ~~operate a facility, including any person or entity to whom an assignment~~
8 ~~of a license is approved by the Department of Environment and Energy; and~~

9 (30) ~~(31)~~ Deliberate misconduct means an intentional act or omission
10 by a person that (a) would intentionally cause a licensee, registrant, or
11 applicant for a license or registration to be in violation of any rule,
12 regulation, or order of or any term, condition, or limitation of any
13 license or registration issued by the department under the Radiation
14 Control Act or (b) constitutes an intentional violation of a requirement,
15 procedure, instruction, contract, purchase order, or policy under the
16 Radiation Control Act by a licensee, a registrant, an applicant for a
17 license or registration, or a contractor or subcontractor of a licensee,
18 registrant, or applicant for a license or registration.

19 **Sec. 377.** Section 71-3508.04, Reissue Revised Statutes of Nebraska,
20 is amended to read:

21 71-3508.04 (1) For licensed activities involving source material
22 milling, source material mill tailings, and management of low-level
23 radioactive waste, the department shall, and for other classes of
24 licensed activities the department may, adopt and promulgate rules and
25 regulations which establish standards and procedures to ensure that the
26 licensee will provide an adequate surety or other financial arrangement
27 to permit the completion of all requirements established by the
28 department for the licensure, regulation, decontamination, closure,
29 decommissioning, and reclamation of sites, structures, and equipment used
30 in conjunction with such licensed activity in case the licensee should
31 default for any reason in performing such requirements. All sureties

1 required which are forfeited shall be paid to the department and remitted
2 to the State Treasurer for credit to the Health and Human Services Cash
3 Fund. Money in such fund remitted pursuant to this subsection shall be
4 expended by the department as necessary to complete the closure and
5 reclamation requirements and shall not be used for normal operating
6 expenses of the department.

7 (2) For licensed activities involving the disposal of source
8 material mill tailings and management of low-level radioactive waste, the
9 department shall, and for other classes of licensed activities when
10 radioactive material which will require surveillance or care is likely to
11 remain at the site after the licensed activities cease the department
12 may, adopt and promulgate rules and regulations which establish standards
13 and procedures to ensure that the licensee, before termination of the
14 license, will make available such funding arrangements as may be
15 necessary to provide for long-term site surveillance and care. All such
16 funds collected from licensees shall be paid to the department and
17 remitted to the State Treasurer for credit to the fund. All funds accrued
18 as interest on money credited to the fund pursuant to this subsection may
19 be expended by the department for the continuing long-term surveillance,
20 maintenance, and other care of facilities from which such funds are
21 collected as necessary for protection of the occupational and public
22 health and safety and the environment. If title to and custody of any
23 radioactive material and its disposal site are transferred to the United
24 States upon termination of any license for which funds have been
25 collected for such long-term care, the collected funds and interest
26 accrued thereon shall be transferred to the United States.

27 (3) The sureties or other financial arrangements and funds required
28 by this section shall be established in amounts sufficient to ensure
29 compliance with standards, if any, established by the department
30 pertaining to licensure, regulation, closure, decommissioning,
31 reclamation, and long-term site surveillance and care of such facilities

1 and sites.

2 (4) To provide for the proper care and surveillance of sites subject
3 to subsection (2) of this section which are not subject to section
4 71-3508.01 or ~~71-3508.02~~, the state may acquire by gift or transfer from
5 another governmental agency or private person any land and appurtenances
6 necessary to fulfill the purposes of this section. Any such gift or
7 transfer shall be subject to approval and acceptance by the Legislature.

8 (5) The department may by contract, agreement, lease, or license
9 with any person, including another state agency, provide for the
10 decontamination, closure, decommissioning, reclamation, surveillance, or
11 other care of a site subject to this section as needed to carry out the
12 purposes of this section.

13 (6) If a person licensed by any governmental agency other than the
14 department desires to transfer a site to the state for the purpose of
15 administering or providing long-term care, a lump-sum deposit shall be
16 made to the department and remitted to the State Treasurer for credit to
17 the Health and Human Services Cash Fund. The amount of such deposit shall
18 be determined by the department taking into account the factors stated in
19 subsections (1) and (2) of this section.

20 **Sec. 378.** Section 71-3524, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 71-3524 For purposes of sections 71-3523 to 71-3528:

23 (1) Department means the Department of Health and Human Services;

24 (2) High-level radioactive waste means (a) irradiated reactor fuel,
25 (b) liquid wastes resulting from the operation of the first cycle solvent
26 extraction system or equivalent and the concentrated wastes from
27 subsequent extraction cycles or equivalent in a facility for reprocessing
28 irradiated reactor fuel, (c) solids into which such liquid wastes have
29 been converted, and (d) other highly radioactive waste material as
30 defined by the United States Nuclear Regulatory Commission High-level
31 ~~radioactive waste has the definition found in section 81-1589; and~~

1 (3) Transuranic waste means radioactive waste material containing
2 alpha-emitting radioactive elements, with radioactive half-lives greater
3 than five years, having an atomic number greater than 92 in
4 concentrations in excess of one hundred nanocuries per gram.

5 **Sec. 379.** Section 71-5301, Revised Statutes Cumulative Supplement,
6 2024, is amended to read:

7 71-5301 For purposes of the Nebraska Safe Drinking Water Act, unless
8 the context otherwise requires:

9 (1) Council means the Advisory Council on Public Water Supply;

10 (2) Department means the Department of Water, Energy, and
11 Environment ~~Environment and Energy~~;

12 (3) Director means the Director of Water, Energy, and Environment
13 ~~Environment and Energy~~ or his or her authorized representative;

14 (4) Designated agent means any political subdivision or corporate
15 entity having the demonstrated capability and authority to carry out in
16 whole or in part the Nebraska Safe Drinking Water Act and with which the
17 director has consummated a legal and binding contract covering
18 specifically delegated responsibilities;

19 (5) Major construction, extension, or alteration means those
20 structural changes that affect the source of supply, treatment processes,
21 or transmission of water to service areas but does not include the
22 extension of service mains within established service areas;

23 (6) Operator means the individual or individuals responsible for the
24 continued performance of the water supply system or any part of such
25 system during assigned duty hours;

26 (7) Owner means any person owning or operating a public water
27 system;

28 (8) Person means any individual, corporation, firm, partnership,
29 limited liability company, association, company, trust, estate, public or
30 private institution, group, agency, political subdivision, or other
31 entity or any legal successor, representative, agent, or agency of any of

1 such entities;

2 (9) Water supply system means all sources of water and their
3 surroundings under the control of one owner and includes all structures,
4 conduits, and appurtenances by means of which such water is collected,
5 treated, stored, or delivered except service pipes between street mains
6 and buildings and the plumbing within or in connection with the buildings
7 served;

8 (10)(a) Public water system means a system for providing the public
9 with water for human consumption through pipes or other constructed
10 conveyances, if such system has at least fifteen service connections or
11 regularly serves an average of at least twenty-five individuals daily at
12 least sixty days per year. Public water system includes (i) any
13 collection, treatment, storage, and distribution facilities under control
14 of the operator of such system and used primarily in connection with such
15 system and (ii) any collection or pretreatment storage facilities not
16 under such control which are used primarily in connection with such
17 system. Public water system does not include a special irrigation
18 district. A public water system is either a community water system or a
19 noncommunity water system.

20 (b) Service connection does not include a connection to a system
21 that delivers water by a constructed conveyance other than a pipe if (i)
22 the water is used exclusively for purposes other than residential uses,
23 consisting of drinking, bathing, cooking, and other similar uses, (ii)
24 the department determines that alternative water to achieve the
25 equivalent level of public health protection provided by the Nebraska
26 Safe Drinking Water Act and rules and regulations under the act is
27 provided for residential or similar uses for drinking and cooking, or
28 (iii) the department determines that the water provided for residential
29 or similar uses for drinking, cooking, and bathing is centrally treated
30 or treated at the point of entry by the provider, a pass-through entity,
31 or the user to achieve the equivalent level of protection provided by the

1 Nebraska Safe Drinking Water Act and the rules and regulations under the
2 act.

3 (c) Special irrigation district means an irrigation district in
4 existence prior to May 18, 1994, that provides primarily agricultural
5 service through a piped water system with only incidental residential or
6 similar use if the system or the residential or similar users of the
7 system comply with exclusion provisions of subdivision (b)(ii) or (iii)
8 of this subdivision;

9 (11) Drinking water standards means rules and regulations adopted
10 and promulgated pursuant to section 71-5302 which (a) establish maximum
11 levels for harmful materials which, in the judgment of the director, may
12 have an adverse effect on the health of persons and (b) apply only to
13 public water systems;

14 (12) Lead free means (a) not containing more than two-tenths percent
15 lead when used with respect to solder and flux and (b) not containing
16 more than a weighted average of twenty-five hundredths percent lead when
17 used with respect to the wetted surfaces of pipes, pipe fittings,
18 plumbing fittings, and fixtures;

19 (13) Community water system means a public water system that (a)
20 serves at least fifteen service connections used by year-round residents
21 of the area served by the system or (b) regularly serves at least twenty-
22 five year-round residents;

23 (14) Noncommunity water system means a public water system that is
24 not a community water system;

25 (15) Nontransient noncommunity water system means a public water
26 system that is not a community water system and that regularly serves at
27 least twenty-five of the same individuals over six months per year; and

28 (16) Federal Safe Drinking Water Act means the federal Safe Drinking
29 Water Act, 42 U.S.C. 300f et seq., as the act existed on January 1, 2021.

30 **Sec. 380.** Section 71-5316, Revised Statutes Cumulative Supplement,
31 2024, is amended to read:

1 71-5316 For purposes of the Drinking Water State Revolving Fund Act,
2 unless the context otherwise requires:

3 (1) Safe Drinking Water Act means the federal Safe Drinking Water
4 Act, as the act existed on October 23, 2018;

5 (2) Construction means any of the following: Preliminary planning to
6 determine the feasibility of a safe drinking water project for a public
7 water system; engineering, architectural, legal, fiscal, or economic
8 investigations or studies; surveys, designs, plans, working drawings,
9 specifications, procedures, or other necessary preliminary actions;
10 erection, building, acquisition, alteration, remodeling, improvement, or
11 extension of public water systems; or the inspection or supervision of
12 any of such items;

13 (3) Council means the Environmental Quality Council;

14 (4) Department means the Department of Water, Energy, and
15 Environment ~~Environment and Energy~~;

16 (5) Director means the Director of Water, Energy, and Environment
17 ~~Environment and Energy~~;

18 (6) Operate and maintain means all necessary activities, including
19 the normal replacement of equipment or appurtenances, to assure the
20 dependable and economical function of a public water system in accordance
21 with its intended purpose;

22 (7) Owner means any person owning or operating a public water
23 system;

24 (8) Public water system has the definition found in section 71-5301;
25 and

26 (9) Safe drinking water project means the structures, equipment,
27 surroundings, and processes required to establish and operate a public
28 water system.

29 **Sec. 381.** Section 71-5328, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 71-5328 (1) For purposes of this section:

1 (a) Department means the Department of Water, Energy, and
2 Environment ~~Environment and Energy~~;

3 (b) Metropolitan utilities district means a district created
4 pursuant to section 14-2101; and

5 (c) Qualified labor training organization means any job training
6 service provider headquartered in the State of Nebraska with a
7 demonstrated history of providing workforce training relevant to the
8 skilled labor necessary for the removal and replacement of lead service
9 lines.

10 (2) The Lead Service Line Cash Fund is created. The fund shall be
11 administered by the department. The fund shall consist of funds
12 transferred by the Legislature. The fund shall be used for grants under
13 subsections (3) and (4) of this section. Any money in the fund available
14 for investment shall be invested by the state investment officer pursuant
15 to the Nebraska Capital Expansion Act and the Nebraska State Funds
16 Investment Act.

17 (3) The department shall utilize not more than twenty percent of the
18 money in the Lead Service Line Cash Fund for the purpose of providing
19 grants to qualified labor training organizations for the following:

20 (a) Infrastructure expenditures necessary to establish a lead
21 service line training facility or for any expenditures necessary to
22 establish a lead service line training program; or

23 (b) Labor training or any educational programming expenditures
24 necessary to provide the proper trade skills necessary for laborers and
25 plumbers to replace lead service lines.

26 (4) The department shall utilize all remaining money in the Lead
27 Service Line Cash Fund for the purpose of providing grants to
28 metropolitan utilities districts for the following:

29 (a) Removing and replacing lead service lines;

30 (b) Repaying debt incurred for any loan received by the metropolitan
31 utilities district for the purpose of replacing lead service lines,

1 including any loan or loans under the federal Drinking Water State
2 Revolving Fund or any other loan incurred specifically for the purpose of
3 removing lead service lines;

4 (c) Providing information to residents on the benefits of removing
5 lead service lines;

6 (d) Performing necessary construction, assessment, mapping, or any
7 other labor, management, or contracted services required for and
8 associated with removing and replacing lead service lines; or

9 (e) Acquiring any equipment, materials, or supplies necessary to
10 replace lead service lines.

11 (5) The department may adopt and promulgate rules and regulations to
12 carry out this section.

13 **Sec. 382.** Section 71-6406, Revised Statutes Cumulative Supplement,
14 2024, is amended to read:

15 71-6406 (1)(a) Any county, city, or village may enact, administer,
16 or enforce a local building or construction code if or as long as such
17 county, city, or village:

18 (i) Adopts the state building code; or

19 (ii) Adopts a building or construction code that conforms generally
20 with the state building code.

21 (b) If a county, city, or village does not adopt a code as
22 authorized under subdivision (a) of this subsection within two years
23 after an update to the state building code, the state building code shall
24 apply in the county, city, or village, except that such code shall not
25 apply to construction on a farm or for farm purposes.

26 (2) A local building or construction code shall be deemed to conform
27 generally with the state building code if it:

28 (a) Adopts a special or differing building standard by amending,
29 modifying, or deleting any portion of the state building code in order to
30 reduce unnecessary costs of construction, increase safety, durability, or
31 efficiency, establish best building or construction practices within the

1 county, city, or village, or address special local conditions within the
2 county, city, or village;

3 (b) Adopts any supplement, new edition, appendix, or component or
4 combination of components of the state building code;

5 (c) Adopts any of the following:

6 (i) Section 305 or 310 of the 2018 edition of the International
7 Building Code without the exceptions described in subdivision (1)(a) of
8 section 71-6403;

9 (ii) Section 101.4.3 or any portion of chapter 29 of the 2018
10 edition of the International Building Code;

11 (iii) Section R313 or any portion of chapters 25 through 33 of the
12 2018 edition of the International Residential Code; or

13 (iv) Section 809 of the 2018 edition of the International Existing
14 Building Code;

15 (d) Adopts a plumbing code, an electrical code, a fire prevention
16 code, or any other standard code as authorized under section 14-419,
17 15-905, 18-132, or 23-172;

18 (e) Adopts a local energy code as authorized under section 81-1618;
19 or

20 (f) Adopts minimum standards for radon resistant new construction
21 which meet the minimum standards adopted under section 76-3504.

22 (3) A local building or construction code shall not be deemed to
23 conform generally with the state building code if it:

24 (a) Includes a prior edition of any component or combination of
25 components of the state building code; or

26 (b) Does not include minimum standards for radon resistant new
27 construction that meet the minimum standards adopted under section
28 76-3504.

29 (4) A county, city, or village shall notify the Department of Water,
30 Energy, and Environment ~~Environment and Energy~~ if it amends or modifies
31 its local building or construction code in such a way as to delete any

1 portion of (a) chapter 13 of the 2018 edition of the International
2 Building Code or (b) chapter 11 of the 2018 edition of the International
3 Residential Code. The notification shall be made within thirty days after
4 the adoption of such amendment or modification.

5 (5) A county, city, or village shall not adopt or enforce a local
6 building or construction code other than as provided by this section.

7 (6) A county, city, or village which adopts or enforces a local
8 building or construction code under this section shall regularly update
9 its code. For purposes of this section, a code shall be deemed to be
10 regularly updated if the most recently enacted state building code or a
11 code that conforms generally with the state building code is adopted by
12 the county, city, or village within two years after an update to the
13 state building code.

14 (7) A county, city, or village may adopt amendments for the proper
15 administration and enforcement of its local building or construction code
16 including organization of enforcement, qualifications of staff members,
17 examination of plans, inspections, appeals, permits, and fees. Any
18 amendment adopted pursuant to this section shall be published separately
19 from the local building or construction code. Any local building or
20 construction code adopted under subdivision (1)(a) of this section or the
21 state building code if applicable under subdivision (1)(b) of this
22 section shall be the legally applicable code regardless of whether the
23 county, city, or village has provided for the administration or
24 enforcement of its local building or construction code under this
25 subsection.

26 (8) A county, city, or village which adopts one or more standard
27 codes as part of its local building or construction code under this
28 section shall keep at least one copy of each adopted code, or portion
29 thereof, for use and examination by the public in the office of the clerk
30 of the county, city, or village prior to the adoption of the code and as
31 long as such code is in effect.

1 (9) Notwithstanding the provisions of the Building Construction Act,
2 a public building of any political subdivision shall be built in
3 accordance with the applicable local building or construction code. Fees,
4 if any, for services which monitor a builder's application of codes shall
5 be negotiable between the political subdivisions involved, but such fees
6 shall not exceed the actual expenses incurred by the county, city, or
7 village doing the monitoring.

8 **Sec. 383.** Section 72-804, Revised Statutes Cumulative Supplement,
9 2024, is amended to read:

10 72-804 (1) Any new state building shall meet or exceed the
11 requirements of the 2018 International Energy Conservation Code published
12 by the International Code Council.

13 (2) Any new lighting, heating, cooling, ventilating, or water
14 heating equipment or controls in a state-owned building and any new
15 building envelope components installed in a state-owned building shall
16 meet or exceed the requirements of the 2018 International Energy
17 Conservation Code.

18 (3) The State Building Administrator of the Department of
19 Administrative Services, in consultation with the Department of Water,
20 Energy, and Environment ~~Environment and Energy~~, may specify:

21 (a) A more recent edition of the International Energy Conservation
22 Code;

23 (b) Additional energy efficiency or renewable energy requirements
24 for buildings; and

25 (c) Waivers of specific requirements which are demonstrated through
26 life-cycle cost analysis to not be in the state's best interest. The
27 agency receiving the funding shall be required to provide a life-cycle
28 cost analysis to the State Building Administrator.

29 **Sec. 384.** Section 72-805, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 72-805 The 2018 International Energy Conservation Code, published by

1 the International Code Council, applies to all new buildings constructed
2 in whole or in part with state funds after July 1, 2020. The Department
3 of Water, Energy, and Environment ~~Environment and Energy~~ shall review
4 building plans and specifications necessary to determine whether a
5 building will meet the requirements of this section. The department shall
6 provide a copy of its review to the agency receiving funding. The agency
7 receiving the funding shall verify that the building as constructed meets
8 or exceeds the code. The verification shall be provided to the
9 department. The Director of Water, Energy, and Environment ~~Environment~~
10 ~~and Energy~~ may, in consultation with the State Building Administrator of
11 the Department of Administrative Services, adopt and promulgate rules and
12 regulations to carry out this section.

13 **Sec. 385.** Section 76-2,124, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 76-2,124 (1) Any person transferring ownership of real property not
16 inside the corporate limits of a municipality shall complete and provide
17 to the transferee, at or before the closing of the transfer, a water
18 resources update notice acknowledging (a) whether any surface water
19 rights issued pursuant to Chapter 46, article 2, and in the name of any
20 party other than an irrigation district, public power and irrigation
21 district, or mutual irrigation company are attached to the real property,
22 ownership of which is being transferred, and (b) whether there are any
23 water wells, except water wells used solely for domestic purposes and
24 constructed prior to September 9, 1993, on the real property, ownership
25 of which is being transferred. If the water resources update notice
26 discloses the existence of such surface water rights or such water wells,
27 the transferee shall complete the water resources update notice and shall
28 file it with the Department of Water, Energy, and Environment ~~Natural~~
29 ~~Resources~~ within sixty days after recording the deed or other instrument
30 by which the transfer of ownership of real property is made. The
31 department shall use such notice to update ownership of surface water

1 rights and water well registrations as required by sections 46-230 and
2 46-602.

3 (2) The department shall prescribe the form and content of the water
4 resources update notice and shall make such forms available to title
5 insurance companies and other persons as deemed appropriate by the
6 department. The requirement that a water resources update notice be filed
7 with the department or the failure to file such a notice does not affect
8 the recording, legality, or sufficiency of a deed or other instrument
9 evidencing the transfer of ownership of real property.

10 (3) The department shall not collect a fee for the filing of the
11 water resources update notices.

12 **Sec. 386.** Section 76-2602, Revised Statutes Cumulative Supplement,
13 2024, is amended to read:

14 76-2602 In the Uniform Environmental Covenants Act:

15 (1) Activity and use limitations means restrictions or obligations
16 created under the act with respect to real property.

17 (2) Agency means the Department of Water, Energy, and Environment
18 ~~Environment and Energy~~ or any other Nebraska or federal agency that
19 determines or approves the environmental response project pursuant to
20 which the environmental covenant is created.

21 (3) Common interest community means a condominium, cooperative, or
22 other real property with respect to which a person, by virtue of the
23 person's ownership of a parcel of real property, is obligated to pay
24 property taxes or insurance premiums, or for maintenance, or improvement
25 of other real property described in a recorded covenant that creates the
26 common interest community.

27 (4) Environmental covenant means a servitude arising under an
28 environmental response project that imposes activity and use limitations.

29 (5) Environmental response project means a plan or work performed
30 for environmental remediation of real property and conducted:

31 (A) Under a federal or state program governing environmental

1 remediation of real property, including the Petroleum Release Remedial
2 Action Act;

3 (B) Incident to closure of a solid or hazardous waste management
4 unit, if the closure is conducted with approval of an agency; or

5 (C) Under a state voluntary cleanup program authorized by the
6 Remedial Action Plan Monitoring Act.

7 (6) Holder means the grantee of an environmental covenant as
8 specified in subsection (a) of section 76-2603.

9 (7) Person means an individual, corporation, business trust, estate,
10 trust, partnership, limited liability company, association, joint
11 venture, public corporation, government, governmental subdivision,
12 agency, or instrumentality, or any other legal or commercial entity.

13 (8) Record, used as a noun, means information that is inscribed on a
14 tangible medium or that is stored in an electronic or other medium and is
15 retrievable in perceivable form.

16 (9) State means a state of the United States, the District of
17 Columbia, Puerto Rico, the United States Virgin Islands, or any territory
18 or insular possession subject to the jurisdiction of the United States.

19 **Sec. 387.** Section 76-2608, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 76-2608 (a) An environmental covenant, any amendment or termination
22 of the covenant under section 76-2609 or 76-2610, and any subordination
23 agreement must be recorded in every county in which any portion of the
24 real property subject to the covenant is located. For purposes of
25 indexing, a holder shall be treated as a grantee.

26 (b) Except as otherwise provided in subsection (c) of section
27 76-2609, an environmental covenant is subject to the laws of this state
28 governing recording and priority of interests in real property.

29 (c) A copy of a document recorded under subsection (a) of this
30 section shall also be provided to the Department of Water, Energy, and
31 Environment ~~Environment and Energy~~ if the department has not signed the

1 covenant.

2 (d) The department shall make available to the public a listing of
3 all documents under subsection (a) of this section or documents under
4 subsection (c) of this section which have been provided to the
5 department.

6 **Sec. 388.** Section 77-3,112, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-3,112 ~~(1) Notwithstanding any provision of law, the Tax~~
9 ~~Commissioner shall not approve or grant to any person or taxpayer any tax~~
10 ~~credit or exemption for the construction of a facility or the employment~~
11 ~~of people for the disposal in Nebraska of low-level radioactive waste for~~
12 ~~which a license is required pursuant to the Low-Level Radioactive Waste~~
13 ~~Disposal Act.~~

14 ~~(2) Notwithstanding any provision of law, the Tax Commissioner shall~~
15 ~~not approve or grant to any person any tax credit, exemption, or refund~~
16 ~~for the employment of any person who has been removed from the United~~
17 ~~States pursuant to proceedings initiated by the United States Immigration~~
18 ~~and Customs Enforcement, or other competent authority, or who has been~~
19 ~~convicted in a criminal court proceeding for offenses related to illegal~~
20 ~~immigration. Any benefits that were received prior to the removal or~~
21 ~~conviction will be recaptured to the extent the benefits were received~~
22 ~~based on the employment of such persons.~~

23 **Sec. 389.** Section 77-27,150, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 77-27,150 (1) An application for a refund of Nebraska sales and use
26 taxes paid for any air or water pollution control facility may be filed
27 with the Tax Commissioner by the owner of such facility in such manner
28 and in such form as may be prescribed by the commissioner. The
29 application for a refund shall contain: (a) Plans and specifications of
30 such facility including all materials incorporated therein; (b) a
31 descriptive list of all equipment acquired by the applicant for the

1 purpose of industrial or agricultural waste pollution control; (c) the
2 proposed operating procedure for the facility; (d) the acquisition cost
3 of the facility for which a refund is claimed; and (e) a copy of the
4 final findings of the Department of Water, Energy, and Environment
5 ~~Environment and Energy~~ issued pursuant to section 77-27,151.

6 (2) The Tax Commissioner shall offer an applicant a hearing upon
7 request of such applicant. The hearing shall not affect the authority of
8 the Department of Water, Energy, and Environment ~~Environment and Energy~~
9 to determine whether or not industrial or agricultural waste pollution
10 control exists within the meaning of the Air and Water Pollution Control
11 Tax Refund Act.

12 (3) A claim for refund received without a copy of the final findings
13 of the Department of Water, Energy, and Environment ~~Environment and~~
14 ~~Energy~~ issued pursuant to section 77-27,151 shall not be considered a
15 valid claim and shall be returned to the applicant.

16 (4) Notice of the Tax Commissioner's refusal to issue a refund shall
17 be mailed to the applicant.

18 **Sec. 390.** Section 77-27,151, Revised Statutes Cumulative Supplement,
19 2024, is amended to read:

20 77-27,151 If the Department of Water, Energy, and Environment
21 ~~Environment and Energy~~ finds that a facility or multiple facilities at a
22 single location are designed and operated primarily for control, capture,
23 abatement, or removal of industrial or agricultural waste from air or
24 water and are suitable, are reasonably adequate, and meet the intent and
25 purposes of the Environmental Protection Act, the Department of Water,
26 Energy, and Environment ~~Environment and Energy~~ shall so notify the owner
27 of the facility in writing of its findings that the facility, multiple
28 facilities, or the specified portions of any facility are approved. The
29 Department of Water, Energy, and Environment ~~Environment and Energy~~ shall
30 also notify the Tax Commissioner of its findings and the extent of
31 commercial or productive value derived from any materials captured or

1 recovered by the facility.

2 **Sec. 391.** Section 77-27,152, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 77-27,152 (1) The Tax Commissioner, after giving notice by mail to
5 the applicant and giving an opportunity for a hearing, shall modify or
6 revoke the refund whenever the following appears: (a) The refund was
7 obtained by fraud or misrepresentation regarding the payment of tax on
8 materials incorporated into the facility or facilities; or (b) the
9 Department of Water, Energy, and Environment ~~Environment and Energy~~ has
10 modified its findings regarding the facility covered by the refund.

11 (2) The Department of Water, Energy, and Environment ~~Environment and~~
12 ~~Energy~~ may modify its findings when it determines any of the following:
13 (a) The refund was obtained by fraud or misrepresentation regarding the
14 facility or planned operation of the facility; (b) the applicant has
15 failed substantially to operate the facility for the purpose and degree
16 of control specified in the application or an amended application; or (c)
17 the facility covered by the refund is no longer used for the primary
18 purpose of pollution control.

19 (3) On the mailing to the refund applicant of notice of the action
20 of the Tax Commissioner modifying or revoking the refund, the refund
21 shall cease to be in force or shall remain in force only as modified.
22 When a refund is revoked because a refund was obtained by fraud or
23 misrepresentation, all taxes which would have been payable if no
24 certificate had been issued shall be immediately due and payable with the
25 maximum interest and penalties prescribed by the Nebraska Revenue Act of
26 1967. No statute of limitations shall operate in the event of fraud or
27 misrepresentation.

28 **Sec. 392.** Section 77-27,153, Revised Statutes Cumulative Supplement,
29 2024, is amended to read:

30 77-27,153 (1) A party aggrieved by the issuance, refusal to issue,
31 revocation, or modification of a pollution control tax refund may appeal

1 from the finding and order of the Tax Commissioner. The finding and order
2 shall not affect the authority of the Department of Water, Energy, and
3 Environment ~~Environment and Energy~~ to determine whether or not industrial
4 or agricultural waste pollution control exists within the meaning of the
5 Air and Water Pollution Control Tax Refund Act. The appeal shall be in
6 accordance with the Administrative Procedure Act.

7 (2) The Department of Water, Energy, and Environment ~~Environment and~~
8 ~~Energy~~ shall make its findings for the Air and Water Pollution Control
9 Tax Refund Act in accordance with its normal administrative procedures.
10 Nothing in the act is intended to affect the department's authority to
11 make findings and to determine whether or not industrial or agricultural
12 waste pollution control exists within the meaning of the act.

13 **Sec. 393.** Section 77-27,154, Revised Statutes Cumulative Supplement,
14 2024, is amended to read:

15 77-27,154 The Tax Commissioner may adopt and promulgate rules and
16 regulations that are necessary for the administration of the Air and
17 Water Pollution Control Tax Refund Act. Such rules and regulations shall
18 not abridge the authority of the Department of Water, Energy, and
19 Environment ~~Environment and Energy~~ to determine whether or not industrial
20 or agricultural waste pollution control exists within the meaning of the
21 act.

22 **Sec. 394.** Section 77-27,187.01, Revised Statutes Cumulative
23 Supplement, 2024, is amended to read:

24 77-27,187.01 For purposes of the Nebraska Advantage Rural
25 Development Act, unless the context otherwise requires:

26 (1) Any term has the same meaning as used in the Nebraska Revenue
27 Act of 1967;

28 (2) Equivalent employees means the number of employees computed by
29 dividing the total hours paid in a year to employees by the product of
30 forty times the number of weeks in a year;

31 (3) Livestock means all animals, including cattle, horses, sheep,

1 goats, hogs, dairy animals, chickens, turkeys, and other species of game
2 birds and animals raised and produced subject to permit and regulation by
3 the Game and Parks Commission or the Department of Agriculture;

4 (4) Livestock modernization or expansion means the construction,
5 improvement, or acquisition of buildings, facilities, or equipment for
6 livestock housing, confinement, feeding, production, and waste
7 management. Livestock modernization or expansion does not include any
8 improvements made to correct a violation of the Environmental Protection
9 Act, the Integrated Solid Waste Management Act, the Livestock Waste
10 Management Act, a rule or regulation adopted and promulgated pursuant to
11 such acts, or any order of the Department of Water, Energy, and
12 Environment ~~Environment and Energy~~ undertaken within five years after a
13 complaint issued from the Director of Water, Energy, and Environment
14 ~~Environment and Energy~~ under section 81-1507;

15 (5) Livestock production means the active use, management, and
16 operation of real and personal property (a) for the commercial production
17 of livestock, (b) for the commercial breeding, training, showing, or
18 racing of horses or for the use of horses in a recreational or tourism
19 enterprise, and (c) for the commercial production of dairy and eggs. The
20 activity will be considered commercial if the gross income derived from
21 an activity for two or more of the taxable years in the period of seven
22 consecutive taxable years which ends with the taxable year exceeds the
23 deductions attributable to such activity or, if the operation has been in
24 existence for less than seven years, if the activity is engaged in for
25 the purpose of generating a profit;

26 (6) Qualified employee leasing company means a company which places
27 all employees of a client-lessee on its payroll and leases such employees
28 to the client-lessee on an ongoing basis for a fee and, by written
29 agreement between the employee leasing company and a client-lessee,
30 grants to the client-lessee input into the hiring and firing of the
31 employees leased to the client-lessee;

1 (7) Related taxpayers includes any corporations that are part of a
2 unitary business under the Nebraska Revenue Act of 1967 but are not part
3 of the same corporate taxpayer, any business entities that are not
4 corporations but which would be a part of the unitary business if they
5 were corporations, and any business entities if at least fifty percent of
6 such entities are owned by the same persons or related taxpayers and
7 family members as defined in the ownership attribution rules of the
8 Internal Revenue Code of 1986, as amended;

9 (8) Taxpayer means a corporate taxpayer or other person subject to
10 either an income tax imposed by the Nebraska Revenue Act of 1967 or a
11 franchise tax under Chapter 77, article 38, or a partnership, limited
12 liability company, subchapter S corporation, cooperative, including a
13 cooperative exempt under section 521 of the Internal Revenue Code of
14 1986, as amended, limited cooperative association, or joint venture that
15 is or would otherwise be a member of the same unitary group if
16 incorporated, which is, or whose partners, members, or owners
17 representing an ownership interest of at least ninety percent of the
18 control of such entity are, subject to or exempt from such taxes, and any
19 other partnership, limited liability company, subchapter S corporation,
20 cooperative, including a cooperative exempt under section 521 of the
21 Internal Revenue Code of 1986, as amended, limited cooperative
22 association, or joint venture when the partners, members, or owners
23 representing an ownership interest of at least ninety percent of the
24 control of such entity are subject to or exempt from such taxes; and

25 (9) Year means the taxable year of the taxpayer.

26 **Sec. 395.** Section 77-27,236, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 77-27,236 (1) A taxpayer who makes an investment after January 1,
29 2008, and prior to January 1, 2015, in a biodiesel facility shall receive
30 a nonrefundable income tax credit as provided in this section.

31 (2) The credit provided in subsection (1) of this section shall be

1 equal to thirty percent of the amount invested by the taxpayer in a
2 biodiesel facility. The credit shall be taken over at least four taxable
3 years subject to the following conditions:

4 (a) No more than ten percent of the credit provided for in
5 subsection (1) of this section shall be taken in each of the first two
6 taxable years the biodiesel facility produces B100 and no more than fifty
7 percent of the credit provided for in subsection (1) of this section
8 shall be taken in the third taxable year the biodiesel facility produces
9 B100. The credit allowed under subsection (1) of this section shall not
10 exceed fifty percent of the taxpayer's liability in any tax year;

11 (b) Any amount of credit not allowed because of the limitations in
12 this section may be carried forward for up to fifteen taxable years after
13 the taxable year in which the investment was made. The aggregate maximum
14 income tax credit a taxpayer may obtain is two hundred fifty thousand
15 dollars;

16 (c) The investment shall be at risk in the biodiesel facility. The
17 investment shall be in the form of a purchase of an ownership interest or
18 the right to receive payment of dividends from the biodiesel facility and
19 shall remain in the business for at least three years. The Tax
20 Commissioner may recapture any credits used if the investment does not
21 remain invested for the three-year period. An investment placed in escrow
22 does not qualify under this subdivision;

23 (d) The entire amount of the investment shall be expended by the
24 biodiesel facility for plant, equipment, research and development,
25 marketing and sales activity, or working capital;

26 (e) A partnership, a subchapter S corporation, a limited liability
27 company that for tax purposes is treated like a partnership, a
28 cooperative, including a cooperative exempt under section 521 of the
29 Internal Revenue Code of 1986, as amended, or any other pass-through
30 entity that invests in a biodiesel facility shall be considered to be the
31 taxpayer for purposes of the credit limitations. Except for the

1 limitation under subdivision (2)(a) of this section, the amount of the
2 credit allowed to a pass-through entity shall be determined at the
3 partnership, corporate, cooperative, or other organizational level. The
4 amount of the credit determined at the partnership, corporate,
5 cooperative, or other organizational level shall be allowed to the
6 partners, members, or other owners in proportion to their respective
7 ownership interests in the pass-through entity;

8 (f) The credit shall be taken only if (i) the biodiesel facility
9 produces B100, (ii) the biodiesel facility in which the investment was
10 made produces at a rate of at least seventy percent of its rated capacity
11 continuously for at least one week during the first taxable year the
12 credit is taken and produces at a rate of at least seventy percent of its
13 rated capacity over a six-month period during each of the next two
14 taxable years the credit is taken, (iii) all processing takes place at
15 the biodiesel facility in which the investment was made and which is
16 located in Nebraska, and (iv) at least fifty-one percent of the ownership
17 interest of the biodiesel facility is held by Nebraska resident
18 individuals or Nebraska entities; and

19 (g) The biodiesel facility shall provide the Department of Revenue
20 written evidence substantiating that the biodiesel facility has received
21 the requisite authority from the Department of Water, Energy, and
22 Environment ~~Environment and Energy~~ and from the United States Department
23 of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The
24 biodiesel facility shall annually provide an analysis to the Department
25 of Revenue of samples of the product collected according to procedures
26 specified by the department. The analysis shall be prepared by an
27 independent laboratory meeting standards of the International
28 Organization for Standardization. Prior to collecting the samples, the
29 biodiesel facility shall notify the department which may observe the
30 sampling procedures utilized by the biodiesel facility to obtain the
31 samples to be submitted for independent analysis.

1 (3) Any biodiesel facility for which credits are granted shall,
2 whenever possible, employ workers who are residents of the State of
3 Nebraska.

4 (4) Trade secrets, academic and scientific research work, and other
5 proprietary or commercial information which may be filed with the Tax
6 Commissioner shall not be considered to be public records as defined in
7 section 84-712.01 if the release of such trade secrets, work, or
8 information would give advantage to business competitors and serve no
9 public purpose. Any person seeking release of the trade secrets, work, or
10 information as a public record shall demonstrate to the satisfaction of
11 the department that the release would not violate this section.

12 (5) For purposes of this section:

13 (a) Biodiesel facility means a plant or facility related to the
14 processing, marketing, or distribution of biodiesel; and

15 (b) B100 means pure biodiesel containing mono-alkyl esters of long
16 chain fatty acids derived from vegetable oils or animal fats, designated
17 as B100, and meeting the American Society for Testing and Materials
18 standard, ASTM D6751.

19 **Sec. 396.** Section 77-3442, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 77-3442 (1) Property tax levies for the support of local governments
22 for fiscal years beginning on or after July 1, 1998, shall be limited to
23 the amounts set forth in this section except as provided in section
24 77-3444.

25 (2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this
26 section, school districts and multiple-district school systems may levy a
27 maximum levy of one dollar and five cents per one hundred dollars of
28 taxable valuation of property subject to the levy.

29 (b) For each fiscal year prior to fiscal year 2017-18, learning
30 communities may levy a maximum levy for the general fund budgets of
31 member school districts of ninety-five cents per one hundred dollars of

1 taxable valuation of property subject to the levy. The proceeds from the
2 levy pursuant to this subdivision shall be distributed pursuant to
3 section 79-1073.

4 (c) Except as provided in subdivision (2)(e) of this section, for
5 each fiscal year prior to fiscal year 2017-18, school districts that are
6 members of learning communities may levy for purposes of such districts'
7 general fund budget and special building funds a maximum combined levy of
8 the difference of one dollar and five cents on each one hundred dollars
9 of taxable property subject to the levy minus the learning community levy
10 pursuant to subdivision (2)(b) of this section for such learning
11 community.

12 (d) Excluded from the limitations in subdivisions (2)(a) and (2)(c)
13 of this section are (i) amounts levied to pay for current and future sums
14 agreed to be paid by a school district to certificated employees in
15 exchange for a voluntary termination of employment occurring prior to
16 September 1, 2017, (ii) amounts levied by a school district otherwise at
17 the maximum levy pursuant to subdivision (2)(a) of this section to pay
18 for current and future qualified voluntary termination incentives for
19 certificated teachers pursuant to subsection (3) of section 79-8,142 that
20 are not otherwise included in an exclusion pursuant to subdivision (2)(d)
21 of this section, (iii) amounts levied by a school district otherwise at
22 the maximum levy pursuant to subdivision (2)(a) of this section to pay
23 for seventy-five percent of the current and future sums agreed to be paid
24 to certificated employees in exchange for a voluntary termination of
25 employment occurring between September 1, 2017, and August 31, 2018, as a
26 result of a collective-bargaining agreement in force and effect on
27 September 1, 2017, that are not otherwise included in an exclusion
28 pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a
29 school district otherwise at the maximum levy pursuant to subdivision (2)
30 (a) of this section to pay for fifty percent of the current and future
31 sums agreed to be paid to certificated employees in exchange for a

1 voluntary termination of employment occurring between September 1, 2018,
2 and August 31, 2019, as a result of a collective-bargaining agreement in
3 force and effect on September 1, 2017, that are not otherwise included in
4 an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts
5 levied by a school district otherwise at the maximum levy pursuant to
6 subdivision (2)(a) of this section to pay for twenty-five percent of the
7 current and future sums agreed to be paid to certificated employees in
8 exchange for a voluntary termination of employment occurring between
9 September 1, 2019, and August 31, 2020, as a result of a collective-
10 bargaining agreement in force and effect on September 1, 2017, that are
11 not otherwise included in an exclusion pursuant to subdivision (2)(d) of
12 this section, (vi) amounts levied in compliance with sections 79-10,110
13 and 79-10,110.02, and (vii) amounts levied to pay for special building
14 funds and sinking funds established for projects commenced prior to April
15 1, 1996, for construction, expansion, or alteration of school district
16 buildings. For purposes of this subsection, commenced means any action
17 taken by the school board on the record which commits the board to expend
18 district funds in planning, constructing, or carrying out the project.

19 (e) Federal aid school districts may exceed the maximum levy
20 prescribed by subdivision (2)(a) or (2)(c) of this section only to the
21 extent necessary to qualify to receive federal aid pursuant to Title VIII
22 of Public Law 103-382, as such title existed on September 1, 2001. For
23 purposes of this subdivision, federal aid school district means any
24 school district which receives ten percent or more of the revenue for its
25 general fund budget from federal government sources pursuant to Title
26 VIII of Public Law 103-382, as such title existed on September 1, 2001.

27 (f) For each fiscal year, learning communities may levy a maximum
28 levy of one-half cent on each one hundred dollars of taxable property
29 subject to the levy for elementary learning center facility leases, for
30 remodeling of leased elementary learning center facilities, and for up to
31 fifty percent of the estimated cost for focus school or program capital

1 projects approved by the learning community coordinating council pursuant
2 to section 79-2111.

3 (g) For each fiscal year, learning communities may levy a maximum
4 levy of one and one-half cents on each one hundred dollars of taxable
5 property subject to the levy for early childhood education programs for
6 children in poverty, for elementary learning center employees, for
7 contracts with other entities or individuals who are not employees of the
8 learning community for elementary learning center programs and services,
9 and for pilot projects, except that no more than ten percent of such levy
10 may be used for elementary learning center employees.

11 (3) For each fiscal year through fiscal year 2023-24, community
12 college areas may levy the levies provided in subdivisions (2)(a) through
13 (c) of section 85-1517, in accordance with the provisions of such
14 subdivisions. For fiscal year 2024-25 and each fiscal year thereafter,
15 community college areas may levy the levies provided in subdivisions (2)
16 (a) and (b) of section 85-1517, in accordance with the provisions of such
17 subdivisions. A community college area may exceed the levy provided in
18 subdivision (2)(a) of section 85-1517 by the amount necessary to generate
19 sufficient revenue as described in section 85-1543 or 85-2238. A
20 community college area may exceed the levy provided in subdivision (2)(b)
21 of section 85-1517 by the amount necessary to retire general obligation
22 bonds assumed by the community college area or issued pursuant to section
23 85-1515 according to the terms of such bonds or for any obligation
24 pursuant to section 85-1535 entered into prior to January 1, 1997.

25 (4)(a) Natural resources districts may levy a maximum levy of four
26 and one-half cents per one hundred dollars of taxable valuation of
27 property subject to the levy.

28 (b) Natural resources districts shall also have the power and
29 authority to levy a tax equal to the dollar amount by which their
30 restricted funds budgeted to administer and implement ground water
31 management activities and integrated management activities under the

1 Nebraska Ground Water Management and Protection Act exceed their
2 restricted funds budgeted to administer and implement ground water
3 management activities and integrated management activities for FY2003-04,
4 not to exceed one cent on each one hundred dollars of taxable valuation
5 annually on all of the taxable property within the district.

6 (c) In addition, natural resources districts located in a river
7 basin, subbasin, or reach that has been determined to be fully
8 appropriated pursuant to section 46-714 or designated as overappropriated
9 pursuant to section 46-713 by the Chief Water Officer of the Department
10 of Water, Energy, and Environment ~~Natural Resources~~ shall also have the
11 power and authority to levy a tax equal to the dollar amount by which
12 their restricted funds budgeted to administer and implement ground water
13 management activities and integrated management activities under the
14 Nebraska Ground Water Management and Protection Act exceed their
15 restricted funds budgeted to administer and implement ground water
16 management activities and integrated management activities for FY2005-06,
17 not to exceed three cents on each one hundred dollars of taxable
18 valuation on all of the taxable property within the district for fiscal
19 year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

20 (5) Any educational service unit authorized to levy a property tax
21 pursuant to section 79-1225 may levy a maximum levy of one and one-half
22 cents per one hundred dollars of taxable valuation of property subject to
23 the levy.

24 (6)(a) Incorporated cities and villages which are not within the
25 boundaries of a municipal county may levy a maximum levy of forty-five
26 cents per one hundred dollars of taxable valuation of property subject to
27 the levy plus an additional five cents per one hundred dollars of taxable
28 valuation to provide financing for the municipality's share of revenue
29 required under an agreement or agreements executed pursuant to the
30 Interlocal Cooperation Act or the Joint Public Agency Act. The maximum
31 levy shall include amounts levied to pay for sums to support a library

1 pursuant to section 51-201, museum pursuant to section 51-501, visiting
2 community nurse, home health nurse, or home health agency pursuant to
3 section 71-1637, or statue, memorial, or monument pursuant to section
4 80-202.

5 (b) Incorporated cities and villages which are within the boundaries
6 of a municipal county may levy a maximum levy of ninety cents per one
7 hundred dollars of taxable valuation of property subject to the levy. The
8 maximum levy shall include amounts paid to a municipal county for county
9 services, amounts levied to pay for sums to support a library pursuant to
10 section 51-201, a museum pursuant to section 51-501, a visiting community
11 nurse, home health nurse, or home health agency pursuant to section
12 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

13 (7) Sanitary and improvement districts which have been in existence
14 for more than five years may levy a maximum levy of forty cents per one
15 hundred dollars of taxable valuation of property subject to the levy, and
16 sanitary and improvement districts which have been in existence for five
17 years or less shall not have a maximum levy. Unconsolidated sanitary and
18 improvement districts which have been in existence for more than five
19 years and are located in a municipal county may levy a maximum of eighty-
20 five cents per hundred dollars of taxable valuation of property subject
21 to the levy.

22 (8) Counties may levy or authorize a maximum levy of fifty cents per
23 one hundred dollars of taxable valuation of property subject to the levy,
24 except that five cents per one hundred dollars of taxable valuation of
25 property subject to the levy may only be levied to provide financing for
26 the county's share of revenue required under an agreement or agreements
27 executed pursuant to the Interlocal Cooperation Act or the Joint Public
28 Agency Act. The maximum levy shall include amounts levied to pay for sums
29 to support a library pursuant to section 51-201 or museum pursuant to
30 section 51-501. The county may allocate up to fifteen cents of its
31 authority to other political subdivisions subject to allocation of

1 property tax authority under subsection (1) of section 77-3443 and not
2 specifically covered in this section to levy taxes as authorized by law
3 which do not collectively exceed fifteen cents per one hundred dollars of
4 taxable valuation on any parcel or item of taxable property. The county
5 may allocate to one or more other political subdivisions subject to
6 allocation of property tax authority by the county under subsection (1)
7 of section 77-3443 some or all of the county's five cents per one hundred
8 dollars of valuation authorized for support of an agreement or agreements
9 to be levied by the political subdivision for the purpose of supporting
10 that political subdivision's share of revenue required under an agreement
11 or agreements executed pursuant to the Interlocal Cooperation Act or the
12 Joint Public Agency Act. If an allocation by a county would cause another
13 county to exceed its levy authority under this section, the second county
14 may exceed the levy authority in order to levy the amount allocated.

15 (9) Municipal counties may levy or authorize a maximum levy of one
16 dollar per one hundred dollars of taxable valuation of property subject
17 to the levy. The municipal county may allocate levy authority to any
18 political subdivision or entity subject to allocation under section
19 77-3443.

20 (10) Beginning July 1, 2016, rural and suburban fire protection
21 districts may levy a maximum levy of ten and one-half cents per one
22 hundred dollars of taxable valuation of property subject to the levy if
23 (a) such district is located in a county that had a levy pursuant to
24 subsection (8) of this section in the previous year of at least forty
25 cents per one hundred dollars of taxable valuation of property subject to
26 the levy or (b) such district had a levy request pursuant to section
27 77-3443 in any of the three previous years and the county board of the
28 county in which the greatest portion of the valuation of such district is
29 located did not authorize any levy authority to such district in such
30 year.

31 (11) A regional metropolitan transit authority may levy a maximum

1 levy of ten cents per one hundred dollars of taxable valuation of
2 property subject to the levy for each fiscal year that commences on the
3 January 1 that follows the effective date of the conversion of the
4 transit authority established under the Transit Authority Law into the
5 regional metropolitan transit authority.

6 (12) Property tax levies (a) for judgments, except judgments or
7 orders from the Commission of Industrial Relations, obtained against a
8 political subdivision which require or obligate a political subdivision
9 to pay such judgment, to the extent such judgment is not paid by
10 liability insurance coverage of a political subdivision, (b) for
11 preexisting lease-purchase contracts approved prior to July 1, 1998, (c)
12 for bonds as defined in section 10-134 approved according to law and
13 secured by a levy on property except as provided in section 44-4317 for
14 bonded indebtedness issued by educational service units and school
15 districts, (d) for payments by a public airport to retire interest-free
16 loans from the Division of Aeronautics of the Department of
17 Transportation in lieu of bonded indebtedness at a lower cost to the
18 public airport, and (e) to pay for cancer benefits provided on or after
19 January 1, 2022, pursuant to the Firefighter Cancer Benefits Act are not
20 included in the levy limits established by this section.

21 (13) The limitations on tax levies provided in this section are to
22 include all other general or special levies provided by law.
23 Notwithstanding other provisions of law, the only exceptions to the
24 limits in this section are those provided by or authorized by sections
25 77-3442 to 77-3444.

26 (14) Tax levies in excess of the limitations in this section shall
27 be considered unauthorized levies under section 77-1606 unless approved
28 under section 77-3444.

29 (15) For purposes of sections 77-3442 to 77-3444, political
30 subdivision means a political subdivision of this state and a county
31 agricultural society.

1 (16) For school districts that file a binding resolution on or
2 before May 9, 2008, with the county assessors, county clerks, and county
3 treasurers for all counties in which the school district has territory
4 pursuant to subsection (7) of section 79-458, if the combined levies,
5 except levies for bonded indebtedness approved by the voters of the
6 school district and levies for the refinancing of such bonded
7 indebtedness, are in excess of the greater of (a) one dollar and twenty
8 cents per one hundred dollars of taxable valuation of property subject to
9 the levy or (b) the maximum levy authorized by a vote pursuant to section
10 77-3444, all school district levies, except levies for bonded
11 indebtedness approved by the voters of the school district and levies for
12 the refinancing of such bonded indebtedness, shall be considered
13 unauthorized levies under section 77-1606.

14 **Sec. 397.** Section 81-101, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-101 The civil administration of the laws of the state is vested
17 in the Governor. For the purpose of aiding the Governor in the execution
18 and administration of the laws, the executive and administrative work
19 shall be divided into the following agencies: (1) Department of
20 Agriculture; (2) Department of Labor; (3) Department of Transportation;
21 (4) Department of Water, Energy, and Environment ~~Natural Resources~~; (5)
22 Department of Banking and Finance; (6) Department of Insurance; (7)
23 Department of Motor Vehicles; (8) Department of Administrative Services;
24 (9) Department of Economic Development; (10) Department of Correctional
25 Services; (11) Nebraska State Patrol; and (12) Department of Health and
26 Human Services.

27 **Sec. 398.** Section 81-102, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 81-102 The Governor shall appoint heads for the various agencies
30 listed in section 81-101, subject to confirmation by a majority vote of
31 the members elected to the Legislature. Such appointments shall be

1 submitted to the Legislature within sixty calendar days following the
2 first Thursday after the first Tuesday in each odd-numbered year. The
3 officers shall be designated as follows: (1) The Director of Agriculture
4 for the Department of Agriculture; (2) the Commissioner of Labor for the
5 Department of Labor; (3) the Director-State Engineer for the Department
6 of Transportation; (4) the Director of Water, Energy, and Environment for
7 the Department of Water, Energy, and Environment ~~Natural Resources for~~
8 ~~the Department of Natural Resources~~; (5) the Director of Banking and
9 Finance for the Department of Banking and Finance; (6) the Director of
10 Insurance for the Department of Insurance; (7) the Director of Motor
11 Vehicles for the Department of Motor Vehicles; (8) the Director of
12 Administrative Services for the Department of Administrative Services;
13 (9) the Director of Correctional Services for the Department of
14 Correctional Services; (10) the Director of Economic Development for the
15 Department of Economic Development; (11) the Superintendent of Law
16 Enforcement and Public Safety for the Nebraska State Patrol; (12) the
17 Property Tax Administrator as the chief administrative officer of the
18 property assessment division of the Department of Revenue; and (13) the
19 chief executive officer for the Department of Health and Human Services.
20 Whoever shall be so nominated by the Governor and shall fail to receive
21 the number of votes requisite for confirmation, shall not be subject to
22 nomination or appointment for this or any other appointive state office
23 requiring confirmation by the Legislature during the period for which his
24 or her appointment was sought. In case of a vacancy in any of such
25 offices during the recess of the Legislature, the Governor shall make a
26 temporary appointment until the next meeting of the Legislature, when he
27 or she shall nominate some person to fill such office. Any person so
28 nominated who is confirmed by the Legislature, shall hold his or her
29 office during the remainder of the term if a specific term has been
30 provided by law, otherwise during the pleasure of the Governor subject to
31 the provisions of this section; except any such officers may be removed

1 by the Governor pursuant to Article IV of the Constitution of Nebraska.

2 **Sec. 399.** Section 81-2,294, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-2,294 (1) The Director of Agriculture shall appoint a committee
5 of experts, not to exceed ten persons, to advise the Department of
6 Agriculture on the development of the assessment matrix described in
7 subsection (2) of this section. Experts shall include representation from
8 county board members, county zoning administrators, livestock production
9 agriculture, the University of Nebraska, and other experts as may be
10 determined by the director. The committee shall review the matrix
11 annually and recommend to the department changes as needed.

12 (2) The Department of Agriculture shall, in consultation with the
13 committee created under subsection (1) of this section, develop an
14 assessment matrix which may be used by county officials to determine
15 whether to approve or disapprove a conditional use permit or special
16 exception application. The matrix shall be developed within one year
17 after August 30, 2015. In the development of the assessment matrix, the
18 department shall:

19 (a) Consider matrices already developed by the counties and other
20 states;

21 (b) Design the matrix to produce quantifiable results based on the
22 scoring of objective criteria according to an established value scale.
23 Each criterion shall be assigned points corresponding to the value scale.
24 The matrix shall consider risks and factors mitigating risks if the
25 livestock operation were constructed according to the application;

26 (c) Assure the matrix is a practical tool for use by persons when
27 completing permit applications and by county officials when scoring
28 conditional use permit or special exception applications. To every extent
29 feasible, the matrix shall include criteria that may be readily scored
30 according to ascertainable data and upon which reasonable persons
31 familiar with the location of a proposed construction site would not

1 ordinarily disagree; and

2 (d) Provide for definite point selections for all criteria included
3 in the matrix and provide for a minimum threshold total score required to
4 receive approval by county officials.

5 (3) The Department of Agriculture may develop criteria in the matrix
6 which include factors referencing the following:

7 (a) Size of operation;

8 (b) Type of operation;

9 (c) Whether the operation has received or is in the process of
10 applying for a permit from the Department of Water, Energy, and
11 Environment ~~Environment and Energy~~, if required by law;

12 (d) Environmental practices adopted by the operation operator which
13 may exceed those required by the Department of Water, Energy, and
14 Environment ~~Environment and Energy~~;

15 (e) Odor control practices;

16 (f) Consideration of proximity of a livestock operation to
17 neighboring residences, public use areas, and critical public areas;

18 (g) Community support and communication with neighbors and other
19 community members;

20 (h) Manure storage and land application sites and practices;

21 (i) Traffic;

22 (j) Economic impact to the community; and

23 (k) Landscape and aesthetic appearance.

24 (4) In developing the matrix, the Department of Agriculture shall
25 consider whether the proposed criteria are:

26 (a) Protective of public health or safety;

27 (b) Practical and workable;

28 (c) Cost effective;

29 (d) Objective;

30 (e) Based on available scientific information that has been
31 subjected to peer review;

1 (f) Designed to promote the growth and viability of animal
2 agriculture in this state;

3 (g) Designed to balance the economic viability of farm operations
4 with protecting natural resources and other community interests; and

5 (h) Usable by county officials.

6 **Sec. 400.** Section 81-502, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 81-502 (1) It shall be the duty of the State Fire Marshal, under
9 authority of the Governor:

10 (a) To enforce all laws of the state relating to the suppression of
11 arson and investigation of the cause, origin, and circumstances of fires;

12 (b) To promote safety and reduce loss by fire; and

13 (c) To make an investigation for fire safety of the premises and
14 facilities of:

15 (i) Liquor establishments for which a license or renewal of a
16 license is sought, upon request of the Nebraska Liquor Control
17 Commission, pursuant to section 53-119.01;

18 (ii) Licensed foster care facilities or applicants for licenses for
19 foster care facilities, upon request by the Department of Health and
20 Human Services, pursuant to section 71-1903;

21 (iii) Upon request of the Department of Health and Human Services,
22 licensed providers of programs or applicants for licenses to provide such
23 programs pursuant to section 71-1913 and licensed residential child-
24 caring agencies or applicants for such licensure pursuant to section
25 71-1934. The State Fire Marshal shall report the results of the
26 investigation to the department within thirty days after receipt of the
27 request from the department;

28 (iv) Licensed hospitals, skilled nursing facilities, intermediate
29 care facilities, or other health care facilities which are licensed under
30 the Health Care Facility Licensure Act or applicants for licenses for
31 such facilities or institutions, upon request by the Department of Health

1 and Human Services, pursuant to section 71-441; and

2 (v) Mobile home parks for which a license or renewal of a license is
3 sought, upon request of the Department of Water, Energy, and Environment
4 ~~Environment and Energy~~, pursuant to section 81-15,291.

5 (2) The State Fire Marshal may enter into contracts with private
6 individuals or other agencies, boards, commissions, or governmental
7 bodies for the purpose of carrying out his or her duties and
8 responsibilities pursuant to the Arson Reporting Immunity Act, the
9 Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to
10 81-538, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

11 (3) The State Fire Marshal may delegate the authority set forth in
12 this section and section 81-503.01 to qualified local fire prevention
13 personnel. The State Fire Marshal may overrule a decision, act, or policy
14 of the local fire prevention personnel. Such delegation of authority may
15 be revoked by the State Fire Marshal for cause upon thirty days' notice
16 after a hearing.

17 (4) The State Fire Marshal, first assistant fire marshal, and
18 deputies shall have such other powers and perform such other duties as
19 are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157
20 and as may be conferred and imposed by law.

21 **Sec. 401.** Section 81-829.05, Reissue Revised Statutes of Nebraska,
22 is amended to read:

23 81-829.05 (1) For purposes of this section:

24 (a) Chemical facility has the same meaning as in 6 C.F.R. 27.105;

25 (b) Federal agency means the Cybersecurity and Infrastructure
26 Security Agency of the United States Department of Homeland Security;

27 (c) Federal standards means the federal Chemical Facility Anti-
28 Terrorism Standards under 6 C.F.R. part 27, as such standards existed on
29 July 1, 2023; and

30 (d) Program means the voluntary and publicly available chemical
31 security program provided by the federal agency as an alternative to the

1 federal standards.

2 (2) The Legislature finds that:

3 (a) The federal standards were created after the September 11, 2001,
4 terrorist attacks to identify and regulate high-risk chemical facilities
5 to ensure security measures are in place to reduce the risk of certain
6 dangerous chemicals being weaponized by terrorists;

7 (b) The United States Congress allowed the statutory authority for
8 continuing regulation of the federal standards to expire on July 27,
9 2023;

10 (c) With the expiration of such statutory authority and without
11 reauthorization by Congress, the federal agency can no longer enforce
12 compliance with the federal standards;

13 (d) The lack of enforcement means that chemical facilities will no
14 longer be required to report their chemicals of interest, submit to
15 inspections, provide compliance assistance, or implement any security
16 plan or program; and

17 (e) The federal agency has encouraged chemical facilities to
18 maintain security measures and offers a voluntary and publicly available
19 alternative chemical security program that provides facilities that
20 possess dangerous chemicals no-cost services and tools to identify risks
21 and improve chemical security.

22 (3) Beginning on July 19, 2024, a chemical facility shall utilize
23 the federal agency's program if such chemical facility was required on or
24 before July 27, 2023, to have a chemical facility security program
25 pursuant to 6 C.F.R. 27.200 et seq., as such regulations existed on such
26 date.

27 (4) The Nebraska Emergency Management Agency and the Department of
28 Water, Energy, and Environment ~~Environment and Energy~~ shall publish the
29 requirements of this section and post a link to the program on their
30 agency websites.

31 (5) This section is preempted when the federal standards are in

1 effect if Congress reauthorizes such federal standards.

2 **Sec. 402.** Section 81-1108.55, Reissue Revised Statutes of Nebraska,
3 is amended to read:

4 81-1108.55 All purchases, leases, or contracts which by law are
5 required to be based on competitive bids pursuant to section 81-1108.16
6 shall be made to the lowest responsible bidder, taking into consideration
7 the best interests of the state, the quality or performance of the
8 property proposed to be supplied, its conformity with specifications, the
9 purposes for which required, and the times of delivery. In determining
10 the lowest responsible bidder, in addition to price, the following
11 elements shall be given consideration:

12 (1) The ability, capacity, and skill of the bidder to perform the
13 contract required;

14 (2) The character, integrity, reputation, judgment, experience, and
15 efficiency of the bidder;

16 (3) Whether the bidder can perform the contract within the time
17 specified;

18 (4) The quality of performance of previous contracts;

19 (5) The previous and existing compliance by the bidder with laws
20 relating to the contract;

21 (6) The life-cost of the property in relation to the purchase price
22 and specific use of the item;

23 (7) The performance of the property, taking into consideration any
24 commonly accepted tests and standards of product usability and user
25 requirements;

26 (8) Energy efficiency ratio as stated by the bidder for alternative
27 choices of appliances or equipment;

28 (9) The information furnished by each bidder, when deemed applicable
29 by the State Building Administrator, concerning life-cycle costs between
30 alternatives for all classes of equipment, evidence of expected life,
31 repair and maintenance costs, and energy consumption on a per-year basis;

1 and

2 (10) Such other information as may be secured having a bearing on
3 the decision to award the contract.

4 Reports regarding procurements made pursuant to this section shall
5 be provided to the Department of Water, Energy, and Environment
6 ~~Environment and Energy~~. Such reports shall be in the form and contain
7 such information as the Department of Water, Energy, and Environment
8 ~~Environment and Energy~~ may require.

9 All political subdivisions may follow the procurement principles set
10 forth in this section if they are deemed applicable by the official
11 authorized to make purchases for such political subdivision.

12 **Sec. 403.** Section 81-1316, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-1316 (1) All agencies and personnel of state government shall be
15 covered by sections 81-1301 to 81-1319 and shall be considered subject to
16 the State Personnel System, except the following:

- 17 (a) All personnel of the office of the Governor;
- 18 (b) All personnel of the office of the Lieutenant Governor;
- 19 (c) All personnel of the office of the Secretary of State;
- 20 (d) All personnel of the office of the State Treasurer;
- 21 (e) All personnel of the office of the Attorney General;
- 22 (f) All personnel of the office of the Auditor of Public Accounts;
- 23 (g) All personnel of the Legislature;
- 24 (h) All personnel of the court systems;
- 25 (i) All personnel of the Board of Educational Lands and Funds;
- 26 (j) All personnel of the Public Service Commission;
- 27 (k) All personnel of the Nebraska Brand Committee;
- 28 (l) All personnel of the Commission of Industrial Relations;
- 29 (m) All personnel of the State Department of Education;
- 30 (n) All personnel of the Nebraska state colleges and the Board of
31 Trustees of the Nebraska State Colleges;

1 (o) All personnel of the University of Nebraska;

2 (p) All personnel of the Coordinating Commission for Postsecondary
3 Education;

4 (q) All personnel of the Governor's Policy Research Office;

5 (r) All personnel of the Commission on Public Advocacy;

6 (s) All agency heads;

7 (t)(i) The Director of Behavioral Health of the Division of
8 Behavioral Health; (ii) the Director of Children and Family Services of
9 the Division of Children and Family Services; (iii) the Director of
10 Developmental Disabilities of the Division of Developmental Disabilities;
11 (iv) the Director of Medicaid and Long-Term Care of the Division of
12 Medicaid and Long-Term Care; and (v) the Director of Public Health of the
13 Division of Public Health;

14 (u) The chief medical officer established under section 81-3115, the
15 Administrator of the Office of Juvenile Services, and the chief executive
16 officers of the Beatrice State Developmental Center, Lincoln Regional
17 Center, Norfolk Regional Center, Hastings Regional Center, Central
18 Nebraska Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska
19 Veterans' Home, Western Nebraska Veterans' Home, and each youth
20 rehabilitation and treatment center;

21 (v) The chief executive officers of all facilities operated by the
22 Department of Correctional Services and the medical director for the
23 department appointed pursuant to section 83-4,156;

24 (w) All personnel employed as pharmacists, physicians,
25 psychiatrists, or psychologists by the Department of Correctional
26 Services;

27 (x) All personnel employed as pharmacists, physicians,
28 psychiatrists, psychologists, service area administrators, or facility
29 operating officers of the Department of Health and Human Services or the
30 Department of Veterans' Affairs;

31 (y) Deputies and examiners of the Department of Banking and Finance

1 and the Department of Insurance as set forth in sections 8-105 and
2 44-119, except for those deputies and examiners who remain in the State
3 Personnel System;

4 (z) All personnel of the Tax Equalization and Review Commission;

5 (aa) The associate director of the Conservation Division of the
6 Nebraska State Historical Society and all personnel employed as a
7 Conservator I or Conservator II of the Conservation Division of the
8 Nebraska State Historical Society; and

9 (bb) Assistant directors and deputies of the Nebraska Public
10 Employees Retirement Systems; and -

11 (cc) The Chief Water Officer, assistant directors, and deputies of
12 the Department of Water, Energy, and Environment.

13 (2) At each agency head's discretion, up to the following number of
14 additional positions may be exempted from the State Personnel System,
15 based on the following agency size categories:

16	Number of Agency	Number of Noncovered
17	Employees	Positions
18	less than 25	0
19	25 to 100	1
20	101 to 250	2
21	251 to 500	3
22	501 to 1000	4
23	1001 to 2000	5
24	2001 to 3000	8
25	3001 to 4000	11
26	4001 to 5000	40
27	over 5000	50

28 The purpose of having such noncovered positions shall be to allow
29 agency heads the opportunity to recruit, hire, and supervise critical,
30 confidential, or policymaking personnel without restrictions from
31 selection procedures, compensation rules, career protections, and

1 grievance privileges. Persons holding the noncovered positions shall
2 serve at the pleasure of the agency head and shall be paid salaries set
3 by the agency head. An agency with over five thousand employees shall
4 provide notice in writing to the Health and Human Services Committee of
5 the Legislature when forty noncovered positions have been filled by the
6 agency head pursuant to this subsection.

7 (3) No changes to this section or to the number of noncovered
8 positions within an agency shall affect the status of personnel employed
9 on the date the changes become operative without their prior written
10 agreement. A state employee's career protections or coverage by personnel
11 rules and regulations shall not be revoked by redesignation of the
12 employee's position as a noncovered position without the prior written
13 agreement of such employee.

14 **Sec. 404.** Section 81-1502, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-1502 For purposes of the Environmental Protection Act, unless the
17 context otherwise requires:

18 (1) Air contaminant or air contamination shall mean the presence in
19 the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, other
20 gaseous fluid, or particulate substance differing in composition from or
21 exceeding in concentration the natural components of the atmosphere;

22 (2) Air pollution shall mean the presence in the outdoor atmosphere
23 of one or more air contaminants or combinations thereof in such
24 quantities and of such duration as are or may tend to be injurious to
25 human, plant, or animal life, property, or the conduct of business;

26 (3) Chairperson shall mean the chairperson of the Environmental
27 Quality Council and council shall mean the Environmental Quality Council;

28 (4) Complaint shall mean any charge, however informal, to or by the
29 council, that any person or agency, private or public, is polluting the
30 air, land, or water or is violating the Environmental Protection Act or
31 any rule or regulation of the department in respect thereof;

1 (5) Control and controlling shall include prohibition and
2 prohibiting as related to air, land, or water pollution;

3 (6) Department shall mean the Department of Water, Energy, and
4 Environment ~~Environment and Energy~~, which department is hereby created;

5 (7) Director shall mean the Director of Water, Energy, and
6 Environment ~~Environment and Energy~~, which position is hereby established;

7 (8) Disposal system shall mean a system for disposing of wastes,
8 including hazardous wastes, either by surface or underground methods, and
9 includes sewerage systems and treatment works, disposal wells and fields,
10 and other systems;

11 (9) Emissions shall mean releases or discharges into the outdoor
12 atmosphere of any air contaminant or combination thereof;

13 (10) Person shall mean any: Individual; partnership; limited
14 liability company; association; public or private corporation; trustee;
15 receiver; assignee; agent; municipality or other governmental
16 subdivision; public agency; other legal entity; or any officer or
17 governing or managing body of any public or private corporation,
18 municipality, governmental subdivision, public agency, or other legal
19 entity;

20 (11) Rule or regulation shall mean any rule or regulation of the
21 department;

22 (12) Sewerage system shall mean pipelines, conduits, pumping
23 stations, force mains, and all other constructions, devices,
24 appurtenances, and facilities used for collecting or conducting wastes to
25 an ultimate point for treatment or disposal;

26 (13) Treatment works shall mean any plant or other works used for
27 the purpose of treating, stabilizing, or holding wastes;

28 (14) Wastes shall mean sewage, industrial waste, and all other
29 liquid, gaseous, solid, radioactive, or other substances which may
30 pollute or tend to pollute any air, land, or waters of the state;

31 (15) Refuse shall mean putrescible and nonputrescible solid wastes,

1 except body wastes, and includes garbage, rubbish, ashes, incinerator
2 ash, incinerator residue, street cleanings, and solid market and
3 industrial wastes;

4 (16) Garbage shall mean rejected food wastes, including waste
5 accumulation of animal, fruit, or vegetable matter used or intended for
6 food or that attend the preparation, use, cooking, dealing in, or storing
7 of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by
8 rendering plants;

9 (17) Rubbish shall mean nonputrescible solid wastes, excluding
10 ashes, consisting of both combustible and noncombustible wastes, such as
11 paper, cardboard, tin cans, yard clippings, wood, glass, bedding,
12 crockery, or litter of any kind that will be a detriment to the public
13 health and safety;

14 (18) Junk shall mean old scrap, copper, brass, iron, steel, rope,
15 rags, batteries, paper, trash, rubber debris, waste, dismantled or
16 wrecked automobiles, or parts thereof, and other old or scrap ferrous or
17 nonferrous material;

18 (19) Land pollution shall mean the presence upon or within the land
19 resources of the state of one or more contaminants or combinations of
20 contaminants, including, but not limited to, refuse, garbage, rubbish, or
21 junk, in such quantities and of such quality as will or are likely to (a)
22 create a nuisance, (b) be harmful, detrimental, or injurious to public
23 health, safety, or welfare, (c) be injurious to plant and animal life and
24 property, or (d) be detrimental to the economic and social development,
25 the scenic beauty, or the enjoyment of the natural attractions of the
26 state;

27 (20) Water pollution shall mean the manmade or man-induced
28 alteration of the chemical, physical, biological, or radiological
29 integrity of water;

30 (21) Waters of the state shall mean all waters within the
31 jurisdiction of this state, including all streams, lakes, ponds,

1 impounding reservoirs, marshes, wetlands, watercourses, waterways, wells,
2 springs, irrigation systems, drainage systems, and all other bodies or
3 accumulations of water, surface or underground, natural or artificial,
4 public or private, situated wholly or partly within or bordering upon the
5 state;

6 (22) Point source shall mean any discernible confined and discrete
7 conveyance, including, but not limited to, any pipe, ditch, channel,
8 tunnel, conduit, well, discrete fissure, container, rolling stock, or
9 vessel or other floating craft from which pollutants are or may be
10 discharged;

11 (23) Effluent limitation shall mean any restriction, including a
12 schedule of compliance, established by the council on quantities, rates,
13 and concentrations of chemical, physical, biological, and other
14 constituents which are discharged from point sources into waters of the
15 state;

16 (24) Schedule of compliance shall mean a schedule of remedial
17 measures including an enforceable sequence of actions or operations
18 leading to compliance with an effluent limitation, other limitation,
19 prohibition, or standard;

20 (25) Hazardous waste shall mean a solid waste, or combination of
21 solid wastes, which because of its quantity, concentration, or physical,
22 chemical, or infectious characteristics may (a) cause or significantly
23 contribute to an increase in mortality or an increase in serious
24 irreversible, or incapacitating reversible, illness or (b) pose a
25 substantial present or potential hazard to human or animal health or the
26 environment when improperly treated, stored, transported, disposed of, or
27 otherwise managed;

28 (26) Solid waste shall mean any garbage, refuse, or sludge from a
29 waste treatment plant, water supply treatment plant, or air pollution
30 control facility and other discarded material, including solid, liquid,
31 semisolid, or contained gaseous material resulting from industrial,

1 commercial, and mining operations and from community activities. Solid
2 waste shall not include slag, a product that is a result of the steel
3 manufacturing process and is managed as an item of value in a controlled
4 manner and not as a discarded material; solid or dissolved materials in
5 irrigation return flows or industrial discharges which are point sources
6 subject to permits under section 402 of the Clean Water Act, as amended,
7 33 U.S.C. 1251 et seq.; or source, special nuclear, or byproduct material
8 as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011
9 et seq.;

10 (27) Storage, when used in connection with hazardous waste, shall
11 mean the containment of hazardous waste, either on a temporary basis or
12 for a period of years, in such manner as not to constitute disposal of
13 such hazardous waste;

14 (28) Manifest shall mean the form used for identifying the quantity,
15 composition, origin, routing, and destination of hazardous waste during
16 its transportation from the point of generation to the point of disposal,
17 treatment, or storage;

18 (29) Processing shall mean to treat, detoxify, neutralize,
19 incinerate, biodegrade, or otherwise process a hazardous waste to remove
20 such waste's harmful properties or characteristics for disposal in
21 accordance with regulations established by the council;

22 (30) Well shall mean a bored, drilled, or driven shaft or a dug
23 hole, the depth of which is greater than the largest surface dimension of
24 such shaft or hole;

25 (31) Injection well shall mean a well into which fluids are
26 injected;

27 (32) Fluid shall mean a material or substance which flows or moves
28 whether in a semisolid, liquid, sludge, gas, or other form or state;

29 (33) Mineral production well shall mean a well drilled to promote
30 extraction of mineral resources or energy, including, but not limited to,
31 a well designed for (a) mining of sulfur by the Frasch process, (b)

1 solution mining of sodium chloride, potash, phosphate, copper, uranium,
2 or any other mineral which can be mined by this process, (c) in situ
3 combustion of coal, tar sands, oil shale, or any other fossil fuel, or
4 (d) recovery of geothermal energy for the production of electric power.
5 Mineral production well shall not include any well designed for
6 conventional oil or gas production, for use of fluids to promote enhanced
7 recovery of oil or natural gas, or for injection of hydrocarbons for
8 storage purposes;

9 (34) Mineral exploration hole shall mean a hole bored, drilled,
10 driven, or dug in the act of exploring for a mineral other than oil and
11 gas;

12 (35) Solution mining shall mean the use of an injection well and
13 fluids to promote the extraction of mineral resources;

14 (36) Uranium shall mean tri-uranium oct-oxide;

15 (37) Solid waste management facility shall mean a facility as
16 defined in section 13-2010; and

17 (38) Livestock waste control facility shall have the same meaning as
18 in section 54-2417.

19 **Sec. 405.** Section 81-1503, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 81-1503 (1) The Environmental Quality Council is hereby created. The
22 council shall consist of seventeen members to be appointed by the
23 Governor with the advice and consent of the Legislature as follows:

24 (a) One representative of the food products manufacturing industry;

25 (b) One representative of conservation;

26 (c) One representative of the agricultural processing industry;

27 (d) One representative of the automotive or petroleum industry;

28 (e) One representative of the chemical industry;

29 (f) One representative of heavy industry;

30 (g) One representative of the power generating industry;

31 (h) One representative of agriculture actively engaged in crop

1 production;

2 (i) One representative of labor;

3 (j) One professional engineer experienced in control of air and
4 water pollution and solid wastes;

5 (k) One physician knowledgeable in the health aspects of air, water,
6 and land pollution;

7 (l) One representative from county government;

8 (m) Two representatives from municipal government, one of whom shall
9 represent cities other than those of the primary or metropolitan class;

10 (n) One representative of the livestock industry;

11 (o) One representative of minority populations; and

12 (p) One biologist.

13 (2) Members shall serve for terms of four years. All appointments
14 shall be subject to confirmation by the Legislature when initially made.
15 As the term of an appointee to the council expires, the succeeding
16 appointee shall be a representative of the same segment of the public as
17 the previous appointee. In the case of appointees to vacancies occurring
18 from unexpired terms, each successor shall serve out the term of his or
19 her predecessor. Members whose terms have expired shall continue to serve
20 until their successors have been appointed. All members shall be citizens
21 and residents of the State of Nebraska.

22 (3) Members may be removed by the Governor for inefficiency, neglect
23 of duty, or misconduct in office but only after delivering to the member
24 a copy of the charges and affording him or her an opportunity to be
25 publicly heard in person or by counsel, in his or her own defense, upon
26 not less than ten days' notice. Such hearing shall be held before the
27 Governor. When a member is removed, the Governor shall file, in the
28 office of the Secretary of State, a complete statement of all charges
29 made against such member and the findings thereon, together with a
30 complete record of the proceedings.

31 (4) The council shall elect from its members a chairperson and a

1 vice-chairperson, who shall hold office at the pleasure of the council.
2 The vice-chairperson shall serve as chairperson in case of the absence or
3 disability of the chairperson. The director shall serve as secretary of
4 the council and shall keep all records of meetings of and actions taken
5 by the council. He or she shall be promptly advised as to such actions by
6 the chairperson.

7 (5) The members of the council, while engaged in the performance of
8 their official duties, shall receive a per diem of forty dollars while so
9 serving, including travel time. In addition, members of the council shall
10 receive reimbursement for expenses as provided in sections 81-1174 to
11 81-1177.

12 (6) The council shall hold at least two regular meetings each year,
13 at a time and place fixed by the council and shall keep a record of its
14 proceedings which shall be open to the public for inspection. Special
15 meetings may be called by the chairperson. Such special meetings must be
16 called by him or her upon receipt of a written request signed by two or
17 more members of the council. Written notice of the time and place of all
18 meetings shall be mailed in advance to the office of each member of the
19 council by the secretary. A majority of the members of the council shall
20 constitute a quorum.

21 (7) ~~The council shall submit to the Governor a list of names from~~
22 ~~which he or she shall appoint the Director of Water, Energy, and~~
23 ~~Environment ~~Environment and Energy~~ who shall be experienced in air,~~
24 ~~water, and land pollution control and who may be otherwise an employee of~~
25 ~~state government. The director shall be responsible for administration of~~
26 ~~the department and all standards, rules, and regulations adopted pursuant~~
27 ~~to Chapter 81, article 15, the Integrated Solid Waste Management Act, and~~
28 ~~the Livestock Waste Management Act. All such standards, rules, and~~
29 ~~regulations shall be adopted by the council after consideration of the~~
30 ~~recommendations of the director. All grants to political subdivisions~~
31 ~~under the control of the department shall be made by the director in~~

1 accordance with priorities established by the council, unless otherwise
2 directed by statute. A majority of the members of the council shall
3 constitute a quorum for the transaction of business. The affirmative vote
4 of a majority of all members of the council shall be necessary for the
5 adoption of standards, rules, and regulations.

6 (8) Before the director enters upon the duties of his or her office,
7 he or she shall take and subscribe to the constitutional oath of office
8 and shall, in addition thereto, swear and affirm that he or she holds no
9 other public office nor any position under any political committee or
10 party, that he or she has not during the two years immediately prior to
11 his or her appointment received a significant portion of his or her
12 income directly or indirectly from permitholders or applicants for a
13 permit under the Environmental Protection Act, and that he or she will
14 not receive such income during his or her term as director, except that
15 such requirements regarding income prior to the term of office shall not
16 apply to employees of any agency of the State of Nebraska or any
17 political subdivision which may be a permitholder under the Environmental
18 Protection Act. Such oath and affirmation shall be filed with the
19 Secretary of State.

20 **Sec. 406.** Section 81-1537, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 81-1537 Department shall mean the Department of Water, Energy, and
23 Environment ~~Environment and Energy~~.

24 **Sec. 407.** Section 81-1540, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 81-1540 Director shall mean the Director of Water, Energy, and
27 Environment ~~Environment and Energy~~.

28 **Sec. 408.** Section 81-1561, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 81-1561 (1) The Tax Commissioner shall deduct and withhold from the
31 litter fee collected a fee sufficient to reimburse himself or herself for

1 the cost of collecting and administering the litter fee and shall deposit
2 such collection fee in the Litter Fee Collection Fund which is hereby
3 created. The Litter Fee Collection Fund shall be appropriated to the
4 Department of Revenue. Any money in the Litter Fee Collection Fund
5 available for investment shall be invested by the state investment
6 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
7 State Funds Investment Act.

8 (2) The Tax Commissioner shall remit the balance of the litter fee
9 collections to the Department of Water, Energy, and Environment
10 ~~Environment and Energy~~. The department shall allocate and distribute
11 funds from the Nebraska Litter Reduction and Recycling Fund in percentage
12 amounts to be determined by the council on an annual basis, after a
13 public hearing on a date to be determined by the council, for the
14 following activities:

15 (a) Programs of public education, motivation, and participation
16 aimed at creating an ethic conducive to the reduction of litter,
17 establishing an attitude against littering and a desire for a clean
18 environment, and securing greater awareness of and compliance with
19 antilitter laws. Such programs shall include:

20 (i) The distribution of informative materials to elementary and
21 secondary schools;

22 (ii) The purchase and erection of roadside signs;

23 (iii) The organization and operation of cleanup drives conducted by
24 local agencies and organizations using volunteer help;

25 (iv) Grants to state and local government units and agencies and
26 private organizations for developing and conducting antilitter programs;
27 and

28 (v) Any other public information method selected by the department,
29 including the use of media;

30 (b) Cleanup of public highways, waterways, recreation lands, urban
31 areas, and public places within the state, including, but not limited to:

1 (i) Grants to cities and counties for payment of personnel employed
2 in the pickup of litter;

3 (ii) Grants for programs aimed at increasing the use of youth and
4 unemployed persons in seasonal and part-time litter pickup programs and
5 to establish work release and other programs to carry out the purposes of
6 the Nebraska Litter Reduction and Recycling Act;

7 (iii) Grants to public and private agencies and persons to conduct
8 surveys of amounts and composition of litter and rates of littering; and

9 (iv) Grants to public and private agencies and persons for research
10 and development in the fields of litter reduction, removal, and disposal,
11 including the evaluation of behavioral science techniques in litter
12 control and the development of new equipment, and to implement such
13 research and development when appropriate; and

14 (c) New or improved community recycling and source separation
15 programs, including, but not limited to:

16 (i) Expansion of existing and creation of new community recycling
17 centers;

18 (ii) Expansion of existing and creation of new source separation
19 programs;

20 (iii) Research and evaluation of markets for the materials and
21 products recovered in source separation and recycling programs; and

22 (iv) Providing advice and assistance on matters relating to
23 recycling and source separation, including information and consultation
24 on available technology, operating procedures, organizational
25 arrangements, markets for materials and products recovered in recycling
26 and source separation, transportation alternatives, and publicity
27 techniques.

28 **Sec. 409.** Section 81-15,118, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 81-15,118 The Legislature finds that the number of leaking
31 underground storage tanks throughout the state is increasing and that

1 there exists a serious threat to the health and safety of citizens
2 because substances contained in leaking storage tanks are often potential
3 ground water contaminants and major fire and explosive hazards.

4 For the reasons stated in this section, the Legislature deems it
5 necessary to provide a program of storage tank registration and
6 inspection as a preventative measure and a comprehensive leak cleanup
7 program as a responsive measure. Primary responsibility for the Petroleum
8 Products and Hazardous Substances Storage and Handling Act shall be with
9 the Department of Water, Energy, and Environment ~~Environment and Energy~~.
10 However, preventative measures described in such act shall also be
11 carried out by the State Fire Marshal. The State Fire Marshal's actions
12 shall be pursuant to an interagency agreement with the department.

13 **Sec. 410.** Section 81-15,120, Reissue Revised Statutes of Nebraska,
14 is amended to read:

15 81-15,120 Any farm or residential tank or tank used for storing
16 heating oil as defined in subdivisions (10)(a) and (b) of section
17 81-15,119 shall be registered with the State Fire Marshal. The
18 registration shall be accompanied by a one-time fee of five dollars and
19 shall be valid until the State Fire Marshal is notified that a tank so
20 registered has been permanently closed. Such registration shall specify
21 the ownership of, location of, and substance stored in the tank to be
22 registered. The State Fire Marshal shall remit the fee to the State
23 Treasurer for credit to the Petroleum Products and Hazardous Substances
24 Storage and Handling Fund which is hereby created as a cash fund. The
25 fund shall also consist of any money appropriated to the fund by the
26 state. The fund shall be administered by the Department of Water, Energy,
27 and Environment ~~Environment and Energy~~ to carry out the purposes of the
28 Petroleum Products and Hazardous Substances Storage and Handling Act,
29 including the provision of matching funds required by Public Law 99-499
30 for actions otherwise authorized by the act. Any money in such fund
31 available for investment shall be invested by the state investment

1 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
2 State Funds Investment Act.

3 **Sec. 411.** Section 81-15,124, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 81-15,124 Any reported or suspected release of a regulated substance
6 from any tank shall be investigated consistent with principles of risk-
7 based corrective action by the State Fire Marshal and the Department of
8 Water, Energy, and Environment ~~Environment and Energy~~. In the event that
9 the State Fire Marshal or the department finds an adverse effect caused
10 by a release of a regulated substance from a tank:

11 (1) The State Fire Marshal shall (a) determine the immediate danger
12 presented by the release, (b) take all steps necessary to assure
13 immediate public safety, and (c) assist the department in determining the
14 source of the release and taking all steps necessary to ensure that the
15 release is halted;

16 (2) By order of the department, the owner or operator of the tank
17 causing the release shall, after securing the source of the release,
18 develop a plan for remedial action to be approved by the department. The
19 department shall inform the owner or operator of its approval or
20 disapproval of a plan for remedial action within one hundred twenty days
21 after receipt of a remedial action plan which contains all required
22 information. If after one hundred twenty days the department fails to
23 either deny, approve, or amend the remedial action plan submitted, the
24 proposed plan shall be deemed approved; and

25 (3) The approved remedial action plan shall then be carried out by
26 the owner or operator of the tank causing the release. All expenses
27 incurred during the remedial action shall be paid by the owner or
28 operator subject to reimbursement pursuant to the Petroleum Release
29 Remedial Action Act.

30 If it is determined that the source of the release is unknown or
31 that the owner or operator of the facility causing the release is unknown

1 or unavailable, a remedial action plan shall be developed by or under the
2 direction of the department. Such remedial action plan shall be developed
3 and carried out by the department with money from the Petroleum Products
4 and Hazardous Substances Storage and Handling Fund if funds are
5 available. If at a later date the owner or operator of the facility which
6 caused the release is determined, he or she shall be responsible for
7 remedial action costs incurred on his or her behalf subject to
8 reimbursement pursuant to the Petroleum Release Remedial Action Act. Any
9 money received from such person shall be deposited in the Petroleum
10 Products and Hazardous Substances Storage and Handling Fund.

11 **Sec. 412.** Section 81-15,124.04, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-15,124.04 The Department of Water, Energy, and Environment
14 ~~Environment and Energy~~ shall provide briefing on the use by the
15 department of risk-based corrective action. The briefing shall be
16 directed toward comprehension and knowledge of the use by the department
17 of risk-based corrective action, and a fee may be charged for attending
18 the briefing which shall be remitted to the State Treasurer for credit to
19 the Petroleum Release Remedial Action Cash Fund. The department may
20 contract for providing such briefing and shall maintain and make
21 available to the public a list of attendees.

22 **Sec. 413.** Section 81-15,124.05, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 81-15,124.05 (1) If a remedial action plan submitted by a
25 responsible person as defined in section 66-1514 is approved or deemed to
26 be approved by the Department of Water, Energy, and Environment
27 ~~Environment and Energy~~ pursuant to subdivision (2) of section 81-15,124
28 and has been carried out, the department may issue to the responsible
29 person a certificate of completion stating that no further remedial
30 action needs to be taken at the site relating to any contamination for
31 which remedial action has already been taken in accordance with the

1 approved remedial action plan. The department shall condition the
2 certificate of completion upon compliance with any monitoring,
3 institutional, or technological controls that may be necessary and which
4 were relied upon by the responsible person to demonstrate compliance with
5 the remedial action plan. Any certificate of completion issued pursuant
6 to this section shall be in a form which can be filed for record in the
7 real estate records of the county in which the remedial action took
8 place. The responsible person shall file the certificate of completion
9 and notify the department within ten days after issuance as to the date
10 and location of the real estate filing. If the department issues a
11 certificate of completion to a responsible person under this section, a
12 covenant not to sue shall arise by operation of law subject to subsection
13 (2) of this section. The covenant not to sue releases the responsible
14 person from liability to the state and from liability to perform
15 additional environmental assessment, remedial activity, or response
16 action with regard to the release of a petroleum product for which the
17 responsible person has complied with the requirements of this subsection.
18 The covenant not to sue shall be voided if the responsible person fails
19 to conduct additional remedial action as required under subsection (2) of
20 this section, if a certificate of completion is revoked by the department
21 under subsection (3) of this section, or if the responsible person fails
22 to comply with the monitoring, institutional, or technological controls,
23 if any, upon which the certificate of completion is conditioned.

24 (2) A certificate of completion issued by the department under
25 subsection (1) of this section shall require the responsible person to
26 conduct additional remedial action in the event that any monitoring
27 conducted at or near the real property or other circumstances indicate
28 that (a) contamination is reoccurring, (b) additional contamination is
29 present for which remedial action was not taken according to the remedial
30 action plan, or (c) contamination from the site presents a threat to
31 human health or the environment and was not addressed in the remedial

1 action plan.

2 (3) A certificate of completion shall be revoked if the department
3 demonstrates by a preponderance of the evidence that any approval
4 provided under this section was obtained by fraud or material
5 misrepresentation, knowing failure to disclose material information, or
6 false certification to the department. The department shall file a copy
7 of the notice of revocation of any certificate of completion in the real
8 estate records of the county in which the remedial action took place
9 within ten days after such revocation.

10 (4) If a responsible person transfers property to an affiliate in
11 order for that affiliate to obtain a benefit to which the transferor
12 would not otherwise be eligible under this section or to avoid an
13 obligation under this section, the affiliate shall be subject to the same
14 obligations and obtain the same level of benefits as those available to
15 the transferor under this section.

16 (5)(a) A covenant not to sue arising under subsection (1) of this
17 section, unless voided pursuant to such subsection, shall bar suit
18 against any person who acquires title to property to which a certificate
19 of completion applies for all claims of the state or any other person in
20 connection with petroleum products which were the subject of an approved
21 remedial action plan and (b) a person who purchased a site before May 31,
22 2001, is released, upon the issuance of a certificate of completion under
23 this section or upon the issuance of a no further action letter on or
24 after May 31, 2001, pursuant to section 81-15,186, from all liability to
25 the state for cleanup of contamination that was released at the site
26 covered by the certificate of completion or the no further action letter
27 before the purchase date, except as provided in subsection (4) of this
28 section, for releases or consequences that the person contributed to or
29 caused, for failure by such person to comply with the monitoring,
30 institutional, or technological controls, if any, upon which the
31 certificate of completion is conditioned, or in the event the certificate

1 of completion is revoked by the department under subsection (3) of this
2 section.

3 (6) Any person entitled to the protections of the covenant not to
4 sue or eligible to be released from liability pursuant to the issuance of
5 a certificate of completion or a no further action letter under
6 subsection (5) of this section who is ordered by the department to take
7 remedial action shall be eligible for reimbursement as a responsible
8 person pursuant to section 66-1525 and shall not be required to pay the
9 first cost or percent of the remaining cost as provided in subsection (1)
10 of section 66-1523 unless such person contributed to or caused the
11 release or failed to comply with the monitoring, institutional, or
12 technological controls, if any, imposed under subsection (1) of this
13 section.

14 **Sec. 414.** Section 81-15,125, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 81-15,125 Any person violating the Petroleum Products and Hazardous
17 Substances Storage and Handling Act or the rules, regulations, or orders
18 of the State Fire Marshal or the Department of Water, Energy, and
19 Environment ~~Environment and Energy~~ adopted and promulgated or issued
20 pursuant to such act shall be subject to a civil fine of not more than
21 five thousand dollars for each offense and, in the case of a continuing
22 violation, each day of violation shall constitute a separate offense. In
23 assessing the amount of the fine, the court shall consider the size of
24 the operation and the degree and extent of the pollution.

25 **Sec. 415.** Section 81-15,126, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 81-15,126 The Department of Water, Energy, and Environment
28 ~~Environment and Energy~~ or the State Fire Marshal may apply to the
29 district court of the county where the violation is occurring or about to
30 occur for a restraining order, a temporary or permanent injunction, or a
31 mandatory injunction against any person violating or threatening to

1 violate the Petroleum Products and Hazardous Substances Storage and
2 Handling Act or the rules, regulations, or orders adopted and promulgated
3 under the act. The court shall have jurisdiction to grant relief upon
4 good cause shown. Relief may be granted notwithstanding the existence of
5 any other remedy at law and shall be granted without bond.

6 **Sec. 416.** Section 81-15,127, Reissue Revised Statutes of Nebraska,
7 is amended to read:

8 81-15,127 (1) Any person who deposits regulated substances in a tank
9 shall reasonably notify the owner or operator of such tank of the owner's
10 or operator's registration requirements pursuant to the Petroleum
11 Products and Hazardous Substances Storage and Handling Act.

12 (2) The Department of Water, Energy, and Environment ~~Environment and~~
13 ~~Energy~~ shall design and make available a printed notice of registration
14 for owners of tanks to any person who deposits regulated substances in a
15 tank.

16 **Sec. 417.** Section 81-15,129, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 81-15,129 As used in the Wastewater Treatment Operator Certification
19 Act, unless the context otherwise requires:

20 (1) Certificate shall mean a certificate of competency issued by the
21 director or his or her duly authorized representative certifying that the
22 operator has met the requirements for the specified operator
23 classification of the certification program;

24 (2) Council shall mean the Environmental Quality Council;

25 (3) Department shall mean the Department of Water, Energy, and
26 Environment ~~Environment and Energy~~;

27 (4) Director shall mean the Director of Water, Energy, and
28 Environment ~~Environment and Energy~~;

29 (5) Nationally recognized association of certification authorities
30 shall mean an organization or organizations selected by the director
31 which (a) serve as an information center for certification activities,

1 (b) recommend minimum standards and guidelines for classification of
2 wastewater treatment facilities and certification of operators, (c)
3 facilitate reciprocity between state programs, (d) assist authorities in
4 establishing new certification programs and updating existing ones, and
5 (e) provide testing services;

6 (6) Operator shall mean any person who regularly makes
7 recommendations or is responsible for process control decisions at a
8 wastewater treatment facility. Operator shall not include a person whose
9 duties are limited solely to laboratory testing or maintenance or who
10 exercises general or indirect supervision only;

11 (7) Voluntarily certified operator shall mean an operator who holds
12 a certificate of competency described in section 81-15,133; and

13 (8) Wastewater treatment facility shall mean the structures,
14 equipment, and processes required to collect, transport, and treat
15 domestic or industrial wastes and to dispose of the effluent and sludge.

16 **Sec. 418.** Section 81-15,149, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 81-15,149 As used in the Wastewater Treatment Facilities
19 Construction Assistance Act, unless the context otherwise requires:

20 (1) Clean Water Act means the federal Clean Water Act, as amended,
21 33 U.S.C. 1251 et seq.;

22 (2) Construction means any of the following: Preliminary planning to
23 determine the feasibility of wastewater treatment works or nonpoint
24 source control systems; engineering, architectural, legal, fiscal, or
25 economic investigations or studies; surveys, designs, plans, working
26 drawings, specifications, procedures, or other necessary preliminary
27 actions; erection, building, acquisition, alteration, remodeling,
28 improvement, or extension of wastewater treatment works or nonpoint
29 source control systems; or the inspection or supervision of any of the
30 foregoing items;

31 (3) Council means the Environmental Quality Council;

1 (4) County means any county authorized to construct a sewerage
2 disposal system and plant or plants pursuant to the County Industrial
3 Sewer Construction Act;

4 (5) Department means the Department of Water, Energy, and
5 Environment ~~Environment and Energy~~;

6 (6) Director means the Director of Water, Energy, and Environment
7 ~~Environment and Energy~~;

8 (7) Eligible financial institution means a bank that agrees to
9 participate in the linked deposit program and which is chartered to
10 conduct banking in this state pursuant to the Nebraska Banking Act, is
11 chartered to conduct banking by another state and authorized to do
12 business in this state, or is a national bank authorized to do business
13 in this state;

14 (8) Fund means the Wastewater Treatment Facilities Construction Loan
15 Fund;

16 (9) Linked deposit program means the Wastewater Treatment Facilities
17 Construction Assistance Act Linked Deposit Program established in
18 accordance with section 81-15,151.03;

19 (10) Municipality means any city, town, village, district,
20 association, or other public body created by or pursuant to state law and
21 having jurisdiction over disposal of sewage, industrial wastes, or other
22 wastes;

23 (11) Nonpoint source control systems means projects which establish
24 the use of methods, measures, or practices to control the pollution of
25 surface waters and ground water that occurs as pollutants are transported
26 by water from diffuse or scattered sources. Such projects include, but
27 are not limited to, structural and nonstructural controls and operation
28 and maintenance procedures applied before, during, and after pollution-
29 producing activities. Sources of nonpoint source pollution may include,
30 but are not limited to, agricultural, forestry, and urban lands,
31 transportation corridors, stream channels, mining and construction

1 activities, animal feeding operations, septic tank systems, underground
2 storage tanks, landfills, and atmospheric deposition;

3 (12) Operate and maintain means all necessary activities including
4 the normal replacement of equipment or appurtenances to assure the
5 dependable and economical function of a wastewater treatment works or
6 nonpoint source control systems in accordance with its intended purpose;
7 and

8 (13) Wastewater treatment works means the structures, equipment,
9 processes, and land required to collect, transport, and treat domestic or
10 industrial wastes and to dispose of the effluent and sludges.

11 **Sec. 419.** Section 81-15,159, Reissue Revised Statutes of Nebraska,
12 is amended to read:

13 81-15,159 (1) The Legislature hereby finds and declares that:

14 (a) Some landfills operating with or without a permit in Nebraska
15 exhibit numerous operational and management practices which are
16 inconsistent with proper landfill management and permit requirements, and
17 the owners and operators of such landfills should be encouraged to
18 cooperate and work with the Department of Water, Energy, and Environment
19 ~~Environment and Energy~~ to ensure that the air, land, and water of this
20 state are not polluted;

21 (b) Some landfills in Nebraska are reaching capacity and the siting
22 of a new location can be a financially expensive and socially disruptive
23 process, and because of this situation all Nebraska citizens and
24 businesses are encouraged to implement waste reduction measures that will
25 result in a reduction of waste entering landfills by at least twenty-five
26 percent;

27 (c) Recycling and waste reduction are necessary components of any
28 well-managed waste management system and can extend the lifespan of a
29 landfill and provide alternative waste management options; and

30 (d) The state can encourage recycling by the example of its own
31 purchase and use of recycled and recyclable materials. The state can also

1 encourage recycling and waste reduction by the creation of funding grants
2 which support existing and future waste management systems.

3 (2) It is the intent of the Legislature that the state, as a major
4 consumer and an example for others, should assist resource recovery by
5 making a concerted effort to use recyclable and recycled products and
6 encourage other levels of government and the private sector to follow its
7 example. When purchasing products, materials, or supplies for use by the
8 State of Nebraska, the Department of Administrative Services, the
9 University of Nebraska, and any other state agency making such purchases
10 shall give preference to and purchase products, materials, and supplies
11 which are manufactured or produced from recycled material or which can be
12 readily reused or recycled after their normal use. Preference shall also
13 be given to the purchase of corn-based biodegradable plastics and road
14 deicers, depending on the availability and suitability of such products.
15 Such preference shall not operate when it would result in the purchase of
16 products, materials, or supplies which are of inadequate quality or
17 substantially higher cost.

18 **Sec. 420.** Section 81-15,159.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-15,159.01 (1) The Department of Water, Energy, and Environment
21 ~~Environment and Energy~~ shall conduct a study to examine the status of
22 solid waste management programs operated by the department and make
23 recommendations to modernize and revise such programs. The study shall
24 include, but not be limited to: (a) whether existing state programs
25 regarding litter and waste reduction and recycling should be amended or
26 merged; (b) a needs assessment of the recycling and composting programs
27 in the state, including the need for infrastructure development operating
28 standards, market development, coordinated public education resulting in
29 behavior change, and incentives to increase recycling and composting; (c)
30 methods to partner with political subdivisions, private industry, and
31 private, nonprofit organizations to most successfully address waste

1 management issues in the state; (d) recommendations regarding existing
2 funding sources and possible new revenue sources at the state and local
3 level to address existing and emerging solid waste management issues; and
4 (e) revisions to existing grant programs to address solid waste
5 management issues in a proactive manner.

6 (2) The Director of Water, Energy, and Environment ~~Environment and~~
7 ~~Energy~~ shall establish an advisory committee to advise the department
8 regarding the study described in this section. The members of the
9 advisory committee shall be appointed by the director and shall include
10 no more than nine members. The director shall designate a chairperson of
11 the advisory committee. The members shall receive no compensation for
12 their services.

13 (3) In addition to the advisory committee, the department may hire
14 consultants and special experts to assist in the study described in this
15 section. After completion of the study, the department shall submit a
16 report, including recommendations, to the Executive Board of the
17 Legislative Council and the chairpersons of the Natural Resources
18 Committee, the Urban Affairs Committee, and the Appropriations Committee
19 of the Legislature no later than December 15, 2017. The report shall be
20 submitted electronically.

21 **Sec. 421.** Section 81-15,159.02, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-15,159.02 For purposes of the Waste Reduction and Recycling
24 Incentive Act:

25 (1) Council means the Environmental Quality Council;

26 (2) Department means the Department of Water, Energy, and
27 Environment ~~Environment and Energy~~;

28 (3) Director means the Director of Water, Energy, and Environment
29 ~~Environment and Energy~~;

30 (4) Scrap tire or waste tire means a tire that is no longer suitable
31 for its original intended purpose because of wear, damage, or defect;

1 (5) Tire means any tire made of rubber or other resilient material
2 and normally used on any vehicle;

3 (6) Tire-derived product means the usable product produced from a
4 scrap tire. Tire-derived product does not include crumb rubber or chipped
5 tires not intended for a direct end use and does not include baled tires
6 or tire-derived fuel; and

7 (7) Tire retailer means a person, business, or other entity which
8 engages in the retail sale of tires in any quantity for any use or
9 purpose by the purchaser other than for resale.

10 **Sec. 422.** Section 81-15,166, Reissue Revised Statutes of Nebraska,
11 is amended to read:

12 81-15,166 The Department of Water, Energy, and Environment
13 ~~Environment and Energy~~, with the advice and consent of the Environmental
14 Quality Council, shall contract for the preparation of a comprehensive
15 solid waste management plan. Such plan shall be contracted for and
16 prepared on or before December 15, 1991.

17 It is the intent of the Legislature that in preparation of the plan
18 the state consider the following hierarchy of criteria: (1) Volume
19 reduction at the source; (2) recycling, reuse, and vegetative waste
20 composting; (3) incineration with energy resource recovery; (4)
21 incineration for volume reduction; and (5) land disposal.

22 It is the intent of the Legislature that the plan be used as a guide
23 to assist political subdivisions in the planning and implementation of
24 their individual, joint, or regional solid waste management systems. The
25 comprehensive solid waste management plan shall not supersede or impair
26 plans, agreements, or contracts initiated by political subdivisions prior
27 to December 15, 1991.

28 The Environmental Quality Council shall adopt and promulgate rules
29 and regulations for solid waste management options which comply with
30 Environmental Protection Agency rules and guidelines, including rules and
31 guidelines promulgated pursuant to the 1984 Hazardous and Solid Waste

1 Amendments to Subtitle D of the federal Resource Conservation and
2 Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.

3 **Sec. 423.** Section 81-15,170, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 81-15,170 The Nebraska Environmental Trust Board is hereby created
6 as an entity of the executive branch. The board shall consist of the
7 Director of Water, Energy, and Environment, the Chief Water Officer
8 ~~Environment and Energy, the Director of Natural Resources~~, the Director
9 of Agriculture, the secretary of the Game and Parks Commission, the chief
10 executive officer of the Department of Health and Human Services or his
11 or her designee, and nine citizens appointed by the Governor with the
12 approval of a majority of the Legislature. The citizen members shall
13 begin serving immediately following notice of nomination and prior to
14 approval by the Legislature. The citizen members shall represent the
15 general public and shall have demonstrated competence, experience, and
16 interest in the environment of the state. Two of the citizen appointees
17 shall also have experience with private financing of public-purpose
18 projects. Three appointees shall be chosen from each of the three
19 congressional districts. The board shall hire an executive director who
20 shall hire and supervise other staff members as may be authorized by the
21 board. The executive director shall serve at the pleasure of the board
22 and be solely responsible to it. The Game and Parks Commission shall
23 provide administrative support, including, but not limited to, payroll
24 and accounting functions, to the board.

25 **Sec. 424.** Section 81-15,175, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 81-15,175 (1) The board may make an annual allocation each fiscal
28 year from the Nebraska Environmental Trust Fund to the Nebraska
29 Environmental Endowment Fund as provided in section 81-15,174.01. The
30 board shall make annual allocations from the Nebraska Environmental Trust
31 Fund and may make annual allocations each fiscal year from the Nebraska

1 Environmental Endowment Fund for projects which conform to the
2 environmental categories of the board established pursuant to section
3 81-15,176 and to the extent the board determines those projects to have
4 merit. The board shall establish a calendar annually for receiving and
5 evaluating proposals and awarding grants. To evaluate the economic,
6 financial, and technical feasibility of proposals, the board may
7 establish subcommittees, request or contract for assistance, or establish
8 advisory groups. Private citizens serving on advisory groups shall be
9 reimbursed for expenses pursuant to sections 81-1174 to 81-1177.

10 (2) The board shall establish rating systems for ranking proposals
11 which meet the board's environmental categories and other criteria. The
12 rating systems shall include, but not be limited to, the following
13 considerations:

14 (a) Conformance with categories established pursuant to section
15 81-15,176;

16 (b) Amount of funds committed from other funding sources;

17 (c) Encouragement of public-private partnerships;

18 (d) Geographic mix of projects over time;

19 (e) Cost-effectiveness and economic impact;

20 (f) Direct environmental impact;

21 (g) Environmental benefit to the general public and the long-term
22 nature of such public benefit; and

23 (h) Applications ~~recommended by the Director of Natural Resources~~
24 ~~and~~ submitted by the Department of Water, Energy, and Environment ~~Natural~~
25 ~~Resources~~ pursuant to subsection (7) of section 61-218 shall be awarded
26 fifty priority points in the ranking process for the 2011 grant
27 application if the Legislature has authorized annual transfers of three
28 million three hundred thousand dollars to the Water Resources Cash Fund
29 for each of fiscal years 2011-12 and 2012-13 and has stated its intent to
30 transfer three million three hundred thousand dollars to the Water
31 Resources Cash Fund in fiscal year 2013-14. Priority points shall be

1 awarded if the proposed programs set forth in the grant application are
2 consistent with the purposes of reducing consumptive uses of water,
3 enhancing streamflows, recharging ground water, or supporting wildlife
4 habitat in any river basin determined to be fully appropriated pursuant
5 to section 46-714 or designated as overappropriated pursuant to section
6 46-713.

7 (3) A grant awarded under this section pursuant to an application
8 made under subsection (7) of section 61-218 shall be paid out in the
9 following manner:

10 (a) The initial three million three hundred thousand dollar
11 installment shall be remitted to the State Treasurer for credit to the
12 Water Resources Cash Fund no later than fifteen business days after the
13 date that the grant is approved by the board;

14 (b) The second three million three hundred thousand dollar
15 installment shall be remitted to the State Treasurer for credit to the
16 Water Resources Cash Fund no later than May 15, 2013; and

17 (c) The third three million three hundred thousand dollar
18 installment shall be remitted to the State Treasurer for credit to the
19 Water Resources Cash Fund no later than May 15, 2014, if the Legislature
20 has authorized a transfer of three million three hundred thousand dollars
21 from the General Fund to the Water Resources Cash Fund for fiscal year
22 2013-14.

23 (4) It is the intent of the Legislature that the Department of
24 Water, Energy, and Environment ~~Natural Resources~~ apply for an additional
25 three-year grant from the Nebraska Environmental Trust Fund that would
26 begin in fiscal year 2014-15, a three-year grant that would begin in
27 fiscal year 2017-18, and a three-year grant that would begin in fiscal
28 year 2020-21 and such application shall be awarded fifty priority points
29 in the ranking process as set forth in subdivision (2)(h) of this section
30 if the following criteria are met:

31 (a) The Natural Resources Committee of the Legislature has examined

1 options for water funding and has submitted a report electronically to
2 the Clerk of the Legislature and the Governor by December 1, 2012,
3 setting forth:

4 (i) An outline and priority listing of water management and funding
5 needs in Nebraska, including instream flows, residential, agricultural,
6 recreational, and municipal needs, interstate obligations, water quality
7 issues, and natural habitats preservation;

8 (ii) An outline of statewide funding options which create a
9 dedicated, sustainable funding source to meet the needs set forth in the
10 report; and

11 (iii) Recommendations for legislation;

12 (b) The projects and activities funded by the department through
13 grants from the Nebraska Environmental Trust Fund under this section have
14 resulted in enhanced streamflows, reduced consumptive uses of water,
15 recharged ground water, supported wildlife habitat, or otherwise
16 contributed towards conserving, enhancing, and restoring Nebraska's
17 ground water and surface water resources. On or before July 1, 2014, the
18 department shall submit electronically a report to the Natural Resources
19 Committee of the Legislature providing demonstrable evidence of the
20 benefits accrued from such projects and activities; and

21 (c) In addition to the grant reporting requirements of the trust, on
22 or before July 1, 2014, the department provides to the board a report
23 which includes documentation that:

24 (i) Expenditures from the Water Resources Cash Fund made to natural
25 resources districts have met the matching fund requirements provided in
26 subdivision (5)(a) of section 61-218;

27 (ii) Ten percent or less of the matching fund requirements has been
28 provided by in-kind contributions for expenses incurred for projects
29 enumerated in the grant application. In-kind contributions shall not
30 include land or land rights; and

31 (iii) All other projects and activities funded by the department

1 through grants from the Nebraska Environmental Trust Fund under this
2 section were matched not less than forty percent of the project or
3 activity cost by other funding sources.

4 (5) The board may establish a subcommittee to rate grant
5 applications. If the board uses a subcommittee, the meetings of such
6 subcommittee shall be subject to the Open Meetings Act. The subcommittee
7 shall (a) use the rating systems established by the board under
8 subsection (2) of this section, (b) assign a numeric value to each rating
9 criterion, combine these values into a total score for each application,
10 and rank the applications by the total scores, (c) recommend an amount of
11 funding for each application, which amount may be more or less than the
12 requested amount, and (d) submit the ranked list and recommended funding
13 to the board for its approval or disapproval.

14 (6) The board may commit funds to multiyear projects, subject to
15 available funds and appropriations. No commitment shall exceed three
16 years without formal action by the board to renew the grant or contract.
17 Multiyear commitments may be exempt from the rating process except for
18 the initial application and requests to renew the commitment.

19 (7) The board shall adopt and promulgate rules and regulations and
20 publish guidelines governing allocations from the fund. The board shall
21 conduct annual reviews of existing projects for compliance with project
22 goals and grant requirements.

23 (8) Every five years the board may evaluate the long-term effects of
24 the projects it funds. The evaluation may assess a sample of such
25 projects. The board may hire an independent consultant to conduct the
26 evaluation and may report the evaluation findings to the Legislature and
27 the Governor. The report submitted to the Legislature shall be submitted
28 electronically.

29 **Sec. 425.** Section 81-15,177, Reissue Revised Statutes of Nebraska,
30 is amended to read:

31 81-15,177 (1) There is hereby established the Solid Waste Landfill

1 Closure Assistance Fund which shall be a cash fund administered by the
2 Department of Water, Energy, and Environment ~~Environment and Energy~~. The
3 fund shall be used:

4 (a) To provide grants for landfill site closing assessment, closure,
5 monitoring, and remediation costs related to landfills existing or
6 already closed on July 15, 1992; and

7 (b) To provide funds to the department for expenses incurred in
8 carrying out its duties under sections 81-15,178 and 81-15,179.

9 Any money in the fund available for investment shall be invested by
10 the state investment officer pursuant to the Nebraska Capital Expansion
11 Act and the Nebraska State Funds Investment Act.

12 (2) The Environmental Quality Council shall adopt and promulgate
13 rules and regulations regarding the form and procedure for applications
14 for grants from the fund, procedures for determining claims for payment
15 or reimbursement, procedures for determining the amount and type of costs
16 that are eligible for payment or reimbursement from the fund, procedures
17 for determining priority among applicants, procedures for auditing
18 persons who have received payments from the fund, and other provisions
19 necessary to carry out sections 81-15,178 and 81-15,179.

20 **Sec. 426.** Section 81-15,178, Reissue Revised Statutes of Nebraska,
21 is amended to read:

22 81-15,178 In order for an applicant to receive funding from the
23 Solid Waste Landfill Closure Assistance Fund, the applicant shall:

24 (1) Agree to use the funds for landfill site closing assessment,
25 closure, monitoring, or remediation costs relating to landfills existing
26 or already closed on July 15, 1992;

27 (2) Provide the Department of Water, Energy, and Environment
28 ~~Environment and Energy~~ with documentation regarding the landfill closure
29 site, including, when appropriate, information indicating that the
30 applicant holds or can acquire title to all lands or has the necessary
31 easements and rights-of-way for the project and related lands;

1 (3) Provide a plan for the proposed project, including appropriate
2 engineering, economic, and financial feasibility data and other data and
3 information, including estimated costs, as may be required by the
4 department; and

5 (4) Demonstrate the anticipated environmental and ecological
6 benefits resulting from the proposed project.

7 **Sec. 427.** Section 81-15,179, Reissue Revised Statutes of Nebraska,
8 is amended to read:

9 81-15,179 Upon receipt of an application for funds from the Solid
10 Waste Landfill Closure Assistance Fund, the Department of Water, Energy,
11 and Environment ~~Environment and Energy~~ shall evaluate and investigate all
12 aspects of the proposed project and the proposed schedule for completion,
13 determine eligibility and priority of the project for funding, and make
14 appropriate grants from the fund pursuant to rules and regulations
15 adopted and promulgated by the Environmental Quality Council. If the
16 department determines that an application is unsatisfactory or does not
17 contain adequate information, the department shall return the application
18 to the applicant and may make recommendations to the applicant which the
19 department considers necessary to make the plan or the application
20 satisfactory.

21 **Sec. 428.** Section 81-15,180, Reissue Revised Statutes of Nebraska,
22 is amended to read:

23 81-15,180 The Superfund Cost Share Cash Fund is created. The
24 Department of Water, Energy, and Environment ~~Environment and Energy~~ shall
25 remit grants and gifts received by the department for purposes of
26 providing cost share for remediation of superfund sites to the State
27 Treasurer for credit to the fund. The department shall administer the
28 Superfund Cost Share Cash Fund to pay for nonfederal costs, including
29 costs for in-kind services, required as cost share for remediation of
30 superfund sites. Transfers may be made from the fund to the General Fund
31 at the direction of the Legislature. Any money in the Superfund Cost

1 Share Cash Fund available for investment shall be invested by the state
2 investment officer pursuant to the Nebraska Capital Expansion Act and the
3 Nebraska State Funds Investment Act.

4 **Sec. 429.** Section 81-15,183, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 81-15,183 (1) The Remedial Action Plan Monitoring Fund is created.
7 The fund shall be administered by the Department of Water, Energy, and
8 Environment ~~Environment and Energy~~. Revenue from the following sources
9 shall be credited to the fund:

10 (a) Application fees collected under the Remedial Action Plan
11 Monitoring Act;

12 (b) Deposits for costs associated with administration of the act,
13 including review, oversight, and guidance;

14 (c) Gifts, grants, reimbursements, or appropriations from any source
15 intended to be used for purposes of the act; and

16 (d) Investment interest attributable to the fund.

17 (2) The fund shall be used by the department to:

18 (a) Review applications and provide technical review, oversight,
19 guidance, and other activities associated with remedial action plans for
20 land pollution or water pollution;

21 (b) Fund activities performed by the department to address immediate
22 or emergency threats to human health and the environment related to
23 property under the act; and

24 (c) Administer and enforce the act.

25 (3) Any money in the fund available for investment shall be invested
26 by the state investment officer pursuant to the Nebraska Capital
27 Expansion Act and the Nebraska State Funds Investment Act.

28 **Sec. 430.** Section 81-15,184, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 81-15,184 (1) Any entity which voluntarily chooses to make
31 application for monitoring of remedial action plans for property where

1 land pollution or water pollution exists shall:

2 (a) Submit an application on a form approved by the Department of
3 Water, Energy, and Environment ~~Environment and Energy~~;

4 (b) Provide the department with a nonrefundable application fee of
5 two thousand dollars; and

6 (c) Execute a written agreement to provide reimbursement of all
7 department direct and indirect costs related to technical review,
8 oversight, guidance, and other activities associated with the remedial
9 action plan. As part of the voluntary agreement, the department shall
10 require the applicant to post a deposit of three thousand dollars to be
11 used by the department to cover all costs. The department shall not
12 commence technical review, oversight, guidance, or other activities
13 associated with the remedial action plan until the voluntary agreement is
14 executed and a complete remedial action plan has been submitted. If the
15 costs of the department exceed the initial deposit, an additional amount
16 agreed upon by the department and the applicant may be required prior to
17 proceeding. After the mutual termination of the voluntary agreement, any
18 balance of funds paid under this subdivision shall be refunded.

19 (2) The department shall review and approve or deny all applications
20 and notify the applicant in writing. If the application is denied, the
21 notification shall state the reason for the denial. If the department
22 determines that an application does not contain adequate information, the
23 department shall return the application to the applicant. The applicant
24 has sixty days to resubmit the required information or the application
25 will be deemed denied.

26 (3) Within ninety days of approval of the application and voluntary
27 agreement, the applicant shall provide a complete remedial action plan
28 for the proposed project that conforms to all federal and state
29 environmental standards and substantive requirements, including:

30 (a) Documentation regarding the investigation of land pollution or
31 water pollution including, when appropriate, information indicating that

1 the applicant holds or can acquire title to all lands or has the
2 necessary easements and rights-of-way for the project and related lands;

3 (b) A remedial action work plan which describes the remedial action
4 measures to be taken to address the land or water pollution; and

5 (c) Project monitoring reports, appropriate engineering, scientific,
6 and financial feasibility data, and other data and information as may be
7 required by the department.

8 **Sec. 431.** Section 81-15,185, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 81-15,185 Upon receipt of a voluntary remedial action plan for land
11 pollution or water pollution pursuant to section 81-15,184, the
12 Department of Water, Energy, and Environment ~~Environment and Energy~~ shall
13 review and approve or disapprove the plan and notify the applicant in
14 writing. If the plan is disapproved, the notification shall state the
15 reason for the disapproval and provide a reasonable opportunity to
16 resubmit the plan.

17 **Sec. 432.** Section 81-15,185.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-15,185.01 The Department of Water, Energy, and Environment
20 ~~Environment and Energy~~ shall issue public notice of its intent to approve
21 a voluntary remedial action plan pursuant to section 81-15,185 in a local
22 newspaper of general circulation in the area affected and make the
23 remedial action plan available to the public. The public shall have
24 thirty days from the date of publication during which any person may
25 submit written comments to the department regarding the proposed remedial
26 action. Such person may also request or petition the Director of Water,
27 Energy, and Environment ~~Environment and Energy~~, in writing, for a hearing
28 and state the nature of the issues to be raised. The director shall hold
29 a public hearing if the comments, request, or petition raise legal,
30 policy, or discretionary questions of general application and significant
31 public interest exists.

1 **Sec. 433.** Section 81-15,185.02, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-15,185.02 (1) The applicant may unilaterally terminate a
4 voluntary remedial action plan approved pursuant to section 81-15,185
5 prior to completion of investigative and remedial activities if the
6 applicant leaves the property in no worse condition, from a human health
7 and environment perspective, than when the applicant initiated voluntary
8 remedial action and the applicant reimburses the Department of Water,
9 Energy, and Environment ~~Environment and Energy~~ for all outstanding costs.

10 (2) The department may terminate a voluntary remedial action plan if
11 the applicant:

12 (a) Violates any terms or conditions of the plan or fails to fulfill
13 any obligations of the plan, including submission of an acceptable
14 remedial action plan within a reasonable period of time;

15 (b) Fails to address an immediate and significant risk of harm to
16 public health and the environment in a timely and effective manner; or

17 (c) Fails to initiate the plan within six months after approval by
18 the department or to complete the plan within twenty-four months after
19 approval by the department, excluding long-term operation, maintenance,
20 and monitoring, unless the department grants an extension of time.

21 (3) The department shall notify the applicant in writing of the
22 intention to terminate the voluntary remedial action plan and include the
23 reason for the termination and a summary of any unreimbursed costs of the
24 department that are due.

25 **Sec. 434.** Section 81-15,185.03, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 81-15,185.03 (1) Within sixty days after completion of a voluntary
28 remedial action plan approved pursuant to section 81-15,185, the
29 applicant shall provide the Department of Water, Energy, and Environment
30 ~~Environment and Energy~~ with a final remedial action report and assurance
31 that the plan has been fully implemented. Department approval of a

1 voluntary remedial action plan shall be void upon failure to comply with
2 the approved plan or willful submission of false, inaccurate, or
3 misleading information by the applicant.

4 (2) Voluntary remedial action plans approved under section 81-15,185
5 are not enforceable unless the department can demonstrate that the
6 applicant has failed to fully implement the approved plan. The department
7 may require further action if such action is authorized by other state
8 statutes administered by the department.

9 **Sec. 435.** Section 81-15,186, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 81-15,186 If the requirements of the Remedial Action Plan Monitoring
12 Act are met and the applicant has remitted all applicable fees, the
13 Department of Water, Energy, and Environment ~~Environment and Energy~~ may
14 issue to the applicant a letter stating that no further action need be
15 taken at the site related to any contamination for which remedial action
16 has been taken in accordance with the approved remedial action plan. Such
17 letter shall provide that the department may require the person to
18 conduct additional remedial action in the event that any monitoring
19 conducted at or near the real property or other circumstances indicate
20 that (1) contamination is reoccurring, (2) additional contamination is
21 present which was not identified pursuant to section 81-15,184, or (3)
22 additional contamination is present for which remedial action was not
23 taken according to the remedial action plan. As a condition of issuance,
24 the department may require payment of ongoing direct and indirect costs
25 of oversight of any ongoing long-term operation, maintenance, and
26 monitoring.

27 **Sec. 436.** Section 81-15,213, Reissue Revised Statutes of Nebraska,
28 is amended to read:

29 81-15,213 (1) The Nebraska Emergency Management Agency shall
30 supervise and coordinate emergency planning and training under section
31 305 of Title III and shall oversee and distribute all funds received

1 under section 305 of Title III and section 81-15,214.

2 (2) The Department of Water, Energy, and Environment ~~Environment and~~
3 ~~Energy~~ shall receive emergency notification and facility reports and
4 establish procedures for receiving and processing requests from the
5 public for information as required to be provided under the Nebraska
6 Emergency Planning and Community Right to Know Act. The director or his
7 or her designee shall serve as commission coordinator for information.

8 **Sec. 437.** Section 81-15,229, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 81-15,229 (1) Each emergency plan, material safety data sheet, list
11 of chemicals, inventory form, toxic chemical release form, and followup
12 emergency notice shall be made available to the general public,
13 consistent with section 322 of Title III, during normal working hours at
14 the location or locations designated by the Department of Water, Energy,
15 and Environment ~~Environment and Energy~~, the commission, or a local
16 emergency planning committee, as appropriate. Upon request by an owner or
17 operator of a facility subject to the requirements of section 81-15,224,
18 the Department of Water, Energy, and Environment ~~Environment and Energy~~,
19 the commission, or the appropriate committee shall withhold from
20 disclosure under this section the location of any specific chemical
21 required by section 81-15,225 to be contained in an inventory form as
22 tier II information.

23 (2) Each local emergency planning committee shall annually publish a
24 notice in local newspapers that the emergency plan, material safety data
25 sheets, and inventory forms have been submitted under this section. The
26 notice shall state that followup emergency notices may subsequently be
27 issued. Such notice shall announce that members of the public who wish to
28 review any such plan, sheet, form, or followup notice may do so at the
29 location designated under subsection (1) of this section.

30 **Sec. 438.** Section 81-15,235, Reissue Revised Statutes of Nebraska,
31 is amended to read:

1 81-15,235 The Nebraska Emergency Management Agency shall as
2 necessary adopt and promulgate rules and regulations to carry out its
3 responsibilities under the Nebraska Emergency Planning and Community
4 Right to Know Act. The Environmental Quality Council shall adopt and
5 promulgate rules and regulations necessary for the Department of Water,
6 Energy, and Environment ~~Environment and Energy~~ to carry out its
7 responsibilities under the act.

8 **Sec. 439.** Section 81-15,242, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 81-15,242 Department means the Department of Water, Energy, and
11 Environment ~~Environment and Energy~~.

12 **Sec. 440.** Section 81-15,243, Reissue Revised Statutes of Nebraska,
13 is amended to read:

14 81-15,243 Director means the Director of Water, Energy, and
15 Environment ~~Environment and Energy~~.

16 **Sec. 441.** Section 81-15,260, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 81-15,260 The Volkswagen Settlement Cash Fund is created. The fund
19 shall be administered by the Department of Water, Energy, and Environment
20 ~~Environment and Energy~~. All sums of money received from the Volkswagen
21 Settlement shall be deposited in the fund. The department shall expend
22 the fund in accordance with the department use plan. Any money in the
23 fund available for investment shall be invested by the state investment
24 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
25 State Funds Investment Act. The balance of any account established to
26 receive and expend revenue from the Volkswagen Settlement shall be
27 transferred to the Volkswagen Settlement Cash Fund.

28 **Sec. 442.** Section 81-15,262, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 81-15,262 The Legislature finds that:

31 (1) Best practices in environmental safety and protection recognize

1 that the regulation of water supply and disposal infrastructure are
2 connected;

3 (2) The proper design, construction, and monitoring of water and
4 wastewater uses is critical for the safety and sustainability of
5 communities in the State of Nebraska;

6 (3) The regulation of mobile homes, recreation camps, and swimming
7 pools provide fundamental environmental safety for persons who use them;
8 and

9 (4) Consolidating the administration of state environmental safety
10 programs and the environmental and water programs of the United States
11 Environmental Protection Agency delegated to the State of Nebraska into
12 the Department of Water, Energy, and Environment ~~Environment and Energy~~
13 will better serve the communities in the State of Nebraska.

14 **Sec. 443.** Section 81-15,263, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 81-15,263 For purposes of the Environmental Safety Act:

17 (1) Department means the Department of Water, Energy, and
18 Environment ~~Environment and Energy~~; and

19 (2) Director means the Director of Water, Energy, and Environment
20 ~~Environment and Energy~~.

21 **Sec. 444.** Section 81-15,292, Reissue Revised Statutes of Nebraska,
22 is amended to read:

23 81-15,292 (1) The department shall collect a fee of not less than
24 sixty nor more than one hundred dollars, as determined by regulation, for
25 each inspection of private water supply or private sewage disposal
26 facilities requested of and made by the department in order for the
27 person requesting the inspection to qualify for any type of commercial
28 loan, guarantee, or other type of payment or benefit from any commercial
29 agency or enterprise to the person applying for or receiving the same or
30 to meet the requirements of any federal governmental agency, including,
31 but not limited to, the Rural Development Agency of the United States

1 Department of Agriculture, the Federal Housing Administration, and the
2 United States Department of Veterans Affairs, that such an inspection be
3 conducted as a condition of applying for or receiving any type of grant,
4 loan, guarantee, or other type of payment or benefit from such agency to
5 the person applying for or receiving the same. All fees collected under
6 this subsection shall be remitted to the State Treasurer for credit to
7 the Environmental Safety Cash Fund.

8 (2) The Director of Water, Energy, and Environment ~~Environment and~~
9 ~~Energy~~ shall adopt and promulgate rules and regulations determining the
10 fee required pursuant to this section.

11 (3) All rules and regulations adopted and promulgated prior to July
12 1, 2021, under this section shall continue to be effective to the extent
13 not in conflict with the changes made by Laws 2021, LB148, until amended
14 or repealed by the department.

15 **Sec. 445.** Section 81-15,299, Reissue Revised Statutes of Nebraska,
16 is amended to read:

17 81-15,299 There is hereby created the Environmental Safety Cash Fund
18 which shall be used to pay the expenses of the Department of Water,
19 Energy, and Environment ~~Environment and Energy~~ related to issuance and
20 renewal of licenses and permits and annual inspections, including
21 sections 81-15,268, 81-15,272, 81-15,282, and 81-15,292. Any money in the
22 fund available for investment shall be invested by the state investment
23 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
24 State Funds Investment Act. The State Treasurer shall transfer any money
25 in the Health and Human Services Cash Fund pursuant to sections
26 81-15,268, 81-15,272, 81-15,282, and 81-15,292, as such sections existed
27 prior to July 1, 2021, to the Environmental Safety Cash Fund on July 1,
28 2021.

29 **Sec. 446.** Section 81-15,300, Reissue Revised Statutes of Nebraska,
30 is amended to read:

31 81-15,300 There is hereby created the Engineering Plan Review Cash

1 Fund which shall be used to pay the expenses of the Department of Water,
2 Energy, and Environment ~~Environment and Energy~~ related to engineering
3 reviews of plans and specifications, including those under subsection (3)
4 of section 81-15,268 and subsection (2) of section 81-15,282. Any money
5 in the fund available for investment shall be invested by the state
6 investment officer pursuant to the Nebraska Capital Expansion Act and the
7 Nebraska State Funds Investment Act. The State Treasurer shall transfer
8 any money in the Health and Human Services Cash Fund pursuant to
9 subsection (3) of section 81-15,268 and subsection (2) of section
10 81-15,282, as such sections existed prior to July 1, 2021, to the
11 Engineering Plan Review Cash Fund on July 1, 2021.

12 **Sec. 447.** Section 81-15,302, Reissue Revised Statutes of Nebraska,
13 is amended to read:

14 81-15,302 For purposes of the Nebraska Environmental Response Act:

15 (1) Cleanup means all actions necessary to contain, collect, secure,
16 control, identify, prevent, mitigate, analyze, treat, disperse, remove,
17 or dispose of a pollutant necessary to restore the environment to the
18 extent practicable and to minimize the harmful effects from the release
19 in conformance with applicable federal and state environmental standards
20 and substantive requirements;

21 (2) Cleanup costs means all costs incurred by the state, a political
22 subdivision of the state, an agent of the state, or any other person
23 participating, with the approval of the department, in the prevention,
24 mitigation, or cleanup of a release of a pollutant, including a
25 proportionate share of those costs necessary to maintain the services
26 authorized in the act. Costs include oversight of the cleanup, staff
27 time, and materials and supplies used to secure and mitigate the release
28 of pollutants;

29 (3) Department means the Department of Water, Energy, and
30 Environment ~~Environment and Energy~~;

31 (4) Director means the Director of Water, Energy, and Environment

1 ~~Environment and Energy;~~

2 (5) Environmental lien means a lien for cleanup costs;

3 (6) Person has the same meaning as provided in section 81-1502;

4 (7) Pollutant means one or more substances or combinations of
5 substances that alter the natural physical, chemical, or biological
6 properties of any air, land, or waters of the state in such quantities
7 that are harmful, detrimental, or injurious to plant or animal life,
8 property, or the public health, safety, or welfare;

9 (8) Release means any emission, discharge, spill, leak, pumping,
10 pouring, escaping, emptying, or dumping of a pollutant into or onto the
11 air, land, or waters of the state, except when performed in compliance
12 with the conditions of a federal or state environmental permit; and

13 (9) Waters of the state has the same meaning as provided in section
14 81-1502.

15 **Sec. 448.** Section 81-15,312, Reissue Revised Statutes of Nebraska,
16 is amended to read:

17 81-15,312 It is the intent of the Legislature to appropriate one
18 million dollars for fiscal year 2024-25 from the General Fund to the
19 Department of Water, Energy, and Environment ~~Environment and Energy~~ to
20 fund the installation of real-time nitrate sensors in monitoring wells
21 statewide to prioritize nitrate management and reduction.

22 **Sec. 449.** Section 81-1604, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 81-1604 (1) The Legislature finds that:

25 (a) Comprehensive planning enables the state to address its energy
26 needs, challenges, and opportunities and enhances the state's ability to
27 prioritize energy-related policies, activities, and programs; and

28 (b) Meeting the state's need for clean, affordable, and reliable
29 energy in the future will require a diverse energy portfolio and a
30 strategic approach, requiring engagement of all energy stakeholders in a
31 comprehensive planning process.

1 (2) The Department of Water, Energy, and Environment ~~Environment and~~
2 ~~Energy~~ shall develop an integrated and comprehensive strategic state
3 energy plan and review such plan periodically as the department deems
4 necessary. The department may organize technical committees of
5 individuals with expertise in energy development for purposes of
6 developing the plan. If the department forms an advisory committee
7 pursuant to subdivision (58) of section 81-1504 for purposes of such
8 plan, the chairperson of the Appropriations Committee of the Legislature,
9 the chairperson of the Natural Resources Committee of the Legislature,
10 and three members of the Legislature selected by the Executive Board of
11 the Legislative Council shall be nonvoting, ex officio members of such
12 advisory committee.

13 (3) The strategic state energy plan shall include short-term and
14 long-term objectives that will ensure a secure, reliable, and resilient
15 energy system for the state's residents and businesses; a cost-
16 competitive energy supply and access to affordable energy; the promotion
17 of sustainable economic growth, job creation, and economic development;
18 and a means for the state's energy policy to adapt to changing
19 circumstances.

20 (4) The strategic state energy plan shall include, but not be
21 limited to:

22 (a) A comprehensive analysis of the state's energy profile,
23 including all energy resources, end-use sectors, and supply and demand
24 projections;

25 (b) An analysis of other state energy plans and regional energy
26 activities which identifies opportunities for streamlining and
27 partnerships; and

28 (c) An identification of goals and recommendations related to:

29 (i) The diversification of the state's energy portfolio in a way
30 that balances the lowest practicable environmental cost with maximum
31 economic benefits;

1 (ii) The encouragement of state and local government coordination
2 and public-private partnerships for future economic and investment
3 decisions;

4 (iii) The incorporation of new technologies and opportunities for
5 energy diversification that will maximize Nebraska resources and support
6 local economic development;

7 (iv) The interstate and intrastate promotion and marketing of the
8 state's renewable energy resources;

9 (v) A consistent method of working with and marketing to energy-
10 related businesses and developers;

11 (vi) The advancement of transportation technologies, alternative
12 fuels, and infrastructure;

13 (vii) The development and enhancement of oil, natural gas, and
14 electricity production and distribution;

15 (viii) The development of a communications process between energy
16 utilities and the department for responding to and preparing for
17 regulations having a statewide impact; and

18 (ix) The development of a mechanism to measure the plan's progress.

19 **Sec. 450.** Section 81-1606, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 81-1606 The Department of Water, Energy, and Environment ~~Environment~~
22 ~~and Energy~~ shall develop and maintain a program of collection,
23 compilation, and analysis of energy statistics and information. Existing
24 information reporting requests, maintained at the state and federal
25 levels, shall be utilized whenever possible in any data collection
26 required regarding state energy policy pursuant to this section,
27 subdivisions (35) through (58) of section 81-1504, or section 81-1604 or
28 81-1607. A central state repository of energy data shall be developed and
29 coordinated with other governmental data-collection and record-keeping
30 programs. The department shall, on at least an annual basis, with monthly
31 compilations, submit to the Governor and the Clerk of the Legislature a

1 report identifying state energy consumption by fuel type and by use to
2 the extent that such information is available. The report submitted to
3 the Clerk of the Legislature shall be submitted electronically. Nothing
4 in this section shall be construed as permitting or authorizing the
5 revealing of confidential information. For purposes of this section
6 confidential information shall mean any process, formula, pattern,
7 decision, or compilation of information which is used, directly or
8 indirectly, in the business of the producer, refiner, distributor,
9 transporter, or vendor, and which gives such producer, refiner,
10 distributor, transporter, or vendor an advantage or an opportunity to
11 obtain an advantage over competitors who do not know or use it.

12 **Sec. 451.** Section 81-1607, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-1607 (1) On or before February 15 of each year, the Director of
15 Water, Energy, and Environment ~~Environment and Energy~~ shall transmit to
16 the Governor and the Clerk of the Legislature a comprehensive report
17 designed to identify emerging trends related to energy supply, demand,
18 and conservation and to specify the level of statewide energy need within
19 the following sectors: Agricultural, commercial, residential, industrial,
20 transportation, utilities, government, and any other sector that the
21 director determines to be useful. The report submitted to the Clerk of
22 the Legislature shall be submitted electronically.

23 (2) The report shall include, but not be limited to:

24 (a) An assessment of the state's energy resources, including
25 examination of the current energy supplies and any feasible alternative
26 sources;

27 (b) The estimated reduction in annual energy consumption resulting
28 from various energy conservation measures;

29 (c) The status of the ongoing studies of the Department of Water,
30 Energy, and Environment ~~Environment and Energy~~ pursuant to subdivisions

31 (35) through (58) of section 81-1504;

1 (d) Recommendations to the Governor and the Legislature for
2 administrative and legislative actions to accomplish the purposes of this
3 section and section 81-1606; and

4 (e) The use of funds disbursed during the previous year under
5 sections 81-1635 to 81-1641. The use of such funds shall be reported each
6 year until the funds are completely disbursed and all contractual
7 obligations have expired or otherwise terminated.

8 **Sec. 452.** Section 81-1609, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 81-1609 As used in sections 81-1608 to 81-1626, unless the context
11 otherwise requires:

12 (1) Department means the Department of Water, Energy, and
13 Environment ~~Environment and Energy~~;

14 (2) Contractor means the person or entity responsible for the
15 overall construction of any building or the installation of any component
16 which affects the energy efficiency of the building;

17 (3) Architect or engineer means any person licensed as an architect
18 or professional engineer under the Engineers and Architects Regulation
19 Act;

20 (4) Building means any new structure, renovated building, or
21 addition which is used or intended for supporting or sheltering any use
22 or occupancy, but not including any structure which has a consumption of
23 traditional energy sources for all purposes not exceeding the energy
24 equivalent of three and four-tenths British Thermal Units per hour or one
25 watt per square foot;

26 (5) Residential building means a building three stories or less that
27 is used primarily as one or more dwelling units;

28 (6) Renovation means alterations on an existing building which will
29 cost more than fifty percent of the replacement cost of such building at
30 the time work is commenced or which was not previously heated or cooled,
31 for which a heating or cooling system is now proposed, except that the

1 restoration of historical buildings shall not be included;

2 (7) Addition means an extension or increase in the height,
3 conditioned floor area, or conditioned volume of a building or structure;

4 (8) Floor area means the total area of the floor or floors of a
5 building, expressed in square feet, which is within the exterior faces of
6 the shell of the structure which is heated or cooled;

7 (9) Nebraska Energy Code means the 2018 International Energy
8 Conservation Code published by the International Code Council;

9 (10) Traditional energy sources means electricity, petroleum-based
10 fuels, uranium, coal, and all nonrenewable forms of energy; and

11 (11) Equivalent or equivalent code means standards that meet or
12 exceed the requirements of the Nebraska Energy Code.

13 **Sec. 453.** Section 81-1611, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 81-1611 The Legislature hereby adopts the 2018 International Energy
16 Conservation Code published by the International Code Council as the
17 Nebraska Energy Code. The Director of Water, Energy, and Environment
18 ~~Environment and Energy~~ may adopt regulations specifying alternative
19 standards for building systems, techniques, equipment designs, or
20 building materials that shall be deemed equivalent to the Nebraska Energy
21 Code. Regulations specifying alternative standards may be deemed
22 equivalent to the Nebraska Energy Code and may be approved for general or
23 limited use if the use of such alternative standards would not result in
24 energy consumption greater than would result from the strict application
25 of the Nebraska Energy Code.

26 **Sec. 454.** Section 81-1612, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 81-1612 The Director of Water, Energy, and Environment ~~Environment~~
29 ~~and Energy~~ may adopt and promulgate rules and regulations for
30 implementation and administration of sections 81-1608 to 81-1626. Rules,
31 regulations, or amendments thereto shall be adopted pursuant to the

1 Administrative Procedure Act.

2 **Sec. 455.** Section 81-1625, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-1625 If the Director of Water, Energy, and Environment
5 ~~Environment and Energy~~ or the local code authority finds, within two
6 years from the date a building is first occupied, that the building, at
7 the time of construction, did not comply with the Nebraska Energy Code or
8 equivalent code adopted by a county, city, or village in effect at such
9 time, the director or code authority may order the owner or prime
10 contractor to take those actions necessary to bring the building into
11 compliance. This section does not limit the right of the owner to bring
12 civil action against the contractor, architect, or engineer for the cost
13 of bringing the building into compliance.

14 **Sec. 456.** Section 81-1635, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-1635 There is hereby established in the state treasury a fund, to
17 be known as the Nebraska Energy Settlement Fund and referred to in
18 sections 81-1635 to 81-1641 as the fund, to be administered by the
19 Department of Water, Energy, and Environment ~~Environment and Energy~~ as
20 the representative of the Governor. The fund shall consist of (1) money
21 received by the State of Nebraska after February 15, 1986, from awards or
22 allocations to the State of Nebraska on behalf of consumers of petroleum
23 products as a result of judgments or settlements for overcharges to
24 consumers of petroleum products sold during the period of time in which
25 federal price controls on such products were in effect and (2) any
26 investment interest earned on the fund. The Department of Administrative
27 Services may for accounting purposes create subfunds of the fund to
28 segregate awards or allocations received pursuant to different orders or
29 settlements. Any money in the fund available for investment shall be
30 invested by the state investment officer pursuant to the Nebraska Capital
31 Expansion Act and the Nebraska State Funds Investment Act. No money shall

1 be transferred or disbursed from the fund except pursuant to sections
2 81-1635 to 81-1641.

3 **Sec. 457.** Section 81-1636, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 81-1636 The Governor or the Department of Water, Energy, and
6 Environment ~~Environment and Energy~~ as representative of the Governor
7 shall develop a plan for the disbursement of the money credited to the
8 fund for submission to the United States Department of Energy. The plan
9 shall be in accordance with the specifications and guidelines of the
10 applicable federal court order and any applicable federal law or
11 regulations.

12 **Sec. 458.** Section 81-1637, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-1637 (1) The Governor shall submit electronically a
15 predisbursement plan to the Legislature if in session or the Executive
16 Board of the Legislative Council if the Legislature is not in session.

17 (2) The predisbursement plan shall generally outline the uses and
18 beneficiaries of proposed disbursements from the fund, as well as the
19 expected benefits to the state as a whole.

20 (3) The predisbursement plan shall also include a policy statement
21 which shall indicate (a) a perception of the current and anticipated
22 trends regarding energy availability, costs, and needs in the state, (b)
23 assumptions regarding the impacts on energy needs of the state of current
24 and anticipated state and federal policies and market forces affecting
25 energy use, and (c) generally, how the types of projects to be selected
26 will address those trends and assumptions.

27 (4) The Legislature may hold a public hearing within thirty days
28 after receipt of the predisbursement plan to solicit testimony on such
29 plan. The Legislature may, no later than fifteen days following such
30 hearing, make recommendations to the Department of Water, Energy, and
31 Environment ~~Environment and Energy~~ concerning the plan. No disbursement

1 of or obligation to disburse any money in the fund shall be made after
2 July 9, 1988, until forty-five days after the predisbursement plan
3 referring to such disbursement has been submitted to the Legislature or
4 the Executive Board of the Legislative Council, as the case may be.

5 **Sec. 459.** Section 81-1638, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 81-1638 (1) The Department of Water, Energy, and Environment
8 ~~Environment and Energy~~ shall, as the representative of and under the
9 direction of the Governor, be the administrative agency for the selection
10 of projects pursuant to section 81-1636, allocation of funds to the
11 projects, and monitoring of the uses of the funds so allocated.

12 (2) The department shall contract with any and all grantees of funds
13 in and recipients of loans from the fund. The contracts shall include
14 provisions for reporting on and accounting for the use of the funds by
15 the grantee or loan recipient to the department, and any contracts or
16 agreements entered into before appropriations are made by the Legislature
17 shall recite that they are subject to appropriations of the fund by the
18 Legislature.

19 (3) Any political subdivision of this state may apply for, and shall
20 be eligible to receive, a disbursement for a project pursuant to section
21 81-1636, including a disbursement of loan proceeds.

22 **Sec. 460.** Section 81-1640, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 81-1640 The Department of Water, Energy, and Environment ~~Environment~~
25 ~~and Energy~~ shall conduct a public hearing on the proposed uses of the
26 fund in the manner and to the extent required by specifications and
27 guidelines of the applicable federal court order and any applicable
28 federal law or regulations.

29 **Sec. 461.** Section 81-3449, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 81-3449 The provisions of the Engineers and Architects Regulation

1 Act regulating the practice of architecture do not apply to the following
2 activities:

3 (1) The construction, remodeling, alteration, or renovation of a
4 detached single-family through four-family dwelling of less than five
5 thousand square feet of above grade finished space. Any detached or
6 attached sheds, storage buildings, and garages incidental to the dwelling
7 are not included in the tabulation of finished space. Such exemption may
8 be increased by rule and regulation of the board adopted pursuant to the
9 Negotiated Rulemaking Act but shall not exceed the Type V, column B,
10 limitations set forth by the allowable height and building areas table in
11 the state building code adopted in section 71-6403;

12 (2) The construction, remodeling, alteration, or renovation of a
13 one-story commercial or industrial building or structure of less than
14 five thousand square feet of above grade finished space which does not
15 exceed thirty feet in height unless such building or structure, or the
16 remodeling or repairing thereof, provides for the employment, housing, or
17 assembly of twenty or more persons. Any detached or attached sheds,
18 storage buildings, and garages incidental to the building or structure
19 are not included in the tabulation of finished space. Such exemption may
20 be increased by rule and regulation of the board adopted pursuant to the
21 Negotiated Rulemaking Act but shall not exceed the Type V, column B,
22 limitations set forth by the allowable height and building areas table in
23 the state building code adopted in section 71-6403;

24 (3) The construction, remodeling, alteration, or renovation of farm
25 buildings, including barns, silos, sheds, or housing for farm equipment
26 and machinery, livestock, poultry, or storage, if the structures are
27 designed to be occupied by no more than twenty persons. Such exemption
28 may be increased by rule and regulation of the board adopted pursuant to
29 the Negotiated Rulemaking Act but shall not exceed the Type V, column B,
30 limitations set forth by the allowable height and building areas table in
31 the state building code adopted in section 71-6403;

1 (4) Any public works project with contemplated expenditures for a
2 completed project that do not exceed one hundred thousand dollars. The
3 board shall adjust the dollar amount in this subdivision every fifth
4 year. The first such adjustment after August 27, 2011, shall be effective
5 on July 1, 2014. The adjusted amount shall be equal to the then current
6 amount adjusted by the cumulative percentage change in the Consumer Price
7 Index for All Urban Consumers published by the Federal Bureau of Labor
8 Statistics for the five-year period preceding the adjustment date. The
9 amount shall be rounded to the next highest one-thousand-dollar amount;

10 (5) Any alteration, renovation, or remodeling of a building if the
11 alteration, renovation, or remodeling does not affect architectural or
12 engineering safety features of the building;

13 (6) The teaching, including research and service, of architectural
14 subjects in a college or university offering a degree in architecture
15 accredited by the National Architectural Accrediting Board;

16 (7) The preparation of submissions to architects, building
17 officials, or other regulating authorities by the manufacturer, supplier,
18 or installer of any materials, assemblies, components, or equipment that
19 describe or illustrate the use of such items, the preparation of any
20 details or shop drawings required of the contractor by the terms of the
21 construction documents, or the management of construction contracts by
22 persons customarily engaged in contracting work;

23 (8) The preparation of technical submissions or the administration
24 of construction contracts by employees of a person or organization
25 lawfully engaged in the practice of architecture if such employees are
26 acting under the direct supervision of an architect;

27 (9) A public service provider or an organization who employs a
28 licensee performing professional services for itself;

29 (10) A nonresident who holds the certification issued by the
30 National Council of Architectural Registration Boards offering to render
31 the professional services involved in the practice of architecture. The

1 nonresident shall not perform any of the professional services involved
2 in the practice of architecture until licensed as provided in the
3 Engineers and Architects Regulation Act. The nonresident shall notify the
4 board in writing that (a) he or she holds a National Council of
5 Architectural Registration Boards certificate and is not currently
6 licensed in Nebraska but will be present in Nebraska for the purpose of
7 offering to render architectural services, (b) he or she will deliver a
8 copy of the notice to every potential client to whom the applicant offers
9 to render architectural services, and (c) he or she promises to apply
10 immediately to the board for licensure if selected as the architect for
11 the project;

12 (11) The practice by a qualified member of another legally
13 recognized profession who is otherwise licensed or certified by this
14 state or any political subdivision to perform services consistent with
15 the laws of this state, the training, and the code of ethics of the
16 respective profession, if such qualified member does not represent
17 himself or herself to be practicing architecture and does not represent
18 himself or herself to be an architect;

19 (12) Financial institutions making disbursements of funds in
20 connection with construction projects;

21 (13) Earthmoving and related work associated with soil and water
22 conservation practices performed on farmland or any land owned by a
23 political subdivision that is not subject to a permit from the Department
24 of Water, Energy, and Environment ~~Natural Resources~~ or for work related
25 to livestock waste facilities that are not subject to a permit by the
26 Department of Water, Energy, and Environment ~~Environment and Energy~~; and

27 (14) The work of employees and agents of a political subdivision or
28 a nonprofit entity organized for the purpose of furnishing electrical
29 service performing, in accordance with other requirements of law, their
30 customary duties in the administration and enforcement of codes, permit
31 programs, and land-use regulations and their customary duties in utility

1 and public works construction, operation, and maintenance.

2 **Sec. 462.** Section 81-3453, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-3453 The provisions of the Engineers and Architects Regulation
5 Act regulating the practice of engineering do not apply to the following
6 activities:

7 (1) The construction, remodeling, alteration, or renovation of a
8 detached single-family through four-family dwelling of less than five
9 thousand square feet above grade finished space. Any detached or attached
10 sheds, storage buildings, and garages incidental to the dwelling are not
11 included in the tabulation of finished space. Such exemption may be
12 increased by rule and regulation of the board adopted pursuant to the
13 Negotiated Rulemaking Act but shall not exceed the Type V, column B,
14 limitations set forth by the allowable height and building areas table in
15 the state building code adopted in section 71-6403;

16 (2) The construction, remodeling, alteration, or renovation of a
17 one-story commercial or industrial building or structure of less than
18 five thousand square feet above grade finished space which does not
19 exceed thirty feet in height unless such building or structure, or the
20 remodeling or repairing thereof, provides for the employment, housing, or
21 assembly of twenty or more persons. Any detached or attached sheds,
22 storage buildings, and garages incidental to the building or structure
23 are not included in the tabulation of finished space. Such exemption may
24 be increased by rule and regulation of the board adopted pursuant to the
25 Negotiated Rulemaking Act but shall not exceed the Type V, column B,
26 limitations set forth by the allowable height and building areas table in
27 the state building code adopted in section 71-6403;

28 (3) The construction, remodeling, alteration, or renovation of farm
29 buildings, including barns, silos, sheds, or housing for farm equipment
30 and machinery, livestock, poultry, or storage and if the structures are
31 designed to be occupied by no more than twenty persons. Such exemption

1 may be increased by rule and regulation of the board adopted pursuant to
2 the Negotiated Rulemaking Act but shall not exceed the Type V, column B,
3 limitations set forth by the allowable height and building areas table in
4 the state building code adopted in section 71-6403;

5 (4) Any public works project with contemplated expenditures for the
6 completed project that do not exceed one hundred thousand dollars. The
7 board shall adjust the dollar amount in this subdivision every fifth
8 year. The first such adjustment after August 27, 2011, shall be effective
9 on July 1, 2014. The adjusted amount shall be equal to the then current
10 amount adjusted by the cumulative percentage change in the Consumer Price
11 Index for All Urban Consumers published by the Federal Bureau of Labor
12 Statistics for the five-year period preceding the adjustment date. The
13 amount shall be rounded to the next highest one-thousand-dollar amount;

14 (5) Any alteration, renovation, or remodeling of a building if the
15 alteration, renovation, or remodeling does not affect architectural or
16 engineering safety features of the building;

17 (6) The teaching, including research and service, of engineering
18 subjects in a college or university offering an ABET-accredited
19 engineering curriculum of four years or more;

20 (7) A public service provider or an organization who employs a
21 licensee performing professional services for itself;

22 (8) The practice by a qualified member of another legally recognized
23 profession who is otherwise licensed or certified by this state or any
24 political subdivision to perform services consistent with the laws of
25 this state, the training, and the code of ethics of such profession, if
26 such qualified member does not represent himself or herself to be
27 practicing engineering and does not represent himself or herself to be a
28 professional engineer;

29 (9) The work of an employee or a subordinate of a person holding a
30 certificate of licensure or a temporary permit under the Engineers and
31 Architects Regulation Act if the work is done under the direct

1 supervision of a person holding a certificate of licensure or a temporary
2 permit under the act;

3 (10) Those services ordinarily performed by subordinates under
4 direct supervision of a professional engineer or those commonly
5 designated as locomotive, stationary, marine operating engineers, power
6 plant operating engineers, or manufacturers who supervise the operation
7 of or operate machinery or equipment or who supervise construction within
8 their own plant;

9 (11) Financial institutions making disbursements of funds in
10 connection with construction projects;

11 (12) Earthmoving and related work associated with soil and water
12 conservation practices performed on farmland or any land owned by a
13 political subdivision that is not subject to a permit from the Department
14 of Water, Energy, and Environment ~~Natural Resources~~ or for work related
15 to livestock waste facilities that are not subject to a permit by the
16 Department of Water, Energy, and Environment ~~Environment and Energy~~;

17 (13) The work of employees and agents of a political subdivision or
18 a nonprofit entity organized for the purpose of furnishing electrical
19 service performing, in accordance with other requirements of law, their
20 customary duties in the administration and enforcement of codes, permit
21 programs, and land-use regulations and their customary duties in utility
22 and public works construction, operation, and maintenance;

23 (14) Work performed exclusively in the exploration for and
24 development of energy resources and base, precious, and nonprecious
25 minerals, including sand, gravel, and aggregate, which does not have a
26 substantial impact upon public health, safety, and welfare, as determined
27 by the board, or require the submission of reports or documents to public
28 agencies;

29 (15) The construction of water wells as defined in section 46-1212,
30 the installation of pumps and pumping equipment into water wells, and the
31 decommissioning of water wells, unless such construction, installation,

1 or decommissioning is required by the owner thereof to be designed or
2 supervised by an engineer or unless legal requirements are imposed upon
3 the owner of a water well as a part of a public water supply;

4 (16) Work performed in the exploration, development, and production
5 of oil and gas or before the Nebraska Oil and Gas Conservation
6 Commission; and

7 (17) Siting, layout, construction, and reconstruction of a private
8 onsite wastewater treatment system with a maximum flow from the facility
9 of one thousand gallons of domestic wastewater per day if such system
10 meets all of the conditions required pursuant to the Private Onsite
11 Wastewater Treatment System Contractors Certification and System
12 Registration Act unless the siting, layout, construction, or
13 reconstruction by an engineer is required by the Department of Water,
14 Energy, and Environment ~~Environment and Energy~~, mandated by law or rules
15 and regulations imposed upon the owner of the system, or required by the
16 owner.

17 **Sec. 463.** Section 84-166, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 84-166 Pursuant to the proclamation of a vital resource emergency
20 issued as provided in section 84-164, the Governor by executive order
21 may:

22 (1) Regulate the operating hours of vital resource consuming
23 instrumentalities including state government, political subdivisions,
24 private institutions, and business facilities to the extent that the
25 regulation is not hazardous or detrimental to the health, safety, or
26 welfare of the people of this state;

27 (2) Establish a system for the distribution of the supply of energy
28 or vital resource;

29 (3) Curtail, regulate, or direct the public and private
30 transportation and use of the vital resource which is in short supply, to
31 the extent necessary, so long as such regulation is not hazardous or

1 detrimental to the health, safety, or welfare of the people of this
2 state;

3 (4) Delegate any administrative authority vested in him or her to
4 the Department of Water, Energy, and Environment ~~Environment and Energy~~
5 or any other state agency or its respective director; and

6 (5) Provide for the temporary transfer of directors, personnel, or
7 functions of state departments and agencies for the purpose of carrying
8 out any emergency measures taken pursuant to sections 84-162 to 84-167.

9 **Sec. 464.** Section 84-602.04, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 84-602.04 (1) The State Treasurer shall develop and maintain a
12 single, searchable website with information on state receipts,
13 expenditures of state funds, and contracts which is accessible by the
14 public at no cost to access as provided in this section. The website
15 shall be hosted on a server owned and operated by the State of Nebraska
16 or approved by the Chief Information Officer. The naming convention for
17 the website shall identify the website as a state government website. The
18 website shall not include the treasurer's name, the treasurer's image,
19 the treasurer's seal, or a welcome message.

20 (2)(a) The website established, developed, and maintained by the
21 State Treasurer pursuant to this section shall provide such information
22 as will document the sources of all state receipts and the expenditure of
23 state funds by all state entities.

24 (b) The State Treasurer shall, in appropriate detail, cause to be
25 published on the website:

26 (i) The identity, principal location, and amount of state receipts
27 received or expended by the State of Nebraska and all of its state
28 entities;

29 (ii) The funding or expending state entity;

30 (iii) The budget program source;

31 (iv) The amount, date, purpose, and recipient of all expenditures of

1 state funds; and

2 (v) Such other relevant information as will further the intent of
3 enhancing the transparency of state government financial operations to
4 its citizens and taxpayers. The website shall include data for fiscal
5 year 2008-09 and each fiscal year thereafter, except that for any state
6 entity that becomes subject to this section due to the changes made by
7 Laws 2016, LB851, the website shall include data for such state entity
8 for fiscal year 2016-17 and each fiscal year thereafter.

9 (3) The data shall be available on the website no later than thirty
10 days after the end of the preceding fiscal year.

11 (4)(a) The website described in this section shall include a link to
12 the website of the Department of Administrative Services. The
13 department's website shall contain:

14 (i) A database that includes a copy of each active contract that is
15 a basis for an expenditure of state funds, including any amendment to
16 such contract and any document incorporated by reference in such
17 contract. For purposes of this subdivision, amendment means an agreement
18 to modify a contract which has been reduced to writing and signed by each
19 party to the contract, an agreement to extend the duration of a contract,
20 or an agreement to renew a contract. The database shall be accessible by
21 the public and searchable by vendor, by state entity, and by dollar
22 amount. All state entities shall provide to the Department of
23 Administrative Services, in electronic form, copies of such contracts for
24 inclusion in the database beginning with contracts that are active on and
25 after January 1, 2014, except that for any state entity that becomes
26 subject to this section due to the changes made by Laws 2016, LB851, such
27 state entity shall provide copies of such contracts for inclusion in the
28 database beginning with contracts that are active on and after January 1,
29 2017; and

30 (ii) A database that includes copies of all expired contracts which
31 were previously included in the database described in subdivision (4)(a)

1 (i) of this section and which have not been disposed of pursuant to
2 policies and procedures adopted under subdivision (4)(e) of this section.
3 The database required under this subdivision shall be accessible by the
4 public and searchable by vendor, by state entity, and by dollar amount.

5 (b) The following shall be redacted or withheld from any contract
6 before such contract is included in a database pursuant to subdivision
7 (4)(a) of this section:

8 (i) The social security number or federal tax identification number
9 of any individual or business;

10 (ii) Protected health information as such term is defined under the
11 federal Health Insurance Portability and Accountability Act of 1996, as
12 such act existed on January 1, 2013;

13 (iii) Any information which may be withheld from the public under
14 section 84-712.05; or

15 (iv) Any information that is confidential under state or federal
16 law, rule, or regulation.

17 (c) The following contracts shall be exempt from the requirements of
18 subdivision (4)(a) of this section:

19 (i) Contracts entered into by the Department of Health and Human
20 Services that are letters of agreement for the purpose of providing
21 specific services to a specifically named individual and his or her
22 family;

23 (ii) Contracts entered into by the University of Nebraska or any of
24 the Nebraska state colleges for the purpose of providing specific
25 services or financial assistance to a specifically named individual and
26 his or her family;

27 (iii) Contracts entered into by the Department of Veterans' Affairs
28 under section 80-401 or 80-403 for the purpose of providing aid to a
29 specifically named veteran and his or her family;

30 (iv) Contracts entered into by the Department of Water, Energy, and
31 Environment ~~Environment and Energy~~ for the purpose of providing financing

1 from the Dollar and Energy Saving Loan program;

2 (v) Contracts entered into by the State Department of Education
3 under sections 79-11,121 to 79-11,132 for the purpose of providing
4 specific goods, services, or financial assistance on behalf of or to a
5 specifically named individual;

6 (vi) Contracts entered into by the Commission for the Blind and
7 Visually Impaired under the Commission for the Blind and Visually
8 Impaired Act for the purpose of providing specific goods, services, or
9 financial assistance on behalf of or to a specifically named individual;

10 (vii) Contracts of employment for employees of any state entity. The
11 exemption provided in this subdivision shall not apply to contracts
12 entered into by any state entity to obtain the services of an independent
13 contractor; and

14 (viii) Contracts entered into by the Nebraska Investment Finance
15 Authority for the purpose of providing a specific service or financial
16 assistance, including, but not limited to, a grant or loan, to a
17 specifically named individual and his or her family.

18 (d) No state entity shall structure a contract to avoid any of the
19 requirements of subdivision (4)(a) of this section.

20 (e) The Department of Administrative Services shall adopt policies
21 and procedures regarding the creation, maintenance, and disposal of
22 records pursuant to section 84-1212.02 for the contracts contained in the
23 databases required under this section and the process by which state
24 entities provide copies of the contracts required under this section.

25 (5) All state entities shall provide to the State Treasurer, at such
26 times and in such form as designated by the State Treasurer, such
27 information as is necessary to accomplish the purposes of the Taxpayer
28 Transparency Act.

29 (6) Nothing in this section requires the disclosure of information
30 which is considered confidential under state or federal law or is not a
31 public record under section 84-712.05.

1 **Sec. 465.** Section 85-162.03, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 85-162.03 In carrying out sections 85-162.01 to 85-162.05, the State
4 Forester shall cooperate with (1) any agency or bureau of the United
5 States, including, but not limited to, the Forest Service, the Natural
6 Resources Conservation Service, the Farm Service Agency, the Bureau of
7 Reclamation, the Corps of Engineers, and the Bureau of Outdoor
8 Recreation, (2) any agency or bureau of the State of Nebraska or its
9 political subdivisions, including, but not limited to, the Game and Parks
10 Commission, the Department of Water, Energy, and Environment ~~Natural~~
11 ~~Resources~~, the State Fire Marshal, the Department of Agriculture, the
12 Adjutant General, the Department of Economic Development, and the
13 Conservation and Survey Division of the University of Nebraska, and (3)
14 any incorporated municipality of the state or any political subdivision
15 of the state, including, but not limited to, rural fire districts,
16 natural resources districts, and weed control districts.

17 **Sec. 466.** Section 86-570, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 86-570 (1) The Geographic Information Systems Council is hereby
20 created and shall consist of:

21 (a) The Chief Information Officer or his or her designee, the chief
22 executive officer or designee of the Department of Health and Human
23 Services, and the director or designee of the Department of Water,
24 Energy, and Environment ~~Environment and Energy~~, the Conservation and
25 Survey Division of the University of Nebraska, ~~the Department of Natural~~
26 ~~Resources~~, and the Governor's Policy Research Office;

27 (b) The Director-State Engineer or designee;

28 (c) The State Surveyor or designee;

29 (d) The Clerk of the Legislature or designee;

30 (e) The secretary of the Game and Parks Commission or designee;

31 (f) The Property Tax Administrator or designee;

1 (g) One representative of federal agencies appointed by the
2 Governor;

3 (h) One representative of the natural resources districts nominated
4 by the Nebraska Association of Resources Districts and appointed by the
5 Governor;

6 (i) One representative of the public power districts appointed by
7 the Governor;

8 (j) Two representatives of the counties nominated by the Nebraska
9 Association of County Officials and appointed by the Governor;

10 (k) One representative of the municipalities nominated by the League
11 of Nebraska Municipalities and appointed by the Governor;

12 (l) Two members at large appointed by the Governor; and

13 (m) Such other members as nominated by the Nebraska Information
14 Technology Commission and appointed by the Governor.

15 (2) The appointed members shall serve terms as determined by the
16 Nebraska Information Technology Commission.

17 (3) The members shall be reimbursed for expenses as provided in
18 sections 81-1174 to 81-1177.

19 **Sec. 467.** Section 88-550, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 88-550 The Department of Water, Energy, and Environment ~~Environment~~
22 ~~and Energy~~ and the commission shall, during the course of their regular
23 inspections required by law, inspect warehouses for conditions which are
24 or may be conducive to grain dust explosions. Such conditions shall
25 include, but not be limited to, the presence at the warehouse of
26 excessive grain dust, faulty equipment, or any other condition which
27 could reasonably lead to an explosion if not corrected. The department
28 and commission shall report any such condition to the State Fire Marshal
29 as soon as practicable after each inspection.

30 **Sec. 468.** This act becomes operative on July 1, 2025.

31 **Sec. 469.** Original sections 2-408, 2-969, 2-1501, 2-1504, 2-1508,

1 2-1509, 2-1510, 2-1511, 2-1588, 2-1592, 2-1593, 2-1594, 2-1595, 2-2626,
2 2-3202, 2-3225, 2-3241, 2-3254, 2-3279, 2-3280, 2-4602, 2-4603, 2-4604,
3 2-4901, 13-1701, 13-2008, 13-2009, 13-2042.01, 16-6,106, 25-1062.01,
4 25-1064, 25-1920, 25-2159, 25-2160, 31-415, 31-509, 31-515, 31-516,
5 31-1003, 31-1015, 37-707, 37-708.01, 46-106, 46-122, 46-190, 46-192,
6 46-193, 46-1,155, 46-1,157, 46-205, 46-226, 46-226.01, 46-226.02,
7 46-226.03, 46-227, 46-229, 46-229.01, 46-229.02, 46-229.03, 46-229.04,
8 46-229.05, 46-229.06, 46-230, 46-231, 46-233, 46-233.01, 46-234, 46-235,
9 46-235.01, 46-235.02, 46-235.03, 46-235.04, 46-236, 46-237, 46-238,
10 46-240.01, 46-241, 46-242, 46-250, 46-252, 46-254, 46-256, 46-258,
11 46-261, 46-263.02, 46-273, 46-286, 46-288, 46-289, 46-290, 46-291,
12 46-292, 46-293, 46-294, 46-294.01, 46-294.02, 46-294.05, 46-297,
13 46-2,101, 46-2,104, 46-2,105, 46-2,108, 46-2,109, 46-2,110, 46-2,111,
14 46-2,112, 46-2,113, 46-2,114, 46-2,115, 46-2,116, 46-2,116.01,
15 46-2,116.02, 46-2,117, 46-2,118, 46-2,119, 46-2,120, 46-2,122, 46-2,123,
16 46-2,124, 46-2,125, 46-2,128, 46-2,130, 46-2,139, 46-302, 46-303, 46-304,
17 46-305, 46-312, 46-315, 46-514, 46-515, 46-516, 46-517, 46-518, 46-519,
18 46-521, 46-522, 46-524, 46-525, 46-526, 46-527, 46-528, 46-529, 46-530,
19 46-536, 46-541, 46-583, 46-601.01, 46-602, 46-604, 46-606, 46-609,
20 46-610, 46-613.01, 46-613.02, 46-637, 46-638, 46-639, 46-640, 46-641,
21 46-642, 46-644, 46-645, 46-648, 46-649, 46-653, 46-654, 46-655.01,
22 46-676, 46-677, 46-678, 46-679, 46-680, 46-682, 46-683, 46-683.01,
23 46-684, 46-685, 46-686, 46-686.01, 46-688, 46-691, 46-703, 46-704,
24 46-705, 46-706, 46-707, 46-709, 46-711, 46-712, 46-713, 46-714, 46-715,
25 46-716, 46-717, 46-718, 46-719, 46-720, 46-721, 46-722, 46-723, 46-724,
26 46-725, 46-726, 46-728, 46-729, 46-730, 46-731, 46-732, 46-733, 46-736,
27 46-737, 46-739, 46-740, 46-742, 46-743, 46-744, 46-745, 46-746, 46-748,
28 46-749, 46-750, 46-751, 46-753, 46-754, 46-755, 46-801, 46-802, 46-803,
29 46-804, 46-1001, 46-1004, 46-1005, 46-1011, 46-1023, 46-1102, 46-1108,
30 46-1109, 46-1204.01, 46-1207, 46-1217, 46-1222, 46-1224, 46-1235,
31 46-1301, 46-1304, 46-1403, 46-1404, 46-1502, 46-1605, 46-1606, 46-1607,

1 46-1611, 46-1613, 46-1614, 46-1636, 46-1637, 46-1639, 46-1640, 46-1641,
2 46-1642, 46-1645, 46-1646, 46-1647, 46-1648, 46-1649, 46-1650, 46-1651,
3 46-1652, 46-1653, 46-1654, 46-1655, 46-1656, 46-1657, 46-1658, 46-1659,
4 46-1660, 46-1661, 46-1662, 46-1663, 46-1664, 46-1665, 46-1666, 46-1667,
5 46-1668, 46-1669, 46-1670, 54-2417, 54-2421, 54-2429, 54-2430, 57-1407,
6 57-1502, 57-1609, 57-1614, 57-1619, 58-202, 60-6,363, 60-6,364, 60-6,367,
7 60-6,368, 61-201, 61-202, 61-203, 61-204, 61-205, 61-207, 61-208, 61-209,
8 61-210, 61-211, 61-215, 61-216, 70-669, 71-3508.04, 71-3524, 76-2,124,
9 77-3,112, 81-101, 81-102, 81-2,294, 81-502, 81-829.05, 81-1108.55,
10 81-1316, 81-1502, 81-1503, 81-1537, 81-1540, 81-1561, 81-15,118,
11 81-15,120, 81-15,124, 81-15,124.04, 81-15,124.05, 81-15,125, 81-15,126,
12 81-15,127, 81-15,129, 81-15,149, 81-15,159, 81-15,159.01, 81-15,159.02,
13 81-15,166, 81-15,170, 81-15,175, 81-15,177, 81-15,178, 81-15,179,
14 81-15,180, 81-15,183, 81-15,184, 81-15,185, 81-15,185.01, 81-15,185.02,
15 81-15,185.03, 81-15,186, 81-15,213, 81-15,229, 81-15,235, 81-15,242,
16 81-15,243, 81-15,260, 81-15,262, 81-15,263, 81-15,292, 81-15,299,
17 81-15,300, 81-15,302, 81-15,312, 81-1604, 81-1606, 81-1607, 81-1609,
18 81-1611, 81-1612, 81-1625, 81-1635, 81-1636, 81-1637, 81-1638, 81-1640,
19 81-3449, 81-3453, 84-166, 84-602.04, 85-162.03, 86-570, and 88-550,
20 Reissue Revised Statutes of Nebraska, and sections 2-414, 2-415, 2-416,
21 2-1507, 19-1201, 19-1202, 19-1203, 19-1204, 19-5706, 31-508, 37-806,
22 37-814, 46-1,164, 46-1,165, 46-296, 49-506, 49-617, 54-2940, 58-221,
23 61-206, 61-218, 61-222, 61-224, 61-226, 61-227, 61-228, 61-303, 61-305,
24 61-401, 61-403, 61-404, 61-405, 61-502, 61-520, 66-203, 66-204, 66-301,
25 66-302, 66-303, 66-304, 66-489.02, 66-1004, 66-1009, 66-1105, 66-1344,
26 66-1504, 66-1518, 66-1529.02, 66-2001, 66-2201, 66-2216, 69-2011,
27 69-2502, 70-1003, 71-2433, 71-3503, 71-5301, 71-5316, 71-5328, 71-6406,
28 72-804, 72-805, 76-2602, 76-2608, 77-27,150, 77-27,151, 77-27,152,
29 77-27,153, 77-27,154, 77-27,187.01, 77-27,236, and 77-3442, Revised
30 Statutes Cumulative Supplement, 2024, are repealed.

31 **Sec. 470.** The following sections are outright repealed: Sections

1 2-1596, 2-1597, 2-1598, 2-1599, 2-15,100, 2-15,101, 2-15,103, 2-15,105,
2 2-15,106, 2-3277, 2-3278, 2-4201, 2-4202, 2-4203, 2-4204, 2-4205, 2-4206,
3 2-4207, 2-4208, 2-4209, 2-4210, 2-4211, 2-4212, 2-4213, 2-4214, 2-4215,
4 2-4216, 2-4217, 2-4218, 2-4219, 2-4220, 2-4221, 2-4222, 2-4223, 2-4224,
5 2-4225, 2-4226, 2-4227, 2-4228, 2-4229, 2-4230, 2-4231, 2-4232, 2-4233,
6 2-4234, 2-4235, 2-4236, 2-4237, 2-4238, 2-4239, 2-4240, 2-4241, 2-4242,
7 2-4243, 2-4244, 2-4245, 2-4246, 46-199, 71-3508.02, 81-15,254, 81-15,255,
8 81-15,256, 81-15,257, 81-15,258, 81-15,259, 81-15,293, 81-15,294,
9 81-15,295, 81-15,296, 81-15,297, and 81-15,298, Reissue Revised Statutes
10 of Nebraska.

11 **Sec. 471.** Since an emergency exists, this act takes effect when
12 passed and approved according to law.