

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2019-20</b>		<b>FY 2020-21</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	530,411		507,501	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>530,411</b>		<b>507,501</b>	

**Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.**

LB 368 would remove statutory references to overappropriated river basins and would reclassify river basins currently designated as overappropriated to fully appropriated. Additionally, surface water controls would become mandatory in integrated management plans. LB 368 would also require the Department of Natural Resources to manage on-stream reservoirs in fully appropriated river basins, and stipulates that such structures not exceed 80% of capacity prior to March 1 of any year. The Department of Natural Resources would be required to develop a management plan for such structures.

The revision of section 46-718 to make surface water controls a mandatory part of all integrated management plans is estimated to result in a workload increase for the Department of Natural Resources. The agency notes that at the present time, two agency field offices are staffed at a level that could accommodate the provisions of LB 368. The agency estimates that 6 FTE field staff would be required to increase staffing at the Ord, Norfolk and Lincoln offices. The agency further estimates that 1 FTE would be required to handle increased data acquisition. Initial year costs would also include approximately \$110,000 for additional stream gaging equipment. Total agency costs are estimated to total \$530,411 General Funds in FY19-20 and \$507,501 General Funds in FY20-21. There is no basis to disagree with the agency estimate.

It is estimated that there would also be increased costs for the Department to develop management plans and manage on-stream reservoirs in fully appropriated basis. Costs would include research and staff time to develop management plans and to monitor compliance with the 80% capacity requirement. The Department of Natural Resources notes that carrying out these functions would exceed its existing legal authority, and provides no estimate of potential costs. Because the agency notes that 806 reservoirs could fall under this provision, if such a function was permitted under the agency's legal authority, annual costs would be significant, and could exceed \$500,000 annually.

<b>ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY &amp; POLT. SUB. RESPONSE</b>			
LB: 368	AM:	AGENCY/POLT. SUB: Department of Natural Resources	
REVIEWED BY: Claire Oglesby	DATE:	1/30/19	PHONE: (402) 471-4174
COMMENTS: The Department of Natural Resources' calculation of fiscal impact appears reasonable based on the assumptions provided.			

State Agency OR Political Subdivision Name: <sup>(2)</sup> Department of Natural Resources (NeDNR)

Prepared by: <sup>(3)</sup> Ron Theis Date Prepared: <sup>(4)</sup> Jan. 17, 2019 Phone: <sup>(5)</sup> 402 471 0577

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2019-20</u>		<u>FY 2020-21</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$530,411		\$507,501	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<u>\$530,411</u>		<u>\$507,501</u>	

**Explanation of Estimate:**

Provisions in Sec. 12 of the bill amending 46-716(1) create a fiscal impact because of additional resources needed due to mandating the implementation of all of the required surface water controls contained in all voluntary and mandatory integrated management plans (IMP), developed under the Ground Water Management and Protection Act (Act). Current law provides a list of discretionary surface water controls for inclusion in an IMP, allowing tailoring to individual natural resources district and basin stakeholders' goals and needs. The bill requires every listed potential surface water control to be expressly stated and proscribed with sufficient specificity in an IMP to be codified in a legal order for compliance by all surface water users.

**Estimate assumptions and reasoning:**

Both the NeDNR Bridgeport and Cambridge field office areas encompass currently designated fully or over appropriated areas and staffing levels and workloads there are currently appropriate to administering the complete list of that basins' specific surface water controls. As detailed in the bill's changes to 46-716, many other natural resources districts currently have or are in the process of developing IMPs, and since the bill requires the adoption and implementation of all surface water controls in all integrated management plans, it is anticipated that staffing levels at the NeDNR Ord, Norfolk, and Lincoln field offices would need to be brought into line with those of the Bridgeport and Cambridge field offices.

Voluntary IMPs are also affected, because 46-715(b) requires a voluntary IMP to comply with all 46-716 requirements. Thus, when the bill is adopted and effective, the additional IMP surface water control requirements will make the majority of IMPs out of compliance with the Act creating the necessity of an immediate round of amendments for all existing IMPs and additional surface water field enforcement and monitoring staff. Briefly, the Department estimates the costs of seven additional fully equipped FTE staff, three additional stream gages, and ten-telemetered streamflow gages. The primary personnel duties that would be affected by the bill enactment are carried out by the Natural Resources Specialist II job classification. They include; 1), stream gaging, 2) diversion and irrigation-rate compliance checks, 3) field investigations, and 4) dam safety inspections. An additional five FTE Natural Resources Specialist II classification positions are needed to compensate for the increased workload. Because of the addition of five Natural Resources Specialist IIs and the additional data and oversight that will need to be provided due to the bill, one additional supervisory Natural Resources Specialist III will be required. With the additional data acquisition and reporting requirements resulting from carrying out the bill it is also estimated that one additional FTE staff in the Department's IT Division will be required. This position could be an IT Business Systems Analyst. The salaries and benefits for FY2019-20 are assumed if staff is hired September of 2019.

Technical notes:

1. The bill's Sec. 12 amendment adding 46-716(3) to the Act creates duties for the Department exceeding its legal authority and cannot be accurately estimated and so is not included in this fiscal note. The provision delegates the Department a new flood management planning duty for 806 on-stream reservoirs belonging to private and public entities. Under some circumstances, carrying out the new additional duty resulting in reducing the maximum allowed reservoir storage by 20% by March 1 of each year may require the forced release of legally stored water. Such would exceed the Department's water permitting and administration actions as authorized under Nebraska's prior appropriation doctrine to determine how legally water is stored and beneficially used.

2. The fiscal impact of the bill's Sec. 17 amendment of 46-755 cannot be accurately estimated. Taken as written, the proposed provisions do not require basin wide planning (BWP) for the currently designated overappropriated basins, because of an un-amended and obscure "eighty-five percent of land area" criterion applying certain BWP requirements only to the Republican River Basin, which is designated as fully appropriated. If this is indeed what is intended, it could allow some current Department resources to be redirected to other IMP and basin wide planning activities in the remaining areas of the State. Simply stated, the changes to this complex law create some confusing work obligation results associated with many on-going BWP and IMP processes, which are difficult to estimate for fiscal purposes.

**BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE**

**Personal Services:**

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2019-20</u>	<u>2020-21</u>
	<u>19-20</u>	<u>20-21</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Natural Resources Specialist II	5	5	\$199,316	\$232,340
Natural Resources Specialist III	1	1	48,491	56,526
IT Business Systems Analyst	1	1	42,620	49,684
Benefits.....			112,527	153,723
Operating.....			121,201	8,078
Travel.....			6,256	7,150
Capital outlay.....				
Aid.....				
Capital improvements.....				
<b>TOTAL.....</b>			<b>\$530,411</b>	<b>\$507,501</b>