LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 368

Introduced by Hughes, 44.
Read first time January 16, 2019
Committee: Natural Resources

A BILL FOR AN ACT relating to water; to amend sections 2-32, 115, 46-229.04, 46-703, 46-706, 46-713, 46-714, 46-716, 46-718, 46-720, 46-740, 61-218, and 77-3442, Reissue Revised Statutes of Nebraska, and sections 2-969, 2-3225, 46-290, 46-294, 46-715, 46-753, 46-755, and 81-15, 175, Revised Statutes Cumulative Supplement, 2018; to eliminate overappropriated river basins, subbasins, and reaches as prescribed; to change provisions relating to integrated management plans; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 2-969, Revised Statutes Cumulative Supplement, 2018, is amended to read:

2-969 The Riparian Vegetation Management Task Force is created. The Governor shall appoint the members of the task force. The members shall include one surface water project representative from each river basin that has ever been deemed to be fully appropriated pursuant to subsection (4) of section 46-713 or determined to be fully appropriated pursuant to section 46-714 or 46-720 or is designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources; one surface water project representative from a river basin that has not been deemed to be fully appropriated pursuant to subsection (4) of section 46-713 or determined to be fully appropriated pursuant to section 46-714 or 46-720 or is not designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources; one representative from the Department of Agriculture, the Department of Environmental Quality, the Department of Natural Resources, the office of the State Forester, the Game and Parks Commission, and the University of Nebraska; three representatives selected from a list of at least ten individuals nominated by the Nebraska Association of Resources Districts; two representatives selected from a list of at least five individuals nominated by the Nebraska Weed Control Association; one riparian landowner from each of the state's congressional districts; and one representative from the Nebraska Environmental Trust. In addition to such members, any member of the Legislature may serve as a nonvoting, ex officio member of the task force at his or her option. For administrative and budgetary purposes only, the task force shall be housed within the Department of Agriculture.

Sec. 2. Section 2-3225, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

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

(c) In addition to the power and authority granted in subdivisions (1)(a) and (b) of this section, each district located in a river basin, subbasin, or reach that has been deemed to be fully appropriated pursuant to subsection (4) of section 46-713 or determined to be fully appropriated pursuant to section 46-714 or designated overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which its restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed its restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

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

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

Sec. 3. Section 2-32,115, Reissue Revised Statutes of Nebraska, is
amended to read:

2-32,115 (1) Whenever a natural resources district imposes an
immediate temporary stay for one hundred eighty days in accordance with
subsection (2) of section 46-707, the department may place an immediate
temporary stay without prior notice or hearing on the issuance of new
surface water natural-flow appropriations for one hundred eighty days in
the area, river basin, subbasin, or reach of the same area included in
the natural resources district's temporary stay, except that the
department shall not place a temporary stay on new surface water natural-
flow appropriations that are necessary to alleviate an emergency
situation involving the provision of water for human consumption or
public health or safety.

(2) The department shall hold at least one public hearing on the
matter within the affected area within the period of the one-hundred-eighty-day temporary stay, with the notice of hearing given as provided in section 46-743, prior to making a determination as to imposing a stay or conditions in accordance with section 46-234 and subsection (8) (11) of section 46-714. The department may hold the public hearing in conjunction with the natural resources district's hearing.

(3) Within forty-five days after a hearing pursuant to this section, the department shall decide whether to exempt from the immediate temporary stay the issuance of appropriations for which applications were pending prior to the declaration commencing the stay but for which the application was not approved prior to such date, to continue the stay, or to allow the issuance of new surface water appropriations.

Sec. 4. Section 46-229.04, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Sufficient cause for nonuse shall be deemed to exist for up to thirty consecutive years if such nonuse was caused by the unavailability of water for that use. For a river basin, subbasin, or reach that has
been deemed to be fully appropriated designated as overappropriated pursuant to subsection (4) of section 46-713 or determined by the department to be fully appropriated pursuant to section 46-714, the period of time within which sufficient cause for nonuse because of the unavailability of water may be deemed to exist may be extended beyond thirty years by the department upon petition therefor by the owner of the appropriation if the department determines that an integrated management plan being implemented in the river basin, subbasin, or reach involved is likely to result in restoration of a usable water supply for the appropriation.

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) When an appropriation is held in the name of an irrigation district, a reclamation district, a public power and irrigation district, a mutual irrigation company or canal company, or the United States Bureau of Reclamation and the director determines that water under that appropriation has not been used on a specific parcel of land for more than five years and that no sufficient cause for such nonuse exists, the right to use water under that appropriation on that parcel shall be terminated and notice of the termination shall be posted on the department's web site and shall be given in the manner provided in subsection (2), (3), or (4) of section 46-229.03. The district or company holding such right shall have five years after the determination, or five years after an order of cancellation issued by the department following the filing of a voluntary relinquishment of the water appropriation that
has been signed by the landowner and the appropriator of record, to
assign the right to use that portion of the appropriation to other land
within the district or the area served by the company, to file an
application for a transfer in accordance with section 46-290, or to
transfer the right in accordance with sections 46-2,127 to 46-2,129. The
department shall issue its order of cancellation within sixty days after
receipt of the voluntary relinquishment unless the relinquishment is
conditioned by the landowner upon an action of a governmental agency. If
the relinquishment contains such a provision, the department shall issue
its order of cancellation within sixty days after receipt of notification
that such action has been completed. The department shall be notified of
any such assignment within thirty days after such assignment. If the
district or company does not assign the right to use that portion of the
appropriation to other land, does not file an application for a transfer
within the five-year period, or does not notify the department within
thirty days after any such assignment, that portion of the appropriation
shall be canceled without further proceedings by the department and the
district or company involved shall be so notified by the department.
During the time within which assignment of a portion of an appropriation
is pending, the allowable diversion rate for the appropriation involved
shall be reduced, as necessary, to avoid inconsistency with the rate
allowed by section 46-231 or with any greater rate previously approved
for such appropriation by the director in accordance with section
46-229.06.

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

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

Sec. 5. Section 46-290, Revised Statutes Cumulative Supplement, 2018, is amended to read:

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

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

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

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

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

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

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

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

(e) An appropriation for the manufacturing of hydropower at a facility located on a natural stream channel may be permanently changed in full to an instream basin-management appropriation to be held jointly by the Game and Parks Commission and any natural resources district or combination of natural resources districts. The beneficial use of such change is to maintain the streamflow for fish, wildlife, and recreation that was available from the manufacturing of hydropower prior to the change. Such changed appropriation may also be utilized by the owners of the appropriation to assist in the implementation of an approved integrated management plan or plans developed pursuant to sections 46-714 to 46-718 for each natural resources district within the river basin. Any such change under this section shall be subject to review under sections 46-229 to 46-229.06 to ensure that the beneficial uses of the change of use are still being achieved; and
(f) The incidental underground water storage portion, whether or not previously quantified, of a natural-flow or storage-use appropriation may be separated from the direct-use portion of the appropriation and may be changed to a natural-flow or storage-use appropriation for intentional underground water storage at the same location if the historic consumptive use of the direct-use portion of the appropriation is transferred to another location or is terminated, but such a separation and change may be approved only if, after the separation and change, (i) the total permissible diversion under the appropriation will not increase, (ii) the projected consequences of the separation and change are consistent with the provisions of any integrated management plan adopted in accordance with section 46-718 or 46-719 for the geographic area involved, and (iii) if the location of the proposed intentional underground water storage is in a river basin, subbasin, or reach deemed to be fully appropriated designated as overappropriated in accordance with subsection (4) of section 46-713, the integrated management plan for that river basin, subbasin, or reach has gone into effect, and that plan requires that the amount of the intentionally stored water that is consumed after the change will be no greater than the amount of the incidentally stored water that was consumed prior to the change. Approval of a separation and change pursuant to this subdivision (f) shall not exempt any consumptive use associated with the incidental recharge right from any reduction in water use required by an integrated management plan for a river basin, subbasin, or reach deemed to be fully appropriated designated as overappropriated in accordance with subsection (4) of section 46-713.

Whenever any change in type of appropriation is approved pursuant to this subsection and as long as that change remains in effect, the appropriation shall be subject to the statutes, rules, and regulations that apply to the type of appropriation to which the change has been made.
(4) The Legislature finds that induced ground water recharge appropriations issued pursuant to sections 46-233 and 46-235 and instream appropriations issued pursuant to section 46-2,115 are specific to the location identified in the appropriation. Neither type of appropriation shall be transferred to a different location, changed to a different type of appropriation, or changed to permit a different purpose of use.

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

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

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

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

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

Sec. 6. Section 46-294, Revised Statutes Cumulative Supplement, 2018, is amended to read:

46-294 (1) Except for applications approved in accordance with subsection (1) of section 46-291, the Director of Natural Resources shall approve an application filed pursuant to section 46-290 only if the application and the proposed transfer or change meet the following requirements:
(a) The application is complete and all other information requested pursuant to section 46-293 has been provided;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 7. Section 46-703, Reissue Revised Statutes of Nebraska, is
amended to read:

46-703 The Legislature further finds:

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

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

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

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

(5) The Department of Natural Resources is responsible for regulation of surface water resources and local surface water project sponsors are responsible for much of the structured irrigation utilizing
surface water supplies, and these entities should be responsible for
regulation of surface water related activities which contribute to
cflicts between ground water users and surface water appropriators or
to water supply shortages in fully appropriated or overappropriated river
basins, subbasins, or reaches;

(6) All involved natural resources districts, the department, and
surface water project sponsors should cooperate and collaborate on the
identification and implementation of management solutions to conflicts
between ground water users and surface water appropriators or to water
supply shortages in fully appropriated or overappropriated river basins,
subbasins, and reaches; and

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

Sec. 8. Section 46-706, Reissue Revised Statutes of Nebraska, is
amended to read:

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

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

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

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

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

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

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

(7) Management area means any area so designated by a district pursuant to section 46-712 or 46-718, by the Director of Environmental Quality pursuant to section 46-725, or by the Interrelated Water Review Board pursuant to section 46-719. Management area includes a control area or a special ground water quality protection area designated prior to July 19, 1996;

(8) Management plan means a ground water management plan developed by a district and submitted to the Director of Natural Resources for review pursuant to section 46-711;

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

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

(11) Acre-inch means the amount of water necessary to cover an acre of land one inch deep;
(12) Subirrigation or subirrigated land means the natural occurrence of a ground water table within the root zone of agricultural vegetation, not exceeding ten feet below the surface of the ground;

(13) Best management practices means schedules of activities, maintenance procedures, and other management practices utilized for purposes of irrigation efficiency, to conserve or effect a savings of ground water, or to prevent or reduce present and future contamination of ground water. Best management practices relating to contamination of ground water may include, but not be limited to, irrigation scheduling, proper rate and timing of fertilizer application, and other fertilizer and pesticide management programs. In determining the rate of fertilizer application, the district shall consult with the University of Nebraska or a certified crop advisor certified by the American Society of Agronomy;

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

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

(16) Rotation means a recurring series of use and nonuse of irrigation wells on an hourly, daily, weekly, monthly, or yearly basis;

(17) Water well has the same meaning as in section 46-601.01;

(18) Surface water project sponsor means an irrigation district created pursuant to Chapter 46, article 1, a reclamation district created
pursuant to Chapter 46, article 5, or a public power and irrigation
district created pursuant to Chapter 70, article 6;

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

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

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

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

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

(24) Historic consumptive use means the amount of water that has
previously been consumed under appropriate and reasonably efficient
practices to accomplish without waste the purposes for which the
appropriation or other legally permitted use was lawfully made;

(25) Monitoring well means a water well that is designed and
constructed to provide ongoing hydrologic or water quality information
and is not intended for consumptive use;
(26) Order, except as otherwise specifically provided, includes any order required by the Nebraska Ground Water Management and Protection Act, by rule or regulation, or by a decision adopted by a district by vote of the board of directors of the district taken at any regularly scheduled or specially scheduled meeting of the board;

(27) Overall difference between the current and fully appropriated levels of development means the extent to which existing uses of hydrologically connected surface water and ground water and conservation activities result in the water supply available for purposes identified in subsection (3) of section 46-713 to be less than the water supply available if the river basin, subbasin, or reach had been determined to be fully appropriated in accordance with section 46-714;

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

(29) Variance means (a) an approval to deviate from a restriction imposed under subsection (1) or (2), (8), or (9) of section 46-714 or (b) the approval to act in a manner contrary to existing rules or regulations from a governing body whose rule or regulation is otherwise applicable;

(30) Certified irrigated acres means the number of acres or portion of an acre that a natural resources district has approved for irrigation from ground water in accordance with law and with rules adopted by the district; and

(31) Certified water uses means beneficial uses of ground water for purposes other than irrigation identified by a district pursuant to rules adopted by the district.

Sec. 9. Section 46-713, Reissue Revised Statutes of Nebraska, is amended to read:

46-713 (1)(a) By January 1 of each year beginning in 2006 and except as otherwise provided in this section and section 46-720, the Department of Natural Resources shall complete an evaluation of the expected long-
term availability of hydrologically connected water supplies for both
existing and new surface water uses and existing and new ground water
uses in each of the state's river basins and shall issue a report that
describes the results of the evaluation. For purposes of the evaluation
and the report, a river basin may be divided into two or more subbasins
or reaches. A river basin, subbasin, or reach for which an integrated
management plan has been or is being developed pursuant to sections
46-715 to 46-717 or pursuant to section 46-719 shall not be evaluated
unless it is being reevaluated as provided in subsection (2) of this
section. For each river basin, subbasin, or reach evaluated, the report
shall describe (i) the nature and extent of use of both surface water and
ground water in each river basin, subbasin, or reach, (ii) the geographic
area within which the department preliminarily considers surface water
and ground water to be hydrologically connected and the criteria used for
that determination, and (iii) the extent to which the then-current uses
affect available near-term and long-term water supplies. River basins,
subbasins, and reaches designated as overappropriated in accordance with
subsection (4) of this section shall not be evaluated by the department.
The department is not required to perform an annual evaluation for a
river basin, subbasin, or reach during the four years following a status
change in such river basin, subbasin, or reach under subsection (9) (12)
of section 46-714.

(b) Based on the information reviewed in the evaluation process, the
department shall arrive at a preliminary conclusion for each river basin, subbasin, and reach evaluated as to whether such river basin, subbasin, or reach presently is fully appropriated without the initiation of additional uses. The department shall also determine if and how such preliminary conclusion would change if no additional legal constraints were imposed on future development of hydrologically connected surface water and ground water and reasonable projections are made about the extent and location of future development in such river basin, subbasin,
or reach.

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

(d) In preparing the report, the department shall rely on the best scientific data, information, and methodologies readily available to ensure that the conclusions and results contained in the report are reliable. In its report, the department shall provide sufficient documentation to allow these data, information, methodologies, and conclusions to be independently replicated and assessed. Upon request by the department, state agencies, natural resources districts, irrigation districts, reclamation districts, public power and irrigation districts, mutual irrigation companies, canal companies, municipalities, and other water users and stakeholders shall provide relevant data and information in their possession. The Department of Natural Resources shall specify by rule and regulation the types of scientific data and other information that will be considered for making the preliminary determinations required by this section.

(2)(a) The department shall complete a reevaluation of a river basin, subbasin, or reach for which an integrated management plan has been or is being prepared if the department has reason to believe that a reevaluation might lead to a different determination about whether such river basin, subbasin, or reach is fully appropriated—or overappropriated. A decision to reevaluate may be reached by the department on its own or in response to a petition filed with the department by any interested person. To be considered sufficient to
justifies a reevaluation, a petition shall be accompanied by supporting information showing that (i) new scientific data or other information relevant to the determination of whether the river basin, subbasin, or reach is fully appropriated or overappropriated has become available since the last evaluation of such river basin, subbasin, or reach, (ii) the department relied on incorrect or incomplete information when the river basin, subbasin, or reach was last evaluated, or (iii) the department erred in its interpretation or application of the information available when the river basin, subbasin, or reach was last evaluated. If a petition determined by the department to be sufficient is filed before July 1 of any year, the reevaluation of the river basin, subbasin, or reach involved shall be included in the next annual report prepared in accordance with subsection (1) of this section. If any such petition is filed on or after July 1 of any year, the department may defer the reevaluation of the river basin, subbasin, or reach involved until the second annual report after such filing.

(b) If the reevaluation results in a different determination by the department, then (i) the department shall notify, by certified mail, the affected natural resources districts and any irrigation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that relies on water from the affected river basin, subbasin, or reach of the preliminary change in the determination and (ii) the department shall hold one or more public hearings not more than ninety days after the publication of the notice required in subdivision (b)(i) of this subsection. Notice of the hearings shall be provided in the same manner as the notice required in subsection (1) of section 46-714. Any interested person may appear at the hearing and present written or oral testimony and evidence concerning the appropriation status of the river basin, subbasin, or reach.

(c) Within thirty days after the final hearing under subdivision (b) of this subsection, the department shall notify the appropriate natural
resources districts of the department's final determination with respect
to the appropriation status of the river basin, subbasin, or reach.

(3) A river basin, subbasin, or reach shall be deemed fully
appropriated if the department determines based upon its evaluation
conducted pursuant to subsection (1) of this section and information
presented at the hearing pursuant to subsection (4) of section 46-714
that then-current uses of hydrologically connected surface water and
ground water in the river basin, subbasin, or reach cause or will in the
reasonably foreseeable future cause (a) the surface water supply to be
insufficient to sustain over the long term the beneficial or useful
purposes for which existing natural-flow or storage appropriations were
granted and the beneficial or useful purposes for which, at the time of
approval, any existing instream appropriation was granted, (b) the
streamflow to be insufficient to sustain over the long term the
beneficial uses from wells constructed in aquifers dependent on recharge
from the river or stream involved, or (c) reduction in the flow of a
river or stream sufficient to cause noncompliance by Nebraska with an
interstate compact or decree, other formal state contract or agreement,
or applicable state or federal laws.

(4)(a) A river basin, subbasin, or reach that was shall be
deemed overappropriated prior to the effective date of this act shall be
deemed fully appropriated on and after such date if, on July 16, 2004,
the river basin, subbasin, or reach is subject to an interstate
cooperative agreement among three or more states and if, prior to such
date, the department has declared a moratorium on the issuance of new
surface water appropriations in such river basin, subbasin, or reach and
has requested each natural resources district with jurisdiction in the
affected area in such river basin, subbasin, or reach either (i) to close
or to continue in effect a previously adopted closure of all or part of
such river basin, subbasin, or reach to the issuance of additional water
well permits in accordance with subdivision (1)(k) of section 46-656.25
as such section existed prior to July 16, 2004, or (ii) to temporarily suspend or to continue in effect a temporary suspension, previously adopted pursuant to section 46-656.28 as such section existed prior to July 16, 2004, on the drilling of new water wells in all or part of such river basin, subbasin, or reach.

(b) Within sixty days after July 16, 2004, the department shall designate which river basins, subbasins, or reaches are overappropriated. The designation shall include a description of the geographic area within which the department has determined that surface water and ground water are hydrologically connected and the criteria used to make such determination.

Sec. 10. Section 46-714, Reissue Revised Statutes of Nebraska, is amended to read:

46-714 (1) Whenever the Department of Natural Resources makes a preliminary determination that a river basin, subbasin, or reach not previously designated as overappropriated and not previously determined to be fully appropriated has become fully appropriated, the department shall place an immediate stay on the issuance of any new natural-flow, storage, or storage-use appropriations in such river basin, subbasin, or reach. The department shall also provide prompt notice of such preliminary determination to all licensed water well contractors in the state and to each natural resources district that encompasses any of the geographic area involved. Such notice to natural resources districts shall be by certified mail. The notice shall be addressed to the manager of the natural resources district or his or her designee and shall include the signature of the Director of Natural Resources. Immediately upon receipt of such notice by the natural resources district, there shall be a stay on issuance of water well construction permits in the geographic area preliminarily determined by the department to include hydrologically connected surface water and ground water in such river basin, subbasin, or reach. The department shall also notify the public of
the preliminary determination that the river basin, subbasin, or reach is fully appropriated and of the affected geographic area. Such notice shall be provided by publication once each week for three consecutive weeks in at least one newspaper of statewide circulation and in such other newspaper or newspapers as are deemed appropriate by the department to provide general circulation in the river basin, subbasin, or reach.

(2) If the department preliminarily determines a river basin, subbasin, or reach to be fully appropriated and has identified the existence of hydrologically connected surface water and ground water in such river basin, subbasin, or reach, stays shall also be imposed:

(a) On the construction of any new water well in the area covered by the determination unless a permit with conditions imposed by the natural resources district has been issued prior to the determination. Such conditions shall meet the objectives of subsection (4) of section 46-715 and may include, but are not limited to, conditions in accordance with subsection (6) of section 46-739. Any well constructed pursuant to such permit shall be completed in accordance with section 46-738; and

(b) On the use of an existing water well or an existing surface water appropriation in the affected area to increase the number of acres historically irrigated.

Such additional stays shall begin ten days after the first publication, in a newspaper of statewide circulation, of the notice of the preliminary determination that the river basin, subbasin, or reach is fully appropriated.

(3) Exceptions to the stays imposed pursuant to subsection (1), (2), (8), or (9) of this section shall exist for (a) test holes, (b) dewatering wells with an intended use of one year or less, (c) monitoring wells, (d) wells constructed pursuant to a ground water remediation plan under the Environmental Protection Act, (e) water wells designed and constructed to pump fifty gallons per minute or less, except that no two or more water wells that each pump fifty gallons per minute or less may
be connected or otherwise combined to serve a single project such that
the collective pumping would exceed fifty gallons per minute, (f) water
wells for range livestock, (g) new surface water uses or water wells that
are necessary to alleviate an emergency situation involving the provision
of water for human consumption or public health and safety, (h) water
wells defined by the applicable natural resources district as replacement
water wells, but the consumptive use of any such replacement water well
can be no greater than the historic consumptive use of the water well it
is to replace or, if applicable, the historic consumptive use of the
surface water use it is to replace, (i) new surface water uses and water
wells to which a right or permit is transferred in accordance with state
law, but the consumptive use of any such new use can be no greater than
the historic consumptive use of the surface water use or water well from
which the right or permit is being transferred, (j) water wells and
increases in ground water irrigated acres for which a variance is granted
by the applicable natural resources district for good cause shown, (k)
subject to any conditions imposed by the applicable natural resources
district, to the extent permitted by the applicable natural resources
district, increases in ground water irrigated acres that result from the
use of water wells that were permitted prior to the effective date of the
determination made in subsection (1) of this section and completed in
accordance with section 46-738 but were not used for irrigation prior to
that effective date, (l) to the extent permitted by the applicable
natural resources district, increases in ground water irrigated acres
that result from the use of water wells that are constructed after the
effective date of the stay in accordance with a permit granted by that
natural resources district prior to the effective date of the stay, (m)
surface water uses for which temporary public-use construction permits
are issued pursuant to subsection (8) of section 46-233, (n) surface
water uses and increases in surface water irrigated acres for which a
variance is granted by the department for good cause shown, and (o) water
wells for which permits have been approved by the Department of Natural
Resources pursuant to the Municipal and Rural Domestic Ground Water
Transfers Permit Act prior to the effective date of the stay.

(4) Except as otherwise provided in this section, any stay imposed
pursuant to subsections (1) and (2) of this section shall remain in
effect for the affected river basin, subbasin, or reach until the
department has made a final determination regarding whether the river
basin, subbasin, or reach is fully appropriated and, if the department's
final determination is that the river basin, subbasin, or reach is fully
appropriated, shall remain in effect as provided in subsection (8) (11)
of this section. Within the time period between the dates of the
preliminary and final determinations, the department and the affected
natural resources districts shall consult with any irrigation district,
reclamation district, public power and irrigation district, mutual
irrigation company, canal company, or municipality that relies on water
from the affected river basin, subbasin, or reach and with other water
users and stakeholders as deemed appropriate by the department or the
natural resources districts. The department shall also hold one or more
public hearings not more than ninety days after the first publication of
the notice required by subsection (1) of this section. Notice of the
hearings shall be provided in the same manner as the notice required by
such subsection. Any interested person may appear at such hearing and
present written or oral testimony and evidence concerning the
appropriation status of the river basin, subbasin, or reach, the
department's preliminary conclusions about the extent of the area within
which the surface water and ground water supplies for the river basin,
subbasin, or reach are determined to be hydrologically connected, and
whether the stays on new uses should be terminated.

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

(6) Within ninety days after a final determination by the department
that a river basin, subbasin, or reach is fully appropriated, an affected
natural resources district may hold one or more public hearings on the
question of whether the stays on the issuance of new water well permits,
on the construction of new water wells, or on increases in ground water
irrigated acres should be terminated. Notice of the hearings shall be
published as provided in section 46-743.

(7) Within forty-five days after a natural resources district's
final hearing pursuant to subsection (6) of this section, the natural
resources district shall decide (a) whether to terminate the stay on new
water wells in all or part of the natural resources district subject to
the stay and (b) whether to terminate the stay on increases in ground
water irrigated acres. If the natural resources district decides not to
terminate the stay on new water wells in any geographic area, it shall
also decide whether to exempt from such stay the construction of water
wells for which permits were issued prior to the issuance of the stay but
for which construction had not begun prior to issuance of the stay. If
construction of water wells for which permits were issued prior to the
stay is allowed, all permits that were valid when the stay went into
effect shall be extended by a time period equal to the length of the
Whenever the department designates a river basin, subbasin, or reach as overappropriated, each previously declared moratorium on the issuance of new surface water appropriations in the river basin, subbasin, or reach shall continue in effect. The department shall also provide prompt notice of such designation to all licensed water well contractors in the state and to each natural resources district that encompasses any of the geographic area involved. Immediately upon receipt of such notice by a natural resources district, there shall be a stay on the issuance of new water well construction permits in any portion of such natural resources district that is within the hydrologically connected area designated by the department. The department shall also notify the public of its designation of such river basin, subbasin, or reach as overappropriated and of the geographic area involved in such designation. Such notice shall be published once each week for three consecutive weeks in at least one newspaper of statewide circulation and in such other newspapers as are deemed appropriate by the department to provide general notice in the river basin, subbasin, or reach.

Beginning ten days after the first publication of notice under subsection (8) of this section in a newspaper of statewide circulation, there shall also be stays (a) on the construction of any new water well in the hydrologically connected area if such construction has not commenced prior to such date and if no permit for construction of the water well has been issued previously by either the department or the natural resources district, (b) on the use of an existing water well in the hydrologically connected area to increase the number of acres historically irrigated, and (c) on the use of an existing surface water appropriation to increase the number of acres historically irrigated in the affected area.

Within ninety days after a designation by the department of a river basin, subbasin, or reach as overappropriated, a natural resources
district that encompasses any of the hydrologically connected area designated by the department may hold one or more public hearings on the question of whether to terminate the stays on (a) the construction of new water wells within all or part of its portion of the hydrologically connected area, (b) the issuance of new water well construction permits in such area, or (c) the increase in ground water irrigated acres in such area. Notice of any hearing for such purpose shall be provided pursuant to section 46-743. Prior to the scheduling of a natural resources district hearing on the question of whether to terminate any such stay, the department and the affected natural resources district shall consult with any irrigation district, reclamation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that relies on water from the affected river basin, subbasin, or reach and with other water users and stakeholders as deemed appropriate by the department or the natural resources district.

(8) Any stay issued pursuant to this section shall remain in effect until (a) the stay has been terminated pursuant to subsection (5) or (7), or (10) of this section, (b) an integrated management plan for the affected river basin, subbasin, or reach has been adopted by the department and the affected natural resources districts and has taken effect, (c) an integrated management plan for the affected river basin, subbasin, or reach has been adopted by the Interrelated Water Review Board and has taken effect, (d) the department has completed a reevaluation pursuant to subsection (2) of section 46-713 and has determined that the affected river basin, subbasin, or reach is not fully appropriated or overappropriated, or (e) the stay expires pursuant to this subsection. Such stay may be imposed initially for not more than three years following the department's designation of the river basin, subbasin, or reach as overappropriated or the department's final determination that a river basin, subbasin, or reach is fully appropriated and may be extended thereafter on an annual basis by
agreement of the department and the affected natural resources district
for not more than two additional years if necessary to allow the
development, adoption, and implementation of an integrated management
plan pursuant to sections 46-715 to 46-719.

(9)(a) (12)(a) For purposes of this subsection, (i) a status change
occurs when a preliminary or final determination that a river basin,
subbasin, or reach is fully appropriated is reversed by the department or
by judicial determination and such river basin, subbasin, or reach is
determined not to be fully appropriated and (ii) the hydrologically
connected area means the geographic area within which the department
considers surface water and ground water in such river basin, subbasin,
or reach to be hydrologically connected.

(b) If a status change occurs, any stays previously in force by the
department or affected natural resources districts shall remain in force
until the stays imposed under this subsection are in place and the
department shall place an immediate stay on the issuance of any new
natural-flow, storage, or storage-use appropriations in the river basin,
subbasin, or reach. The department shall also provide prompt notice of
the status change in accordance with subsection (1) of this section.
Immediately upon receipt of the notice by the affected natural resources
district, there shall be stays imposed as set forth in subsections (1)
and (2) of this section, subject to the exceptions set forth in
subsection (3) of this section. The stays imposed pursuant to this
subsection shall remain in effect within each affected natural resources
district until such district adopts rules and regulations in accordance
with subdivision (c), (d), or (e) of this subsection.

(c) Upon receipt of notice of a status change, each affected natural
resources district shall adopt rules and regulations within one hundred
twenty days after receipt of such notice for the prioritization and
granting of water well permits within the hydrologically connected area
for the four-year period following the status change. Nothing in this
subsection shall be construed to supersede the authority provided to natural resources districts under subsection (2) of section 46-707 and subdivisions (1)(f) and (1)(m) of section 46-739.

(d) The rules and regulations adopted by each affected natural resources district in accordance with subdivision (c) of this subsection shall (i) allow a limited number of total new ground water irrigated acres annually, (ii) be created with the purpose of maintaining the status of not fully appropriated based on the most recent basin determination, (iii) be for a term of not less than four years, and (iv) limit the number of new permits so that total new ground water irrigated acres do not exceed the number set in the rules and regulations. The department shall approve the proposed new number of ground water irrigated acres within sixty days after approval by the natural resources district if such district meets the conditions set forth in subdivision (d)(ii) of this subsection, based on the most recent basin determination.

(e) If the proposed new number of acres is not approved by the department within the applicable time period as provided in subdivision (d) of this subsection, the affected natural resources districts shall adopt rules and regulations that allow water well permits to be issued that will result in no more than two thousand five hundred irrigated acres or that will result in an increase of not more than twenty percent of all historically irrigated acres within the hydrologically connected area of each natural resources district within the affected river basin, subbasin, or reach, whichever is less, for each calendar year of the four-year period following the date of the determination described in this subsection. Each affected natural resources district may, after the initial four-year period has expired, annually determine whether water well permit limitations should continue and may enforce such limitations.

(f) During the four-year period following the status change, the department shall ensure that any new appropriation granted will not cause the basin, subbasin, or reach to be fully appropriated based on the most
recent basin determination. The department, pursuant to its rules and regulations, shall not issue new natural flow surface water appropriations for irrigation, within the river basin, subbasin, or reach affected by the status change, that will result in a net increase of more than eight hundred thirty-four irrigated acres in each natural resources district during each calendar year of the four-year period following the date of the determination described in this subsection.

Sec. 11. Section 46-715, Revised Statutes Cumulative Supplement, 2018, is amended to read:

46-715 (1)(a) Whenever the Department of Natural Resources has designated a river basin, subbasin, or reach as overappropriated or has made a final determination that a river basin, subbasin, or reach is fully appropriated, the natural resources districts encompassing such river basin, subbasin, or reach and the department shall jointly develop an integrated management plan for such river basin, subbasin, or reach. The plan shall be completed, adopted, and take effect within three years after such designation or final determination unless the department and the natural resources districts jointly agree to an extension of not more than two additional years.

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

(2) In developing an integrated management plan, the effects of existing and potential new water uses on existing surface water appropriators and ground water users shall be considered. An integrated management plan shall include the following: (a) Clear goals and objectives with a purpose of sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety, and welfare of the river basin, subbasin, or reach can be achieved and maintained for both the near term and the long term; (b) a map clearly delineating the geographic area subject to the integrated management plan; (c) one or more of the ground water controls authorized for adoption by natural resources districts pursuant to section 46-739; (d) all one or more of the surface water controls required to be adopted authorized for adoption by the department pursuant to section 46-716; and (e) a plan to gather and evaluate data, information, and methodologies that could be used to implement sections 46-715 to 46-717, increase understanding of the surface water and hydrologically connected ground water system, and test the validity of the conclusions and information upon which the integrated management plan is based. The plan may also provide for utilization of any applicable incentive programs authorized by law. Nothing in the integrated management plan for a fully appropriated river basin, subbasin, or reach shall require a natural resources district to regulate ground water uses in place at the time of the department's preliminary determination that the river basin, subbasin, or reach is fully appropriated, unless such regulation is necessary to carry out the goals and objectives of a basin-wide plan pursuant to section 46-755, but a natural resources district may voluntarily adopt such regulations. The applicable natural resources
district may decide to include all water users within the district boundary in an integrated management plan.

(3) In order to provide a process for economic development opportunities and economic sustainability within a river basin, subbasin, or reach, the integrated management plan shall include clear and transparent procedures to track depletions and gains to streamflows resulting from new, retired, or other changes to uses within the river basin, subbasin, or reach. The procedures shall:

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

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

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

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

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

(f) Develop, to the extent feasible, an outline of plans after consultation with and an opportunity to provide input from irrigation districts, public power and irrigation districts, reclamation districts, municipalities, other political subdivisions, and other water users to make water available for offset to enhance and encourage economic development opportunities and economic sustainability in the river basin,
subbasin, or reach; and

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

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

(4) The ground water and surface water controls proposed for adoption in the integrated management plan pursuant to subsection (1) of this section shall, when considered together and with any applicable incentive programs, (a) be consistent with the goals and objectives of the plan, (b) be sufficient to ensure that the state will remain in compliance with applicable state and federal laws and with any applicable Interstate water compact or decree or other formal state contract or agreement pertaining to surface water or ground water use or supplies, and (c) protect the ground water users whose water wells are dependent on recharge from the river or stream involved and the surface water appropriators on such river or stream from streamflow depletion caused by surface water uses and ground water uses begun, in the case of a river basin, subbasin, or reach designated as overappropriated or preliminarily determined to be fully appropriated in accordance with section 46-7-13, after the date of such designation or preliminary determination.

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

(b) In any river basin, subbasin, or reach designated as
overappropriated and subject to this subsection, the department and each
natural resources district encompassing such river basin, subbasin, or
reach shall jointly develop an integrated management plan for such river
basin, subbasin, or reach pursuant to subsections (1) through (4) of this
section. Each integrated management plan for a river basin, subbasin, or
reach subject to this subsection shall be consistent with any basin-wide
plan developed pursuant to subdivision (a) of this subsection. Such
integrated management plan shall be developed after consultation and
collaboration with irrigation districts, reclamation districts, public
power and irrigation districts, mutual irrigation companies, canal
companies, and municipalities that rely on water from within the affected
area and that, after being notified of the commencement of the plan
development process, indicate in writing their desire to participate in
such process. In addition, the department or the affected natural
resources districts may include designated representatives of other
stakeholders. If agreement is reached by all parties involved in such
consultation and collaboration process, the department and each natural
resources district shall adopt the agreed-upon integrated management
plan. If agreement cannot be reached by all parties involved, the
integrated management plan shall be developed and adopted by the
department and the affected natural resources district pursuant to
sections 46-715 to 46-718 or by the Interrelated Water Review Board
pursuant to section 46-719.

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

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

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

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

(iii) During the ten years following adoption of an integrated management plan developed under this subsection (5) or during the ten years after the adoption of any subsequent increment of the integrated management plan pursuant to subdivision (d)(iv) of this subsection, the department and the affected natural resources district shall conduct a
technical analysis of the actions taken in such increment to determine
the progress towards meeting the goals and objectives adopted pursuant to
subsection (2) of this section. The analysis shall include an examination
of (A) available supplies and changes in long-term availability, (B) the
effects of conservation practices and natural causes, including, but not
limited to, drought, and (C) the effects of the plan on reducing the
overall difference between the current and fully appropriated levels of
development identified in subdivision (5)(c) of this section. The
analysis shall determine whether a subsequent increment is necessary in
the integrated management plan to meet the goals and objectives adopted
pursuant to subsection (2) of this section and reduce the overall
difference between the current and fully appropriated levels of
development identified in subdivision (5)(c) of this section;
(iv) Based on the determination made in subdivision (d)(iii) of this
subsection, the department and the affected natural resources districts,
utilizing the consultative and collaborative process described in
subdivision (b) of this subsection, shall if necessary identify goals for
a subsequent increment of the integrated management plan. Subsequent
increments shall be completed, adopted, and take effect not more than ten
years after adoption of the previous increment; and
(v) If necessary, the steps described in subdivisions (d)(ii)
through (iv) of this subsection shall be repeated until the department
and the affected natural resources districts agree that the goals and
objectives identified pursuant to subsection (2) of this section have
been met and the overall difference between the current and fully
appropriated levels of development identified in subdivision (5)(c) of
this section has been addressed so that the river basin, subbasin, or
reach has returned to a fully appropriated condition.
(5) (6) In any river basin, subbasin, or reach that is designated as
fully appropriated or overappropriated and whenever necessary to ensure
that the state is in compliance with an interstate compact or decree or a
formal state contract or agreement, the department, in consultation with
the affected districts, shall forecast on an annual basis the maximum
amount of water that may be available from streamflow for beneficial use
in the short term and long term in order to comply with the requirement
of subdivision (4)(b) of this section. This forecast shall be made by
January 1, 2008, and each January 1 thereafter.

Sec. 12. Section 46-716, Reissue Revised Statutes of Nebraska, is
amended to read:

46-716 (1) The surface water controls that **shall** may be included in
an integrated management plan and **may be** adopted by the Department of
Natural Resources are: (a) Increased monitoring and enforcement of
surface water diversion rates and amounts diverted annually; (b) the
prohibition or limitation of additional surface water appropriations; (c)
requirements for surface water appropriators to apply or utilize
reasonable conservation measures consistent with good husbandry and other
requirements of section 46-231 and consistent with reasonable reliance by
other surface water or ground water users on return flows or on seepage
to the aquifer; and (d) other reasonable restrictions on surface water
use which are consistent with the intent of section 46-715 and the
requirements of section 46-231; and (e) requirements needed to maintain
compliance with any interstate compact or decree or other formal state
contract or agreement.

(2) If during the development of the integrated management plan the
department determines that surface water appropriators should be required
to apply or utilize conservation measures or that other reasonable
restrictions on surface water use need to be imposed, the department's
portion of the integrated management plan shall allow the affected
surface water appropriators and surface water project sponsors a
reasonable amount of time, not to exceed one hundred eighty days unless
extended by the department, to identify the conservation measures to be
applied or utilized, to develop a schedule for such application and
(3) On-stream reservoirs in fully appropriated river basins, subbasins, or reaches shall be managed by the Department of Natural Resources as flood control structures to protect lives and property below the structures. Such structures shall not exceed eighty percent capacity prior to March 1 of any year so that such structures are capable of capturing spring snow melt and runoff. The department shall develop a management plan for such structures as part of the integrated management plan developed in accordance with section 46-717.

Sec. 13. Section 46-718, Reissue Revised Statutes of Nebraska, is amended to read:

46-718 (1) If the Department of Natural Resources and the affected natural resources districts preparing an integrated management plan reach agreement on (a) the proposed goals and objectives of the plan for the affected river basin, subbasin, or reach, (b) the proposed geographic area to be subject to controls, and (c) the surface water and ground water controls and any incentive programs that are proposed for adoption and implementation in the river basin, subbasin, or reach, they shall schedule one or more public hearings to take testimony on the proposed integrated management plan and the proposed controls. Such hearings shall be held within forty-five days after reaching agreement and within or in reasonable proximity to the area to be affected by implementation of the integrated management plan. Notice of such hearings shall be published as provided in section 46-743. The costs of publishing the notice shall be shared between the department and the affected natural resources districts. All interested persons may appear at the hearings and present testimony or provide other evidence relevant to the issues being considered.

(2) Within sixty days after the final hearing under this section, the department and the affected natural resources districts shall jointly decide whether to implement the plan proposed, with or without
modifications, and whether to adopt and implement the surface water and
ground water controls and incentive programs proposed in the plan. If the
department and the natural resources districts agree to implement the
plan and to adopt and implement the proposed controls, the natural
resources districts shall by order designate a ground water management
area for integrated management or, if the geographic area subject to the
integrated management plan is already in a ground water management area,
the order shall designate an integrated management subarea for that area.
The order shall include a geographic and stratigraphic definition of the
ground water management area or integrated management subarea and shall
adopt the controls in the integrated management plan that are authorized
for adoption by the natural resources district pursuant to section
46-739. The department shall by order adopt the controls in the
integrated management plan that are required to be adopted authorized for
adoption by the department pursuant to section 46-716. Neither the
controls adopted by the district nor those adopted by the department
shall include controls substantially different from those set forth in
the notice of hearing. The area designated as a ground water management
area or an integrated management subarea by the natural resources
district shall not include any area that was not identified in the notice
of the hearing as within the area proposed to be subject to the controls
in the plan. The department and the natural resources district shall each
cause a copy of its order to be published in the manner provided in
section 46-744.

(3) If at any time during the development of a basin-wide plan or an
integrated management plan either the department or the affected natural
resources districts conclude that the parties will be unable to reach a
timely agreement on the basin-wide plan or on (a) the goals and
objectives of the integrated management plan for the affected river
basin, subbasin, or reach, (b) the geographic area to be subject to
controls, or (c) the surface water or ground water controls or any
incentive programs to be proposed for adoption and implementation in the
affected river basin, subbasin, or reach, the Governor shall be notified
and the dispute shall be submitted to the Interrelated Water Review Board
as provided in subsection (2) of section 46-719.

Sec. 14. Section 46-720, Reissue Revised Statutes of Nebraska, is
amended to read:

46-720 (1) The Legislature finds that, prior to July 16, 2004,
actions were taken by the Department of Natural Resources and by one or
more natural resources districts pursuant to section 46-656.28, as such
section existed immediately prior to such date, for the purpose of
addressing circumstances that are, after such date, to be addressed in
accordance with sections 46-713 to 46-719. It is the intent of the
Legislature that actions taken pursuant to section 46-656.28, as such
section existed immediately prior to July 16, 2004, should not be negated
and that transition from the authorities and responsibilities granted by
such section to those granted by sections 46-713 to 46-719 should occur
in as efficient a manner as possible. Such transition shall be therefor
governed by subsections (2) through (5) of this section, and all
references in such subsections to section 46-656.28 shall be construed to
mean section 46-656.28 as such section existed immediately prior to July

(2) If, prior to July 16, 2004, (a) a natural resources district
requested pursuant to subsection (1) of section 46-656.28 that affected
appropriators, affected surface water project sponsors, and the
department consult and that studies and a hearing be held but (b) the
Director of Natural Resources has not made a preliminary determination
relative to that request pursuant to subsection (2) of section 46-656.28,
no further action on the district's request shall be required of the
department. If under the same circumstances a temporary suspension in the
drilling of certain water wells has been imposed by the district pursuant
to subsection (16) of section 46-656.28 and remains in effect immediately
prior to July 16, 2004, such temporary suspension shall remain in effect for thirty days after the department issues its first annual report under section 46-713, except that (i) such temporary suspension shall not apply to water wells for which a permit has been obtained pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act and (ii) to the extent any such temporary suspension is in effect for all or part of a hydrologically connected area for a river basin, subbasin, or reach designated as overappropriated by the department, such temporary suspension shall remain in effect only until it is superseded by the stays imposed pursuant to subsections (8) and (9) of section 46-714. To the extent that any such temporary suspension applies to a geographic area preliminarily considered by the department to have ground water hydrologically connected to the surface water of a fully appropriated river basin, subbasin, or reach, such temporary suspension shall be superseded by the stays imposed pursuant to subsections (1) and (2) of section 46-714.

(3)(a) If prior to July 16, 2004, (i) the director has made a preliminary determination pursuant to subsection (2) of section 46-656.28 that there is reason to believe that the use of hydrologically connected ground water and surface water in a specific geographic area is contributing to or is in the reasonably foreseeable future likely to contribute to any conflict, dispute, or difficulty listed in such subsection, (ii) the director has not made a determination pursuant to subsection (4) of section 46-656.28 that a joint action plan should not be prepared, and (iii) preparation of a joint action plan pursuant to subsections (5) through (9) of such section has not been completed, the geographic area involved shall become subject to sections 46-713 to 46-719 on July 16, 2004, and the department need not evaluate such geographic area in its first annual report issued pursuant to section 46-713.

(b) For purposes of this subsection and section 46-714 and except as
otherwise provided in this section, (i) July 16, 2004, shall result in
the imposition in any geographic area subject to this subsection of the
stays required by subsections (1) and (2) of section 46-714, (ii) such
stays shall be imposed in the manner required by such section, and (iii)
July 16, 2004, shall be treated as if it were the date of a departmental
preliminary determination pursuant to section 46-713 that such area is a
geographic area within which ground water and surface water of a fully
appropriated river basin, subbasin, or reach are hydrologically
connected. Notwithstanding the other provisions of this subsection, if a
temporary suspension in the drilling of certain new water wells has
previously been imposed by the affected natural resources district, (A)
the stays on construction of new water wells and on the increase in
ground water irrigated acres shall be limited in geographic extent to
only that part of the affected area within which the temporary suspension
was in effect unless the director determines that inclusion of additional
area is necessary because ground water and surface water are
hydrologically connected in such additional area and (B) the stays on
construction of certain new water wells shall not apply to a water well
constructed in accordance with the terms of a water well construction
permit approved by the district prior to July 16, 2004, unless such well
was subject to the district's temporary suspension. If, prior to July 16,
2004, the director has held a hearing on a report issued pursuant to
subsection (3) of section 46-656.28 but has not yet determined whether a
joint action plan should be prepared, no departmental hearing shall be
required pursuant to subsection (4) of section 46-714 before a final
determination is made about whether the river basin, subbasin, or reach
involved is fully appropriated. If, prior to July 16, 2004, the director
has determined pursuant to subsection (4) of section 46-656.28 that a
joint action plan should be prepared, such determination shall have the
same effect as a final departmental determination pursuant to subsection
(5) of section 46-714 that the affected river basin, subbasin, or reach
is fully appropriated and no separate determination to that effect shall be required. If, after July 16, 2004, the department determines that all or part of the area subject to this subsection is in an overappropriated river basin, subbasin, or reach, that portion of the area shall thereafter be subject to the provisions of the Nebraska Ground Water Management and Protection Act applicable to an overappropriated river basin, subbasin, or reach and stays that have previously taken effect in accordance with this subsection shall continue in effect as stays for an overappropriated river basin, subbasin, or reach without additional action or publication of notice by the department. Any temporary suspension in the drilling of certain water wells that has been imposed in the geographic area involved by a natural resources district pursuant to subsection (16) of section 46-656.28 prior to July 16, 2004, shall remain in effect until superseded by the stays imposed pursuant to subsections (1) and (2) of section 46-714.

(4) If, prior to July 16, 2004, preparation of a joint action plan has been completed pursuant to subsections (5) through (9) of section 46-656.28 but the plan has not yet been adopted pursuant to subsection (11) of such section, the department need not evaluate the affected geographic area in its first annual report issued pursuant to section 46-713. The department and the affected natural resources district shall review the completed joint action plan for its compliance with sections 46-715 to 46-717. If the joint action plan is determined to be in compliance with sections 46-715 to 46-717 or if agreement is reached on the revisions necessary to bring it into such compliance, the department and the district shall adopt the plan and implement the controls as provided in section 46-718. If the joint action plan is determined not to be in compliance with sections 46-715 to 46-717 and agreement on the proposed plan or the proposed controls cannot be reached pursuant to section 46-718, section 46-719 shall apply. Any portion of the affected area is designated as all or part of an
overappropriated river basin, subbasin, or reach, any temporary suspension in the drilling of certain water wells imposed in the affected geographic area by a natural resources district pursuant to subsection (16) of section 46-656.28 shall remain in effect until (a) the department and the affected district have jointly decided to implement the plan, with or without modifications, and controls have been adopted and taken effect or (b) the Interrelated Water Review Board, pursuant to section 46-719, has adopted an integrated management plan for the affected river basin, subbasin, or reach and the controls adopted by the board have taken effect. To the extent that any portion of the affected area is designated as all or part of an overappropriated river basin, subbasin, or reach, any temporary suspension in the drilling of water wells shall be superseded by the stays imposed pursuant to subsections (8) and (9) of section 46-714.

(5) If, before July 16, 2004, a joint action plan has been adopted and implemented pursuant to subsections (10) through (12) of section 46-656.28 and is in effect immediately prior to such date, the department need not evaluate the geographic area subject to the plan in the department's first annual report issued pursuant to section 46-713. For purposes of the Nebraska Ground Water Management and Protection Act, (a) the plan adopted shall be considered an integrated management plan adopted pursuant to section 46-718, (b) the management area designated shall be considered an integrated management area or subarea designated pursuant to section 46-718, and (c) the controls adopted shall be considered controls adopted pursuant to section 46-718 and shall remain in effect until amended or repealed pursuant to section 46-718 or 46-719.

Sec. 15. Section 46-740, Reissue Revised Statutes of Nebraska, is amended to read:

46-740 (1) If allocation is adopted for use of ground water for irrigation purposes in a management area, the permissible withdrawal of ground water shall be allocated equally per irrigated acre except as
permitted by subsections (4) through (6) of section 46-739. Such allocation shall specify the total number of acre-inches that are allocated per irrigated acre per year, except that the district may allow a ground water user to average his or her allocation over any reasonable period of time. A ground water user may use his or her allocation on all or any part of the irrigated acres to which the allocation applies or in any other manner approved by the district.

(2) Except as permitted pursuant to subsections (4) through (6) of section 46-739, if annual rotation or reduction of irrigated acres is adopted for use of ground water for irrigation purposes in a management area, the nonuse of irrigated acres shall be a uniform percentage reduction of each landowner's irrigated acres within the management area or a subarea of the management area. Such uniform reduction may be adjusted for each landowner based upon crops grown on his or her land to reflect the varying consumptive requirements between crops.

(3) Unless an integrated management plan, a rule, or an order is established, adopted, or issued prior to November 1, 2005, no integrated management plan, rule, or order shall limit the use of ground water by a municipality, within an area deemed to be fully appropriated pursuant to subsection (4) of section 46-713 or determined by the Department of Natural Resources to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713, until January 1, 2026, except that:

(a) Any allocations to a municipality that have been made as of November 1, 2005, shall remain in full force and effect unless changed by the appropriate natural resources district;  
(b)(i) For any municipality that has not received an allocation as of November 1, 2005, the minimum annual allocation may be the greater of either the amount of ground water authorized by a permit issued pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act or the governmental, commercial, and industrial uses of the municipality.
plus a per capita allowance. Water for commercial and industrial uses may be limited as specified in subdivision (b)(iii) of this subsection.

(ii) The per capita allowance shall be based on the location of the municipality, increasing in equal increments from east to west, and shall not be less than two hundred gallons per person per day at 95 degrees, 19 minutes, 00 seconds longitude and not less than two hundred fifty gallons per person per day at 104 degrees, 04 minutes, 00 seconds longitude. Persons served by a municipality outside of its corporate limits shall be considered part of the municipality's population if such service begins prior to January 1, 2026.

(iii) Prior to January 1, 2026, any new or expanded single commercial or single industrial development served by any municipality within the fully appropriated or overappropriated area which, after July 14, 2006, commences water use resulting in the consumptive use of water in amounts greater than twenty-five million gallons annually may be subject to controls adopted pursuant to section 46-715;

(c) Prior to January 1, 2026, increases in the consumptive use of water by a municipality that result in a decrease in streamflow shall be addressed by the integrated management plan pursuant to controls or incentive programs adopted pursuant to section 46-715 and shall not affect the municipal allocations outlined in subdivisions (3)(a) and (b) of this section. Any permanent reduction in consumptive use of water associated with municipal growth, including governmental, industrial, and commercial growth, during the period between July 14, 2006, and January 1, 2026, shall accrue to the benefit of the natural resources district within which such municipality is located; and

(d) To qualify for the exemption specified in subsection (3) of this section, any city of the metropolitan class, city of the primary class, city of the first class, or city of the second class shall file a conservation plan with the natural resources district, if required by the integrated management plan. Villages and other municipalities smaller
than a city of the second class shall not be required to submit a conservation plan to qualify for such exemption.

(4) On and after January 1, 2026, the base amount for an annual allocation to a municipality shall be determined as the greater of either (a) the amount of water authorized by a permit issued pursuant to the Municipal and Rural Domestic Ground Water Transfers Permit Act or (b) the greatest annual use prior to January 1, 2026, for uses specified in subdivision (3)(b) of this section plus the per capita allowance described in subdivision (3)(b)(ii) of this section. On and after January 1, 2026, increases in the consumptive use of water by a municipality that result in a decrease in streamflow shall be addressed by the integrated management plan pursuant to controls or incentive programs adopted pursuant to section 46-715. Each municipality may be subject to controls adopted pursuant to such section for amounts in excess of the allocations.

(5) Unless an integrated management plan, rule, or order is established, adopted, or issued prior to November 1, 2005, no integrated management plan, rule, or order shall limit the use of ground water by a nonmunicipal commercial or industrial water user within an area deemed to be fully appropriated pursuant to subsection (4) of section 46-713 or determined by the department to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713, until January 1, 2026, except that:

(a) Prior to January 1, 2026, the minimum annual allocation for a nonmunicipal commercial or industrial user shall be the greater of either (i) the amount specified in a permit issued pursuant to the Industrial Ground Water Regulatory Act or (ii) the amount necessary to achieve the commercial or industrial use, including all new or expanded uses that consume less than twenty-five million gallons annually. Any increases in the consumptive use of water by a nonmunicipal commercial or industrial water user that result in a decrease in streamflow shall be addressed by
the integrated management plan pursuant to controls or incentive programs
adopted pursuant to section 46-715;

(b) Prior to January 1, 2026, any new or expanded single commercial
or industrial development served by a nonmunicipal well within an area
deemed to be fully appropriated pursuant to subsection (4) of section
46-713 or determined by the department to be fully appropriated pursuant
to section 46-714 or designated as overappropriated pursuant to section
46-713 which, after July 14, 2006, commences water use resulting in the
consumptive use of water in amounts greater than twenty-five million
gallons annually may be subject to controls adopted pursuant to section
46-715. This subdivision does not apply to a water user described in this
subdivision that is regulated by the Industrial Ground Water Regulatory
Act and the United States Nuclear Regulatory Commission;

(c) On and after January 1, 2026, the base amount for an annual
allocation to a nonmunicipal commercial or industrial user within an area
deemed to be fully appropriated pursuant to subsection (4) of section
46-713 or determined by the department to be fully appropriated pursuant
to section 46-714 or designated as overappropriated pursuant to section
46-713 shall be the amount specified in subdivision (5)(a) or (b) of this
section;

(d) On and after January 1, 2026, increases in the consumptive use
of water by a nonmunicipal commercial or industrial water user that
result in a decrease in streamflow shall be addressed by the integrated
management plan pursuant to controls or incentive programs adopted
pursuant to section 46-715; and

(e) Any reduction in consumptive use associated with new
nonmunicipal industrial or commercial uses of less than twenty-five
million gallons, during the period between July 14, 2006, and January 1,
2026, shall accrue to the benefit of the natural resources district
within which such nonmunicipal industrial or commercial user is located.
(1) The Water Resources Trust Fund is created. The State Treasurer shall credit to the fund such money as is specifically appropriated thereto by the Legislature, transfers authorized by the Legislature, and such funds, fees, donations, gifts, or bequests received by the Department of Natural Resources from any federal, state, public, or private source for expenditure for the purposes described in the Nebraska Ground Water Management and Protection Act. Money in the fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any fiscal year or biennium. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

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

(3) Money in the fund may be expended by the department for costs incurred by the department, by natural resources districts, or by other political subdivisions in (a) determining whether river basins, subbasins, or reaches are fully appropriated in accordance with section 46-713, (b) developing or implementing integrated management plans for such fully appropriated river basins, subbasins, or reaches or for river basins, subbasins, or reaches deemed to be fully appropriated designated as overappropriated in accordance with subsection (4) of section 46-713, (c) developing or implementing integrated management plans in river basins, subbasins, or reaches which have not yet become either fully appropriated or overappropriated, or (d) attaining state compliance with an interstate water compact or decree or other formal state contract or agreement.

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

Sec. 17. Section 46-755, Revised Statutes Cumulative Supplement,
2018, is amended to read:

46-755 This section shall apply notwithstanding any other provision
of the Nebraska Ground Water Management and Protection Act.

(1) If a river basin as described in subdivision (2)(a) of section
2-1504 includes three or more natural resources districts that, pursuant
to subdivision (1)(a) of section 46-715, have been or are required to
develop an integrated management plan for all or substantially all
(eighty-five percent) of the district, such natural resources districts
shall, jointly with the department and the natural resources districts
within the same basin, develop and adopt a basin-wide plan for the areas
of a basin, subbasin, or reach determined by the department to have
hydrologically connected water supplies, except that any natural
resources district that has developed and implemented a basin-wide plan
pursuant to subsection (5) of section 46-715 shall not be affected by
this section. If deemed appropriate by the department and the affected
natural resources districts, the basin-wide plan may combine two or more
river basins.

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

(3) A basin-wide plan shall be completed, adopted, and take effect within three years after April 17, 2014, unless the department and the natural resources districts jointly agree to an extension of not more than an additional two years.

(4) A basin-wide plan shall (a) have clear goals and objectives with a purpose of sustaining a balance between water uses and water supplies so that the economic viability, social and environmental health, safety, and welfare of the river basin, subbasin, or reach can be achieved and maintained for both the near term and the long term, (b) ensure that compliance with any interstate compact or decree or other formal state contract or agreement or applicable state or federal law is maintained, and (c) set forth a timeline to meet the goals and objectives as required under this subdivision, but in no case shall a timeline exceed thirty years after April 17, 2014.

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

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

(c) A basin-wide plan shall be developed using a consultation and collaboration process involving representatives from irrigation districts, reclamation districts, public power and irrigation districts, mutual irrigation companies, canal companies, ground water users, range livestock owners, the Game and Parks Commission, and municipalities that rely on water from within the affected area and that, after being notified of the commencement of the plan development process, indicate in writing their desire to become an official participant in such process. The department and affected natural resources districts shall involve official participants in formulating, evaluating, and recommending plans and management actions and work to reach an agreement among all official participants involved in a basin-wide plan. In addition, the department or the affected natural resources districts may include designated representatives of other stakeholders. If agreement is reached by all parties involved in such consultation and collaboration process, the department and the affected natural resources districts shall adopt the agreed-upon basin-wide plan. If agreement cannot be reached by all parties involved, the basin-wide plan shall be developed and adopted by the department and the affected natural resources districts or by the Interrelated Water Review Board pursuant to section 46-719.

(d) Within five years after the adoption of the basin-wide plan, and every five years thereafter, the department and affected natural resources districts shall conduct a technical analysis of the actions taken in a river basin to determine the progress towards meeting the goals and objectives of the plan. The analysis shall include an examination of (i) available supplies, current uses, and changes in long-term water availability, (ii) the effects of conservation practices and
natural causes, including, but not limited to, drought, and (iii) the
effects of the plan in meeting the goal of sustaining a balance between
water uses and water supplies. The analysis shall determine if changes or
modifications to the basin-wide plan are needed to meet the goals and
objectives pursuant to subdivision (4)(a) of this section. The department
and affected natural resources districts shall present the results of the
analysis and any recommended modifications to the plan at a public
meeting and shall provide for at least a thirty-day public comment period
before holding a public hearing on the recommended modifications. The
department shall submit a report to the Legislature of the results of
this analysis and the progress made under the basin-wide plan. The report
shall be submitted electronically. Any official participant or
stakeholder may submit comments to the department and affected natural
resources districts on the final basin-wide plan adopted by the
department and affected natural resources districts, which shall be made
a part of the report to the Legislature.

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

(f) The department and the affected natural resources districts may
utilize, when necessary, the Interrelated Water Review Board process
provided in section 46-719 for disputes arising from developing,
implementing, and enforcing a basin-wide plan developed under this
section.
amended to read:

61-218 (1) The Water Resources Cash Fund is created. The fund shall be administered by the Department of Natural Resources. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The State Treasurer shall credit to the fund such money as is (a) transferred to the fund by the Legislature, (b) paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, (c) donated as gifts, bequests, or other contributions to such fund from public or private entities, (d) made available by any department or agency of the United States if so directed by such department or agency, (e) allocated pursuant to section 81-15,175, and (f) received by the state for settlement of claims regarding Colorado's past use of water under the Republican River Compact.

(3) The fund shall be expended by the department (a) to aid management actions taken to reduce consumptive uses of water or to enhance streamflows or ground water recharge in river basins, subbasins, or reaches which are deemed by the department overappropriated pursuant to section 46-713 or fully appropriated pursuant to subsection (4) of section 46-713 or section 46-714 or are bound by an interstate compact or decree or a formal state contract or agreement, (b) for purposes of projects or proposals described in the grant application as set forth in subdivision (2)(h) of section 81-15,175, and (c) to the extent funds are not expended pursuant to subdivisions (a) and (b) of this subsection, the department may conduct a statewide assessment of short-term and long-term water management activities and funding needs to meet statutory requirements in sections 46-713 to 46-718 and 46-739 and any requirements of an interstate compact or decree or formal state contract or agreement.

The fund shall not be used to pay for administrative expenses or any
salaries for the department or any political subdivision.

(4) It is the intent of the Legislature that three million three hundred thousand dollars be transferred each fiscal year from the General Fund to the Water Resources Cash Fund for FY2011-12 through FY2018-19, except that for FY2012-13 it is the intent of the Legislature that four million seven hundred thousand dollars be transferred from the General Fund to the Water Resources Cash Fund. It is the intent of the Legislature that the State Treasurer credit any money received from any Republican River Compact settlement to the Water Resources Cash Fund in the fiscal year in which it is received.

(5)(a) Expenditures from the Water Resources Cash Fund may be made to natural resources districts eligible under subsection (3) of this section for activities to either achieve a sustainable balance of consumptive water uses or assure compliance with an interstate compact or decree or a formal state contract or agreement and shall require a match of local funding in an amount equal to or greater than forty percent of the total cost of carrying out the eligible activity. The department shall, no later than August 1 of each year, beginning in 2007, determine the amount of funding that will be made available to natural resources districts from the Water Resources Cash Fund and notify natural resources districts of this determination. The department shall adopt and promulgate rules and regulations governing application for and use of the Water Resources Cash Fund by natural resources districts. Such rules and regulations shall, at a minimum, include the following components:

(i) Require an explanation of how the planned activity will achieve a sustainable balance of consumptive water uses or will assure compliance with an interstate compact or decree or a formal state contract or agreement as required by section 46-715 and the controls, rules, and regulations designed to carry out the activity; and

(ii) A schedule of implementation of the activity or its components, including the local match as set forth in subdivision (5)(a) of this
section.

(b) Any natural resources district that fails to implement and enforce its controls, rules, and regulations as required by section 46-715 shall not be eligible for funding from the Water Resources Cash Fund until it is determined by the department that compliance with the provisions required by section 46-715 has been established.

(6) The Department of Natural Resources shall submit electronically an annual report to the Legislature no later than October 1 of each year, beginning in the year 2007, that shall detail the use of the Water Resources Cash Fund in the previous year. The report shall provide:

(a) Details regarding the use and cost of activities carried out by the department; and

(b) Details regarding the use and cost of activities carried out by each natural resources district that received funds from the Water Resources Cash Fund.

(7)(a) Prior to the application deadline for fiscal year 2011-12, the Department of Natural Resources shall apply for a grant of nine million nine hundred thousand dollars from the Nebraska Environmental Trust Fund, to be paid out in three annual installments of three million three hundred thousand dollars. The purposes listed in the grant application shall be consistent with the uses of the Water Resources Cash Fund provided in this section and shall be used to aid management actions taken to reduce consumptive uses of water, to enhance streamflows, to recharge ground water, or to support wildlife habitat in any river basin deemed to be fully appropriated pursuant to subsection (4) of section 46-713 or determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713.

(b) If the application is granted, funds received from such grant shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund for the purpose of supporting the projects set forth in the grant application. The department shall include in its grant
application documentation that the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund into the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund for fiscal year 2013-14.

(c) It is the intent of the Legislature that the department apply for an additional three-year grant that would begin in fiscal year 2014-15 and an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2017-18 if the criteria established in subsection (4) of section 81-15,175 are achieved.

(8) The department shall establish a subaccount within the Water Resources Cash Fund for the accounting of all money received as a grant from the Nebraska Environmental Trust Fund as the result of an application made pursuant to subsection (7) of this section. At the end of each calendar month, the department shall calculate the amount of interest earnings accruing to the subaccount and shall notify the State Treasurer who shall then transfer a like amount from the Water Resources Cash Fund to the Nebraska Environmental Trust Fund.

Sec. 19. Section 77-3442, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2)(a) Except as provided in subdivisions (2)(b) and (2)(e) of this section, school districts and multiple-district school systems may levy a maximum levy of one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) For each fiscal year prior to fiscal year 2017-18, learning communities may levy a maximum levy for the general fund budgets of...
member school districts of ninety-five cents per one hundred dollars of
taxable valuation of property subject to the levy. The proceeds from the
levy pursuant to this subdivision shall be distributed pursuant to
section 79-1073.

(c) Except as provided in subdivision (2)(e) of this section, for
each fiscal year prior to fiscal year 2017-18, school districts that are
members of learning communities may levy for purposes of such districts'
general fund budget and special building funds a maximum combined levy of
the difference of one dollar and five cents on each one hundred dollars
of taxable property subject to the levy minus the learning community levy
pursuant to subdivision (2)(b) of this section for such learning
community.

(d) Excluded from the limitations in subdivisions (2)(a) and (2)(c)
of this section are (i) amounts levied to pay for current and future sums
agreed to be paid by a school district to certificated employees in
exchange for a voluntary termination of employment occurring prior to
September 1, 2017, (ii) amounts levied by a school district otherwise at
the maximum levy pursuant to subdivision (2)(a) of this section to pay
for current and future qualified voluntary termination incentives for
certificated teachers pursuant to subsection (3) of section 79-8,142 that
are not otherwise included in an exclusion pursuant to subdivision (2)(d)
of this section, (iii) amounts levied by a school district otherwise at
the maximum levy pursuant to subdivision (2)(a) of this section to pay
for seventy-five percent of the current and future sums agreed to be paid
to certificated employees in exchange for a voluntary termination of
employment occurring between September 1, 2017, and August 31, 2018, as a
result of a collective-bargaining agreement in force and effect on
September 1, 2017, that are not otherwise included in an exclusion
pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a
school district otherwise at the maximum levy pursuant to subdivision (2)
(a) of this section to pay for fifty percent of the current and future
sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2018, and August 31, 2019, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts levied by a school district otherwise at the maximum levy pursuant to subdivision (2)(a) of this section to pay for twenty-five percent of the current and future sums agreed to be paid to certificated employees in exchange for a voluntary termination of employment occurring between September 1, 2019, and August 31, 2020, as a result of a collective-bargaining agreement in force and effect on September 1, 2017, that are not otherwise included in an exclusion pursuant to subdivision (2)(d) of this section, (vi) amounts levied in compliance with sections 79-10,110 and 79-10,110.02, and (vii) amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

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

(f) For each fiscal year, learning communities may levy a maximum levy of one-half cent on each one hundred dollars of taxable property subject to the levy for elementary learning center facility leases, for remodeling of leased elementary learning center facilities, and for up to
fifty percent of the estimated cost for focus school or program capital projects approved by the learning community coordinating council pursuant to section 79-2111.

(g) For each fiscal year, learning communities may levy a maximum levy of one and one-half cents on each one hundred dollars of taxable property subject to the levy for early childhood education programs for children in poverty, for elementary learning center employees, for contracts with other entities or individuals who are not employees of the learning community for elementary learning center programs and services, and for pilot projects, except that no more than ten percent of such levy may be used for elementary learning center employees.

(3) For each fiscal year, community college areas may levy the levies provided in subdivisions (2)(a) through (c) of section 85-1517, in accordance with the provisions of such subdivisions. A community college area may exceed the levy provided in subdivision (2)(b) of section 85-1517 by the amount necessary to retire general obligation bonds assumed by the community college area or issued pursuant to section 85-1515 according to the terms of such bonds or for any obligation pursuant to section 85-1535 entered into prior to January 1, 1997.

(4)(a) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(b) Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.
(c) In addition, natural resources districts located in a river basin, subbasin, or reach that has been deemed to be fully appropriated pursuant to subsection (4) of section 46-713 or determined to be fully appropriated pursuant to section 46-714 or designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2005-06, not to exceed three cents on each one hundred dollars of taxable valuation on all of the taxable property within the district for fiscal year 2006-07 and each fiscal year thereafter through fiscal year 2017-18.

(5) Any educational service unit authorized to levy a property tax pursuant to section 79-1225 may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

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

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county
may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated.

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

(10) Beginning July 1, 2016, rural and suburban fire protection districts may levy a maximum levy of ten and one-half cents per one hundred dollars of taxable valuation of property subject to the levy if (a) such district is located in a county that had a levy pursuant to subsection (8) of this section in the previous year of at least forty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) for any rural or suburban fire protection district that had a levy request pursuant to section 77-3443 in the previous year, the county board of the county in which the greatest portion of the valuation of such district is located did not authorize any levy authority to such district in the previous year.

(11) Property tax levies (a) for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, (b) for
preexisting lease-purchase contracts approved prior to July 1, 1998, (c) for bonds as defined in section 10-134 approved according to law and secured by a levy on property except as provided in section 44-4317 for bonded indebtedness issued by educational service units and school districts, and (d) for payments by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

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

(13) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

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

(15) For school districts that file a binding resolution on or before May 9, 2008, with the county assessors, county clerks, and county treasurers for all counties in which the school district has territory pursuant to subsection (7) of section 79-458, if the combined levies, except levies for bonded indebtedness approved by the voters of the school district and levies for the refinancing of such bonded indebtedness, are in excess of the greater of (a) one dollar and twenty cents per one hundred dollars of taxable valuation of property subject to the levy or (b) the maximum levy authorized by a vote pursuant to section 77-3444, all school district levies, except levies for bonded indebtedness approved by the voters of the school district and levies for
the refinancing of such bonded indebtedness, shall be considered
unauthorized levies under section 77-1606.

Sec. 20. Section 81-15,175, Revised Statutes Cumulative Supplement,
2018, is amended to read:

81-15,175 (1) The board may make an annual allocation each fiscal
year from the Nebraska Environmental Trust Fund to the Nebraska
Environmental Endowment Fund as provided in section 81-15,174.01. The
board shall make annual allocations from the Nebraska Environmental Trust
Fund and may make annual allocations each fiscal year from the Nebraska
Environmental Endowment Fund for projects which conform to the
environmental categories of the board established pursuant to section
81-15,176 and to the extent the board determines those projects to have
merit. The board shall establish a calendar annually for receiving and
evaluating proposals and awarding grants. To evaluate the economic,
financial, and technical feasibility of proposals, the board may
establish subcommittees, request or contract for assistance, or establish
advisory groups. Private citizens serving on advisory groups shall be
reimbursed for their actual and necessary expenses pursuant to sections
81-1174 to 81-1177.

(2) The board shall establish rating systems for ranking proposals
which meet the board's environmental categories and other criteria. The
rating systems shall include, but not be limited to, the following
considerations:

(a) Conformance with categories established pursuant to section
81-15,176;

(b) Amount of funds committed from other funding sources;

(c) Encouragement of public-private partnerships;

(d) Geographic mix of projects over time;

(e) Cost-effectiveness and economic impact;

(f) Direct environmental impact;

(g) Environmental benefit to the general public and the long-term
nature of such public benefit; and

(h) Applications recommended by the Director of Natural Resources and submitted by the Department of Natural Resources pursuant to subsection (7) of section 61-218 shall be awarded fifty priority points in the ranking process for the 2011 grant application if the Legislature has authorized annual transfers of three million three hundred thousand dollars to the Water Resources Cash Fund for each of fiscal years 2011-12 and 2012-13 and has stated its intent to transfer three million three hundred thousand dollars to the Water Resources Cash Fund in fiscal year 2013-14. Priority points shall be awarded if the proposed programs set forth in the grant application are consistent with the purposes of reducing consumptive uses of water, enhancing streamflows, recharging ground water, or supporting wildlife habitat in any river basin deemed to be fully appropriated pursuant to subsection (4) of section 46-713 or determined to be fully appropriated pursuant to section 46-714—or designated as overappropriated pursuant to section 46-713.

(3) A grant awarded under this section pursuant to an application made under subsection (7) of section 61-218 shall be paid out in the following manner:

(a) The initial three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than fifteen business days after the date that the grant is approved by the board;

(b) The second three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2013; and

(c) The third three million three hundred thousand dollar installment shall be remitted to the State Treasurer for credit to the Water Resources Cash Fund no later than May 15, 2014, if the Legislature has authorized a transfer of three million three hundred thousand dollars from the General Fund to the Water Resources Cash Fund for fiscal year
(4) It is the intent of the Legislature that the Department of Natural Resources apply for an additional three-year grant from the Nebraska Environmental Trust Fund that would begin in fiscal year 2014-15 and a three-year grant that would begin in fiscal year 2017-18 and such application shall be awarded fifty priority points in the ranking process as set forth in subdivision (2)(h) of this section if the following criteria are met:

(a) The Natural Resources Committee of the Legislature has examined options for water funding and has submitted a report electronically to the Clerk of the Legislature and the Governor by December 1, 2012, setting forth:

(i) An outline and priority listing of water management and funding needs in Nebraska, including instream flows, residential, agricultural, recreational, and municipal needs, interstate obligations, water quality issues, and natural habitats preservation;

(ii) An outline of statewide funding options which create a dedicated, sustainable funding source to meet the needs set forth in the report; and

(iii) Recommendations for legislation;

(b) The projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section have resulted in enhanced streamflows, reduced consumptive uses of water, recharged ground water, supported wildlife habitat, or otherwise contributed towards conserving, enhancing, and restoring Nebraska's ground water and surface water resources. On or before July 1, 2014, the department shall submit electronically a report to the Natural Resources Committee of the Legislature providing demonstrable evidence of the benefits accrued from such projects and activities; and

(c) In addition to the grant reporting requirements of the trust, on or before July 1, 2014, the department provides to the board a report
which includes documentation that:

(i) Expenditures from the Water Resources Cash Fund made to natural resources districts have met the matching fund requirements provided in subdivision (5)(a) of section 61-218;

(ii) Ten percent or less of the matching fund requirements has been provided by in-kind contributions for expenses incurred for projects enumerated in the grant application. In-kind contributions shall not include land or land rights; and

(iii) All other projects and activities funded by the department through grants from the Nebraska Environmental Trust Fund under this section were matched not less than forty percent of the project or activity cost by other funding sources.

(5) The board may establish a subcommittee to rate grant applications. If the board uses a subcommittee, the meetings of such subcommittee shall be subject to the Open Meetings Act. The subcommittee shall (a) use the rating systems established by the board under subsection (2) of this section, (b) assign a numeric value to each rating criterion, combine these values into a total score for each application, and rank the applications by the total scores, (c) recommend an amount of funding for each application, which amount may be more or less than the requested amount, and (d) submit the ranked list and recommended funding to the board for its approval or disapproval.

(6) The board may commit funds to multiyear projects, subject to available funds and appropriations. No commitment shall exceed three years without formal action by the board to renew the grant or contract. Multiyear commitments may be exempt from the rating process except for the initial application and requests to renew the commitment.

(7) The board shall adopt and promulgate rules and regulations and publish guidelines governing allocations from the fund. The board shall conduct annual reviews of existing projects for compliance with project goals and grant requirements.
(8) Every five years the board may evaluate the long-term effects of
the projects it funds. The evaluation may assess a sample of such
projects. The board may hire an independent consultant to conduct the
evaluation and may report the evaluation findings to the Legislature and
the Governor. The report submitted to the Legislature shall be submitted
electronically.

Reissue Revised Statutes of Nebraska, and sections 2-969, 2-3225, 46-290, 46-294, 46-715, 46-753, 46-755, and 81-15,175, Revised Statutes
Cumulative Supplement, 2018, are repealed.