

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 701**

FINAL READING

Introduced by Christensen, 44

Read first time January 17, 2007

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to natural resources; to amend sections 2-3231,  
2 46-601.01, 46-609, 46-644, 46-702, 46-707, 46-1212, and  
3 66-1345.02, Reissue Revised Statutes of Nebraska, and  
4 sections 2-945.01, 2-958.02, 2-3202, 2-3225, 13-808,  
5 13-2530, 46-229.04, 46-602, 46-715, 61-210, 66-1345,  
6 66-1345.01, and 77-3442, Revised Statutes Cumulative  
7 Supplement, 2006; to create the Riparian Vegetation  
8 Management Task Force; to provide and change powers  
9 and duties; to provide for grants for vegetation  
10 management programs; to provide for bonds for ground  
11 water management; to authorize an occupation tax and an  
12 additional property tax levy; to change and eliminate  
13 provisions relating to irrigation and regulation of water

1           and water wells; to define and redefine terms; to create  
2           a fund; to change excise taxes on certain crops and  
3           distribution of the proceeds of such taxes; to provide  
4           for transfers of funds; to harmonize provisions; to  
5           provide severability; to repeal the original sections;  
6           and to declare an emergency.

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

1           Section 1. The Riparian Vegetation Management Task Force  
2 is created. The Governor shall appoint the members of the task  
3 force. The members shall include one surface water project  
4 representative from each river basin that has been determined  
5 to be fully appropriated pursuant to section 46-714 or 46-720  
6 or designated as overappropriated pursuant to section 46-713  
7 by the Department of Natural Resources; one representative from  
8 the Department of Agriculture, the Department of Environmental  
9 Quality, the Department of Natural Resources, the office of the  
10 Governor, the office of the State Forester, the Game and Parks  
11 Commission, and the University of Nebraska; two representatives  
12 nominated by the Nebraska Association of Resources Districts; two  
13 representatives nominated by the Nebraska Weed Control Association;  
14 one riparian landowner from each of the state's congressional  
15 districts; and one representative from the Nebraska Environmental  
16 Trust. In addition to such members, any member of the Legislature  
17 may serve as a member of the task force at his or her option.  
18 For administrative and budgetary purposes only, the task force  
19 shall be housed within the Department of Agriculture. This section  
20 terminates on June 30, 2009.

21           Sec. 2. The Riparian Vegetation Management Task Force, in  
22 consultation with appropriate federal agencies, shall develop and  
23 prioritize vegetation management goals and objectives, analyze the  
24 cost-effectiveness of available vegetation treatment, and develop  
25 plans and policies to achieve such goals and objectives. Any plan

1 shall utilize the principles of integrated vegetation management  
2 and sound science. The task force shall convene within thirty  
3 days after the appointment of the members is complete to elect a  
4 chairperson and conduct such other business as deemed necessary.  
5 The efforts of the task force shall be initially directed toward  
6 river basins designated by the Department of Natural Resources as  
7 fully appropriated or overappropriated. Task force meetings shall  
8 be held in communities within the Republican River and Platte River  
9 basins. The task force shall make preliminary recommendations to  
10 the Governor and the Legislature regarding funding and legislation  
11 needed to achieve its goals on or before December 15, 2007, and  
12 each year thereafter, with a final report due prior to June 30,  
13 2009. It is the intent of the Legislature that expenses of the task  
14 force be paid from funds appropriated for this legislative bill and  
15 shall not exceed twenty-five thousand dollars per fiscal year. This  
16 section terminates on June 30, 2009.

17           Sec. 3. Section 2-945.01, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           2-945.01 Sections 2-945.01 to 2-966 and sections 1 and 2  
20 of this act shall be known and may be cited as the Noxious Weed  
21 Control Act.

22           Sec. 4. Section 2-958.02, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           2-958.02 (1) From funds available in the Noxious Weed and  
25 Invasive Plant Species Assistance Fund, the director may administer

1 a grant program to assist local control authorities and other weed  
2 management entities in the cost of implementing and maintaining  
3 noxious weed control programs and in addressing special weed  
4 control problems as provided in this section.

5 (2) The director shall receive applications by local  
6 control authorities and weed management entities for assistance  
7 under this subsection ~~section~~ and, in consultation with the  
8 advisory committee created under section 2-965.01, award grants  
9 for any of the following eligible purposes:

10 (a) To conduct applied research to solve locally  
11 significant weed management problems;

12 (b) To demonstrate innovative control methods or land  
13 management practices which have the potential to reduce landowner  
14 costs to control noxious weeds or improve the effectiveness of  
15 noxious weed control;

16 (c) To encourage the formation of weed management  
17 entities;

18 (d) To respond to introductions or infestations of  
19 invasive plants that threaten or potentially threaten the  
20 productivity of cropland and rangeland over a wide area;

21 (e) To respond to introductions and infestations of  
22 invasive plant species that threaten or potentially threaten the  
23 productivity and biodiversity of wildlife and fishery habitats on  
24 public and private lands;

25 (f) To respond to special weed control problems involving

1 weeds not included in the list of noxious weeds promulgated by  
2 rule and regulation of the director if the director has approved a  
3 petition to bring such weeds under the county control program;

4 (g) To conduct monitoring or surveillance activities  
5 to detect, map, or determine the distribution of invasive plant  
6 species and to determine susceptible locations for the introduction  
7 or spread of invasive plant species; and

8 (h) To conduct educational activities.

9 ~~(2)~~ (3) The director shall select and prioritize  
10 applications for assistance under subsection (2) of this section  
11 based on the following considerations:

12 (a) The seriousness of the noxious weed or invasive plant  
13 problem or potential problem addressed by the project;

14 (b) The ability of the project to provide timely  
15 intervention to save current and future costs of control and  
16 eradication;

17 (c) The likelihood that the project will prevent or  
18 resolve the problem or increase knowledge about resolving similar  
19 problems in the future;

20 (d) The extent to which the project will leverage federal  
21 funds and other nonstate funds;

22 (e) The extent to which the applicant has made progress  
23 in addressing noxious weed or invasive plant problems;

24 (f) The extent to which the project will provide a  
25 comprehensive approach to the control or eradication of noxious

1 weeds;

2 (g) The extent to which the project will reduce the total  
3 population or area of infestation of a noxious weed;

4 (h) The extent to which the project uses the principles  
5 of integrated vegetation management and sound science; and

6 (i) Such other factors that the director determines to be  
7 relevant.

8 (4) The director shall receive applications for grants  
9 under this subsection and shall award grants to recipients and  
10 programs eligible under this subsection. Priority shall be given to  
11 grant applicants whose proposed programs are consistent with the  
12 policy established in section 2 of this act. Beginning in fiscal  
13 year 2007-08, it is the intent of the Legislature to appropriate  
14 two million dollars annually for the management of vegetation  
15 within the banks of a natural stream or within one hundred feet of  
16 the banks of a channel of any natural stream. Such funds shall only  
17 be used to pay for activities and equipment as part of vegetation  
18 management programs that have as their primary objective improving  
19 conveyance of streamflow in natural streams. Grants from funds  
20 appropriated as provided in this subsection shall be disbursed only  
21 to weed management entities, local weed control authorities, and  
22 natural resources districts, whose territory includes one or more  
23 fully appropriated or overappropriated river basins as designated  
24 by the Department of Natural Resources with priority for the  
25 first year given to fully appropriated river basins that are the

1 subject of an interstate compact or decree. The Game and Parks  
2 Commission shall assist grant recipients in implementing grant  
3 projects under this subsection, and interlocal agreements under the  
4 Interlocal Cooperation Act or the Joint Public Agency Act shall be  
5 utilized whenever possible in carrying out the grant projects. This  
6 subsection terminates June 30, 2009.

7           ~~(3)~~ (5) Nothing in this section shall be construed to  
8 relieve control authorities of their duties and responsibilities  
9 under the Noxious Weed Control Act or the duty of a person to  
10 control the spread of noxious weeds on lands owned and controlled  
11 by him or her.

12           ~~(4)~~ (6) The Department of Agriculture may adopt and  
13 promulgate necessary rules and regulations to carry out this  
14 section.

15           Sec. 5. Section 2-3202, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           2-3202 For purposes of Chapter 2, article 32, and  
18 sections 6 to 10 and 16 of this act, unless the context otherwise  
19 requires:

20           (1) Commission means the Nebraska Natural Resources  
21 Commission;

22           (2) Natural resources district or district means a  
23 natural resources district operating pursuant to Chapter 2, article  
24 32;

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



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

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

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

8 (7) Department means the Department of Natural Resources.

9 Sec. 6. (1) In order to implement its duties and  
10 obligations under the Nebraska Ground Water Management and  
11 Protection Act and in addition to other powers authorized by law,  
12 the board of a district with jurisdiction that includes a river  
13 subject to an interstate compact among three or more states and  
14 that also includes one or more irrigation districts within the  
15 compact river basin may issue negotiable bonds and refunding bonds  
16 of the district and entitled river-flow enhancement bonds, with  
17 terms determined appropriate by the board, payable by (a) funds  
18 granted to such district by the state or federal government for  
19 one or more qualified projects, (b) the occupation tax authorized  
20 by section 10 of this act, or (c) the levy authorized by section  
21 2-3225. The district may issue the bonds or refunding bonds  
22 directly, or such bonds may be issued by any joint entity as  
23 defined in section 13-803 whose member public agencies consist only  
24 of qualified natural resources districts or by any joint public  
25 agency as defined in section 13-2503 whose participating public

1 agencies consist only of qualified natural resources districts, in  
2 connection with any joint project which is to be owned, operated,  
3 or financed by the joint entity or joint public agency for the  
4 benefit of its member natural resources districts. For the payment  
5 of such bonds or refunding bonds, the district may pledge one or  
6 more permitted payment sources.

7 (2) Within forty-five days after receipt of a written  
8 request by the Natural Resources Committee of the Legislature, the  
9 qualified natural resources districts shall submit a written report  
10 to the committee containing an explanation of existing or planned  
11 activities for river-flow enhancement, the revenue source for  
12 implementing such activities, and a description of the estimated  
13 benefit or benefits to the district or districts.

14 (3) Beginning on April 1, 2008, if a district uses the  
15 proceeds of a bond issued pursuant to this section for the purposes  
16 described in subdivision (1) of section 9 of this act or the state  
17 uses funds for those same purposes, such district shall restrict  
18 the use of ground water from water wells used on acres certified  
19 for both ground water use and surface water use to no greater than  
20 the total ground water allocation previously permitted by district  
21 rule or regulation less any surface water purchased, leased, or  
22 otherwise acquired for implementation of the project entered into  
23 by the district.

24 Sec. 7. The authority to issue bonds for qualified  
25 projects granted in section 6 of this act terminates on January

1 1, 2023, except that (1) any bonds already issued and outstanding  
2 for qualified projects as of such date are permitted to remain  
3 outstanding and the district shall retain all powers of taxation  
4 provided for in section 6 of this act to provide for the payment  
5 of principal and interest on such bonds and (2) refunding bonds  
6 may continue to be issued and outstanding as of January 1,  
7 2023, including extension of principal maturities if determined  
8 appropriate.

9           Sec. 8. The board of a district issuing bonds pursuant to  
10 section 6 of this act may agree to pay fees to fiscal agents in  
11 connection with the placement of bonds of the district. Such bonds  
12 shall be subject to the same terms and conditions as provided by  
13 section 2-3254.07 for improvement project area bonds and such other  
14 terms and conditions as the board determines appropriate.

15           Sec. 9. The proceeds of bonds issued pursuant to section  
16 6 of this act shall only be used to pay or refinance the  
17 costs of (1) acquisition by purchase or lease of water rights  
18 in accordance with Chapter 46, article 6, pertaining to ground  
19 water, and Chapter 46, article 2, pertaining to surface water,  
20 including storage water rights with respect to a river or any  
21 of its tributaries, (2) acquisition by purchase or lease or the  
22 administration and management, pursuant to mutual agreement, of  
23 canals and other works, including reservoirs, constructed for  
24 irrigation from a river or any of its tributaries, (3) vegetation  
25 management, including, but not limited to, the removal of invasive

1 species in or near a river or any of its tributaries, and (4) the  
2 augmentation of river flows consistent with the authority granted  
3 under Chapter 2, article 32.

4           Sec. 10. (1) The district may levy an occupation tax  
5 upon the activity of irrigation of agricultural lands within  
6 such district on an annual basis, not to exceed ten dollars per  
7 irrigated acre, for the purpose of repaying principal and interest  
8 on any bonds or refunding bonds issued pursuant to section 6 of  
9 this act for one or more projects under section 9 of this act.

10           (2) Acres classified by the county assessor as irrigated  
11 shall be subject to such district's occupation tax unless, on or  
12 before July 1, 2007, and on or before March 1 in each subsequent  
13 year, the record owner certifies to the district the nonirrigation  
14 status of such acres.

15           (3) Any such occupation tax shall remain in effect so  
16 long as the district has bonds outstanding which have been issued  
17 stating such occupation tax as an available source for payment.

18           (4) Such occupation taxes shall be certified to,  
19 collected by, and accounted for by the county treasurer at the same  
20 time as general real estate taxes, and such occupation taxes shall  
21 be and remain a perpetual lien against such real estate until paid.  
22 Such occupation taxes shall become delinquent at the same time as  
23 general real property taxes.

24           (5) Such lien shall be inferior only to general taxes  
25 levied by political subdivisions of the state. When such occupation

1 taxes have become delinquent and the real property on which the  
2 irrigation took place has not been offered at any tax sale, the  
3 district may proceed in district court in the county in which the  
4 real estate is situated to foreclose in its own name the lien  
5 in the same manner and with like effect as a foreclosure of a  
6 real estate mortgage, except that sections 77-1903 to 77-1917 shall  
7 govern when applicable.

8           Sec. 11. Section 2-3225, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           2-3225 (1) (a) Each district shall have the power and  
11 authority to levy a tax of not to exceed four and one-half cents  
12 on each one hundred dollars of taxable valuation annually on all of  
13 the taxable property within such district unless a higher levy is  
14 authorized pursuant to section 77-3444.

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

24           (c) In addition to the power and authority granted in  
25 subdivisions (1) (a) and (b) of this section, each district located

1 in a river basin, subbasin, or reach that has been determined  
2 to be fully appropriated pursuant to section 46-714 or designated  
3 overappropriated pursuant to section 46-713 by the Department of  
4 Natural Resources shall also have the power and authority to  
5 levy a tax equal to the dollar amount by which its restricted  
6 funds budgeted to administer and implement ground water management  
7 activities and integrated management activities under the Nebraska  
8 Ground Water Management and Protection Act exceed its restricted  
9 funds budgeted to administer and implement ground water management  
10 activities and integrated management activities for FY2005-06, not  
11 to exceed three cents on each one hundred dollars of taxable  
12 valuation on all of the taxable property within the district for  
13 fiscal year 2006-07 and ~~not to exceed two cents on each one~~  
14 ~~hundred dollars of taxable valuation annually on all of the taxable~~  
15 ~~property within the district for fiscal years 2007-08 and 2008-09.~~  
16 and each fiscal year thereafter through fiscal year 2011-12.

17 (d) In addition to the power and authority granted in  
18 subdivisions (a) through (c) of this subsection, a district with  
19 jurisdiction that includes a river subject to an interstate compact  
20 among three or more states and that also includes one or more  
21 irrigation districts within the compact river basin may annually  
22 levy a tax not to exceed ten cents per one hundred dollars of  
23 taxable valuation of all taxable property in the district for  
24 the payment of principal and interest on bonds and refunding  
25 bonds issued pursuant to section 6 of this act. Such levy is

1 not includable in the computation of other limitations upon the  
2 district's tax levy.

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

16           Sec. 12. Section 2-3231, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           2-3231 Each district shall have the power and authority  
19 to:

20           (1) Contract for the construction, preservation,  
21 operation, and maintenance of tunnels, reservoirs, regulating or  
22 reregulating basins, diversion works and canals, dams, drains,  
23 drainage systems, or other projects for a purpose mentioned in  
24 section 2-3229, and necessary works incident thereto, and to hold  
25 the federal government or any agency thereof free from liability

1 arising from any construction;

2 (2) Contract with the United States for a water supply  
3 and water distribution and drainage systems under any Act of  
4 Congress providing for or permitting such contract;

5 (3) Acquire by purchase, lease, or otherwise mutually  
6 arrange to administer and manage any project works undertaken by  
7 the United States or any of its agencies, or by this state or  
8 any of its agencies; ~~Provided, except~~ that this section shall  
9 not apply to any project being administered or managed by any  
10 public power district, public power and irrigation district, or  
11 metropolitan utilities district; and ~~reclamation district, or~~  
12 ~~irrigation district, and~~

13 (4) Act as agent of the United States, or any of its  
14 agencies, or for this state or any of its agencies, in connection  
15 with the acquisition, construction, operation, maintenance, or  
16 management of any project within its boundaries.

17 Sec. 13. Section 13-808, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 13-808 (1) Any joint entity may issue such types of bonds  
20 as its governing body may determine subject only to any agreement  
21 with the holders of outstanding bonds, including bonds as to which  
22 the principal and interest are payable exclusively from all or a  
23 portion of the revenue from one or more projects, from one or more  
24 revenue-producing contracts, including securities acquired from any  
25 person, bonds issued by any qualified public agency under the



1 Public Facilities Construction and Finance Act, or leases made by  
2 the joint entity with any person, including any of those public  
3 agencies which are parties to the agreement creating the joint  
4 entity, or from its revenue generally or which may be additionally  
5 secured by a pledge of any grant, subsidy, or contribution from any  
6 person or a pledge of any income or revenue, funds, or money of the  
7 joint entity from any source whatsoever or a mortgage or security  
8 interest in any real or personal property, commodity, product, or  
9 service or interest therein.

10 (2) Any bonds issued by such joint entity shall be  
11 issued on behalf of those public agencies which are parties to  
12 the agreement creating such joint entity and shall be authorized  
13 to be issued for the specific purpose or purposes for which  
14 the joint entity has been created. Such specific purposes may  
15 include, but shall not be limited to, joint projects authorized by  
16 the Public Facilities Construction and Finance Act; solid waste  
17 collection, management, and disposal; waste recycling; sanitary  
18 sewage treatment and disposal; public safety communications;  
19 correctional facilities; water treatment plants and distribution  
20 systems; drainage systems; flood control projects; fire protection  
21 services; ground water quality management and control; river-flow  
22 enhancement; education and postsecondary education; hospital and  
23 other health care services; bridges, roads, and streets; and law  
24 enforcement.

25 (3) As an alternative to issuing bonds for financing

1 public safety communication projects, any joint entity may enter  
2 into a financing agreement with the Nebraska Investment Finance  
3 Authority for such purpose.

4 (4) Any joint entity formed for purposes of providing or  
5 assisting with the provision of public safety communications may  
6 enter into an agreement with any other joint entity relating to  
7 (a) the operation, maintenance, or management of the property or  
8 facilities of such joint entity or (b) the operation, maintenance,  
9 or management of the property or facilities of such other joint  
10 entity.

11 Sec. 14. Section 13-2530, Revised Statutes Cumulative  
12 Supplement, 2006, is amended to read:

13 13-2530 (1) Any joint public agency may issue such types  
14 of bonds as its board may determine subject only to any agreement  
15 with the holders of outstanding bonds, including bonds as to which  
16 the principal and interest are payable exclusively from all or  
17 a portion of the revenue from one or more projects, from one  
18 or more revenue-producing contracts, including securities acquired  
19 from any person, bonds issued by any qualified public agency under  
20 the Public Facilities Construction and Finance Act, or leases made  
21 by the joint public agency with any person, including any of  
22 the public agencies which are parties to the agreement creating  
23 the joint public agency, or from its revenue generally or which  
24 may be additionally secured by a pledge of any grant, subsidy,  
25 or contribution from any person or a pledge of any income or

1 revenue, funds, or money of the joint public agency from any  
2 source whatsoever or a mortgage or security interest in any real  
3 or personal property, commodity, product, or service or interest  
4 therein.

5 (2) Any bonds issued by such joint public agency shall  
6 be issued on behalf of the joint public agency solely for the  
7 specific purpose or purposes for which the joint public agency has  
8 been created. Such specific purposes may include, but shall not  
9 be limited to, joint projects authorized by the Public Facilities  
10 Construction and Finance Act; solid waste collection, management,  
11 and disposal; waste recycling; sanitary sewage treatment and  
12 disposal; public safety communications; correctional facilities;  
13 water treatment plants and distribution systems; drainage systems;  
14 flood control projects; fire protection services; ground water  
15 quality management and control; river-flow enhancement; education  
16 and postsecondary education; hospital and other health care  
17 services; bridges, roads, and streets; and law enforcement.

18 (3) As an alternative to issuing bonds for financing  
19 public safety communication projects, any joint public agency may  
20 enter into a financing agreement with the Nebraska Investment  
21 Finance Authority for such purpose.

22 (4) Any joint public agency formed for purposes of  
23 providing or assisting with the provision of public safety  
24 communications may enter into an agreement with any other joint  
25 public agency relating to (a) the operation, maintenance, or

1 management of the property or facilities of such joint public  
2 agency or (b) the operation, maintenance, or management of the  
3 property or facilities of such other joint public agency.

4 Sec. 15. Section 46-229.04, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 46-229.04 (1) At ~~such~~ a hearing held pursuant to section  
7 46-229.03, the verified field investigation report of an employee  
8 of the department, or such other report or information that  
9 is relied upon by the department to reach the preliminary  
10 determination of nonuse, shall be prima facie evidence for the  
11 forfeiture and annulment of such water appropriation. If no person  
12 appears at the hearing, such water appropriation or unused part  
13 thereof shall be declared forfeited and annulled. If an interested  
14 person appears and contests the same, the department shall hear  
15 evidence, and if it appears that such water has not been put to a  
16 beneficial use or has ceased to be used for such purpose for more  
17 than five consecutive years, the same shall be declared canceled  
18 and annulled unless the department finds that (a) there has been  
19 sufficient cause for such nonuse as provided for in subsection (2),  
20 (3), or (4) of this section or (b) subsection (5) or (6) of this  
21 section applies.

22 (2) Sufficient cause for nonuse shall be deemed to exist  
23 for up to thirty consecutive years if such nonuse was caused by the  
24 unavailability of water for that use. For a river basin, subbasin,  
25 or reach that has been designated as overappropriated pursuant

1 to section 46-713 or determined by the department to be fully  
2 appropriated pursuant to section 46-714, the period of time within  
3 which sufficient cause for nonuse because of the unavailability  
4 of water may be deemed to exist may be extended beyond thirty  
5 years by the department upon petition therefor by the owner of  
6 the appropriation if the department determines that an integrated  
7 management plan being implemented in the river basin, subbasin, or  
8 reach involved is likely to result in restoration of a usable water  
9 supply for the appropriation.

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

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

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

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

24 (4) Sufficient cause for nonuse shall be deemed to exist  
25 for up to fifteen consecutive years if such nonuse was a result of

1 one or more of the following:

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

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

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

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

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

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

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

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

4           (5) When an appropriation is held in the name of an  
5 irrigation district, a reclamation district, a public power and  
6 irrigation district, ~~or~~ a mutual irrigation company or canal  
7 company, or the United States Bureau of Reclamation and the  
8 director determines that water under that appropriation has not  
9 been used on a specific parcel of land for more than five years and  
10 that no sufficient cause for such nonuse exists, the right to use  
11 water under that appropriation on that parcel shall be terminated  
12 and notice of the termination shall be posted on the department's  
13 web site and shall be given in the manner provided in subsection  
14 (2), (3), or (4) of section 46-229.03. The district or company  
15 holding such right shall have five years after the determination,  
16 or five years after an order of cancellation issued by the  
17 department following the filing of a voluntary relinquishment of  
18 the water appropriation that has been signed by the landowner and  
19 the appropriator of record, to assign the right to use that portion  
20 of the appropriation to other land within the district or the  
21 area served by the company, to file an application for a transfer  
22 in accordance with section 46-290, or to transfer the right in  
23 accordance with sections 46-2,127 to 46-2,129. The department  
24 shall issue its order of cancellation within sixty days after  
25 receipt of the voluntary relinquishment unless the relinquishment

1 is conditioned by the landowner upon an action of a governmental  
2 agency. If the relinquishment contains such a provision, the  
3 department shall issue its order of cancellation within sixty days  
4 after receipt of notification that such action has been completed.

5 The department shall be notified of any such assignment within  
6 thirty days after such assignment. If the district or company does  
7 not assign the right to use that portion of the appropriation to  
8 other land, does not file an application for a transfer within the  
9 five-year period, or does not notify the department within thirty  
10 days after any such assignment, that portion of the appropriation  
11 shall be canceled without further proceedings by the department  
12 and the district or company involved shall be so notified by the  
13 department. During the time within which assignment of a portion  
14 of an appropriation is pending, the allowable diversion rate for  
15 the appropriation involved shall be reduced, as necessary, to avoid  
16 inconsistency with the rate allowed by section 46-231 or with any  
17 greater rate previously approved for such appropriation by the  
18 director in accordance with section 46-229.06.

19 (6) When it is determined by the director that an  
20 appropriation, for which the location of use has been temporarily  
21 transferred in accordance with sections 46-290 to 46-294, has not  
22 been used at the new location for more than five years and that  
23 no sufficient cause for such nonuse exists, the right to use that  
24 appropriation at the temporary location of use shall be terminated.  
25 Notice of that termination shall be posted on the department's



1 web site and shall be given in the manner provided in subsection  
2 (2), (3), or (4) of section 46-229.03. The right to reinitiate  
3 use of that appropriation at the location of use prior to the  
4 temporary transfer shall continue to exist for five years after the  
5 director's determination, but if such use is not reinitiated at  
6 that location within such five-year period, the appropriation shall  
7 be subject to cancellation in accordance with sections 46-229 to  
8 46-229.04.

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

14 Sec. 16. (1) Whenever a natural resources district  
15 imposes an immediate temporary stay for one hundred eighty  
16 days in accordance with subsection (2) of section 46-707, the  
17 department may place an immediate temporary stay without prior  
18 notice or hearing on the issuance of new surface water natural-flow  
19 appropriations for one hundred eighty days in the area, river  
20 basin, subbasin, or reach of the same area included in the  
21 natural resources district's temporary stay, except that the  
22 department shall not place a temporary stay on new surface water  
23 natural-flow appropriations that are necessary to alleviate an  
24 emergency situation involving the provision of water for human  
25 consumption or public health or safety.

1           (2) The department shall hold at least one public hearing  
2 on the matter within the affected area within the period of  
3 the one-hundred-eighty-day temporary stay, with the notice of  
4 hearing given as provided in section 46-743, prior to making a  
5 determination as to imposing a stay or conditions in accordance  
6 with section 46-234 and subsection (12) of section 46-714. The  
7 department may hold the public hearing in conjunction with the  
8 natural resources district's hearing.

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

16           Sec. 17. Section 46-601.01, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           46-601.01 For purposes of Chapter 46, article 6:

19           ~~(1)~~ (1)(a) Water well means any excavation that is  
20 drilled, cored, bored, washed, driven, dug, jetted, or otherwise  
21 constructed for the purpose of exploring for ground water,  
22 monitoring ground water, utilizing the geothermal properties of  
23 the ground, obtaining hydrogeologic information, or extracting  
24 water from or injecting fluid as defined in section 81-1502 into  
25 the underground water reservoir.

1           (b) Water well includes any excavation made for any  
2 purpose if ground water flows into the excavation under natural  
3 pressure and a pump or other device is placed in the excavation  
4 for the purpose of withdrawing water from the excavation for  
5 irrigation. For such excavations, construction means placing a pump  
6 or other device into the excavation for the purpose of withdrawing  
7 water for irrigation.

8           (c) Water well does not include (i) any excavation  
9 made for obtaining or prospecting for oil or natural gas or for  
10 inserting media to repressure oil or natural gas bearing formations  
11 regulated by the Nebraska Oil and Gas Conservation Commission or  
12 (ii) any structure requiring a permit by the Department of Natural  
13 Resources used to exercise surface water appropriation; and

14           (2) Common carrier means any carrier of water including a  
15 pipe, canal, ditch, or other means of piping or adjoining water for  
16 irrigation purposes.

17           Sec. 18. Section 46-602, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19           46-602 (1) Each water well completed in this state on  
20 or after July 1, 2001, excluding test holes and dewatering wells  
21 to be used for less than ninety days, shall be registered with  
22 the Department of Natural Resources as provided in this section  
23 within sixty days after completion of construction of the water  
24 well. The water well contractor as defined in section 46-1213  
25 constructing the water well, or the owner of the water well if

1 the owner constructed the water well, shall file the registration  
2 on a form made available by the department and shall also file  
3 with the department the information from the well log required  
4 pursuant to section 46-1241. The department shall, by January 1,  
5 2002, provide water well contractors with the option of filing such  
6 registration forms electronically. No signature shall be required  
7 on forms filed electronically. The fee required by subsection (3)  
8 of section 46-1224 shall be the source of funds for any required  
9 fee to a contractor which provides the on-line services for such  
10 registration. Any discount in the amount paid the state by a credit  
11 card, charge card, or debit card company or a third-party merchant  
12 bank for such registration fees shall be deducted from the portion  
13 of the registration fee collected pursuant to section 46-1224.

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

25 (b) For purposes of this section, replacement water well

1 means a water well which is constructed to provide water for  
2 the same purpose as the original water well and is operating in  
3 accordance with any applicable permit from the department and any  
4 applicable rules and regulations of the natural resources district  
5 and, if the purpose is for irrigation, the replacement water well  
6 delivers water to the same tract of land served by the original  
7 water well and (i) replaces ~~an abandoned~~ a decommissioned water  
8 well within ~~three years~~ one hundred eighty days after the ~~last~~  
9 ~~operation~~ decommissioning of the ~~abandoned~~ original water well, and  
10 the original water well is decommissioned either before or within  
11 one hundred eighty days after such construction, (ii) replaces a  
12 water well that has not been ~~abandoned~~ decommissioned but will not  
13 be used after construction of the new water well and the original  
14 water well will be decommissioned within one hundred eighty days  
15 after such construction, except that in the case of a municipal  
16 water well, the original municipal water well may be used after  
17 construction of the new water well but shall be decommissioned  
18 within one year after completion of the replacement water well, or  
19 (iii) the original water well will continue to be used but will  
20 be modified and equipped within one hundred eighty days after such  
21 construction of the replacement water well to pump fifty gallons  
22 per minute or less and will be used only for livestock, monitoring,  
23 observation, or any other nonconsumptive or de ~~minimus~~ minimis use  
24 and approved by the applicable natural resources district.

25 (c) No water well shall be registered as a replacement

1 water well until the Department of Natural Resources has received  
2 a properly completed notice of decommissioning for the water well  
3 being replaced on a form made available by the department, or  
4 properly completed notice, prepared in accordance with subsection  
5 (7) of this section, of the modification and equipping of the  
6 original water well to pump fifty gallons per minute or less  
7 for use only for livestock, monitoring, observation, or any other  
8 nonconsumptive or de ~~minimus~~ minimis use approved by the applicable  
9 natural resources district. Such notices, as required, shall be  
10 completed by (i) the water well contractor as defined in section  
11 46-1213 who decommissions the water well or modifies and equips  
12 the water well, (ii) the pump installation contractor as defined  
13 in section 46-1209 who decommissions the water well or modifies  
14 and equips the water well, or (iii) the owner if the owner  
15 decommissions a driven sandpoint well which is on land owned by him  
16 or her for farming, ranching, or agricultural purposes or as his  
17 or her place of abode. The Department of Health and Human Services  
18 Regulation and Licensure shall, by rule and regulation, determine  
19 which contractor or owner shall be responsible for such notice  
20 in situations in which more than one contractor or owner may be  
21 required to provide notice under this subsection.

22 (3) For a series of two or more water wells completed and  
23 pumped into a common carrier as part of a single site plan for  
24 irrigation purposes, a registration form and a detailed site plan  
25 shall be filed for each water well. The registration form shall

1 include the registration numbers of other water wells included in  
2 the series if such water wells are already registered.

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

8 (5) One registration form shall be required along with  
9 a detailed site plan which shows the location of each such water  
10 well in the site and a log from each such water well for water  
11 wells constructed as part of a single site plan for (a) monitoring  
12 ground water, obtaining hydrogeologic information, or extracting  
13 contaminants from the ground, (b) water wells constructed as part  
14 of remedial action approved by the Department of Environmental  
15 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and  
16 (c) water well owners who have a permit issued pursuant to the  
17 Industrial Ground Water Regulatory Act and also have an underground  
18 injection control permit issued by the Department of Environmental  
19 Quality.

20 (6) The Department of Natural Resources shall be notified  
21 by the owner of any change in the ownership of a water well  
22 required to be registered under this section. Notification shall be  
23 in such form and include such evidence of ownership as the Director  
24 of Natural Resources by rule and regulation directs. The department  
25 shall use such notice to update the registration on file. The

1 department shall not collect a fee for the filing of the notice.

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

18 (8) Whenever a water well becomes an illegal water well  
19 as defined in section 46-706, the owner of the water well shall  
20 either correct the deficiency that causes the well to be an  
21 illegal water well or shall cause the proper decommissioning of  
22 the water well in accordance with rules and regulations adopted  
23 pursuant to the Water Well Standards and Contractors' Licensing  
24 Act. The water well contractor who decommissions the water well,  
25 the pump installation contractor who decommissions the water well,



1 or the owner if the owner decommissions a driven sandpoint well  
2 which is on land owned by him or her for farming, ranching, or  
3 agricultural purposes or as his or her place of abode, shall  
4 provide a properly completed notice of ~~abandonment~~ decommissioning  
5 to the Department of Natural Resources within sixty days. The  
6 Department of Health and Human Services Regulation and Licensure  
7 shall, by rule and regulation, determine which contractor or owner  
8 shall be responsible for such notice in situations in which more  
9 than one contractor or owner may be required to provide notice  
10 under this subsection. The Department of Natural Resources shall  
11 not collect a fee for the filing of the notice.

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

24 (10) Water wells which are or were used solely for  
25 injecting any fluid other than water into the underground water

1 reservoir, which were constructed before July 16, 2004, and which  
2 have not been properly decommissioned on or before July 16, 2004,  
3 shall be registered on or before July 1, 2005.

4 (11) Water wells described in subdivision (1)(b) of  
5 section 46-601.01 shall be registered with the Department of  
6 Natural Resources as provided in subsection (1) of this section  
7 within sixty days after the water well is constructed. Water wells  
8 described in subdivision (1)(b) of section 46-601.01 which were  
9 constructed prior to the effective date of this act shall be  
10 registered within one hundred eighty days after such date.

11 Sec. 19. Section 46-609, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 46-609 (1) Except as otherwise provided by this section  
14 or section 46-610, no irrigation water well shall be ~~drilled~~  
15 constructed upon any land in this state within six hundred feet of  
16 any registered irrigation water well and no existing nonirrigation  
17 water well within six hundred feet of any registered irrigation  
18 water well shall be used for irrigation purposes. Such spacing  
19 requirement shall not apply to (a) any water well used to irrigate  
20 two acres or less or (b) any replacement irrigation water well  
21 if it is ~~drilled~~ constructed within fifty feet of the irrigation  
22 water well being replaced and if the water well being replaced was  
23 ~~drilled~~ constructed prior to September 20, 1957, and is less than  
24 six hundred feet from a registered irrigation water well.

25 (2) The spacing protection of subsection (1) of this

1 section shall apply to an unregistered water well for a period of  
2 sixty days after completion of such water well.

3 (3) No person shall use a water well for purposes other  
4 than its registered purpose until the water well registration has  
5 been changed to the intended new use, except that a person may  
6 use a water well registered for purposes other than its intended  
7 purpose for use for livestock, monitoring, observation, or any  
8 other nonconsumptive or de minimis use approved by the applicable  
9 natural resources district. The change to a new use shall be  
10 made by filing a water well registration modification with the  
11 Department of Natural Resources and shall be approved only if the  
12 water well is in conformity with subsection (1) of this section and  
13 with section 46-651.

14 Sec. 20. Section 46-644, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 46-644 Permits granted by the Director of Natural  
17 Resources shall be valid for a period of five years after the  
18 granting of a permit and as long thereafter as the water for  
19 which the permit is granted is used. For the purposes of the  
20 Municipal and Rural Domestic Ground Water Transfers Permit Act,  
21 the commencement of construction of facilities to provide water  
22 for beneficial use shall be deemed the date of the commencement of  
23 beneficial use. If it appears that the holder of a permit granted  
24 under the act has not used water for a beneficial purpose and in  
25 accordance with the terms of the permit for more than ~~three~~ five

1 years, such permit may be revoked or modified by the director. The  
2 procedure for such revocation or modification shall be the same as  
3 that provided for in sections 46-229.02 to 46-229.05.

4 Sec. 21. Section 46-702, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 46-702 The Legislature finds that ownership of water is  
7 held by the state for the benefit of its citizens, that ground  
8 water is one of the most valuable natural resources in the state,  
9 and that an adequate supply of ground water is essential to the  
10 general welfare of the citizens of this state and to the present  
11 and future development of agriculture in the state. The Legislature  
12 recognizes its duty to define broad policy goals concerning the  
13 utilization and management of ground water and to ensure local  
14 implementation of those goals. The Legislature also finds that  
15 natural resources districts have the legal authority to regulate  
16 certain activities and, except as otherwise specifically provided  
17 by statute, as local entities are the preferred regulators of  
18 activities which may contribute to ground water depletion.

19 Every landowner shall be entitled to a reasonable and  
20 beneficial use of the ground water underlying his or her land  
21 subject to the provisions of Chapter 46, article 6, and the  
22 Nebraska Ground Water Management and Protection Act and the  
23 correlative rights of other landowners when the ground water  
24 supply is insufficient ~~for~~ to meet the reasonable needs of all  
25 users. The Legislature determines that the goal shall be to extend

1 ground water reservoir life to the greatest extent practicable  
2 consistent with reasonable and beneficial use of the ground water  
3 and best management practices.

4           The Legislature further recognizes and declares that  
5 the management, protection, and conservation of ground water and  
6 the reasonable and beneficial use thereof are essential to the  
7 economic prosperity and future well-being of the state and that  
8 the public interest demands procedures for the implementation of  
9 management practices to conserve and protect ground water supplies  
10 and to prevent the contamination or inefficient or improper use  
11 thereof. The Legislature recognizes the need to provide for orderly  
12 management systems in areas where management of ground water is  
13 necessary to achieve locally and regionally determined ground  
14 water management objectives and where available data, evidence,  
15 or other information indicates that present or potential ground  
16 water conditions, including subirrigation conditions, require the  
17 designation of areas with special regulation of development and  
18 use.

19           The Legislature finds that given the impact of extended  
20 drought on areas of the state, the economic prosperity and  
21 future well-being of the state is advanced by providing economic  
22 assistance in the form of providing bonding authority for certain  
23 natural resources districts as defined in section 6 of this act  
24 and in the creation of the Water Resources Cash Fund to alleviate  
25 the adverse economic impact of regulatory decisions necessary

1 for management, protection, and conservation of limited water  
2 resources. The Legislature specifically finds that, consistent with  
3 the public ownership of water held by the state for the benefit of  
4 its citizens, any action by the Legislature, or through authority  
5 conferred by it to any agency or political subdivision, to provide  
6 economic assistance does not establish any precedent that the  
7 Legislature in sections 6 and 25 of this act or in the future must  
8 or should purchase water or provide compensation for any economic  
9 impact resulting from regulation necessary pursuant to the terms of  
10 this legislative bill.

11           Sec. 22. Section 46-707, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           46-707 (1) Regardless of whether or not any portion of  
14 a district has been designated as a management area, in order  
15 to administer and enforce the Nebraska Ground Water Management  
16 and Protection Act and to effectuate the policy of the state to  
17 conserve ground water resources, a district may:

18           ~~(1)~~ (a) Adopt and promulgate rules and regulations  
19 necessary to discharge the administrative duties assigned in the  
20 act;

21           ~~(2)~~ (b) Require such reports from ground water users as  
22 may be necessary;

23           ~~(3)~~ (c) Require meters to be placed on any water wells  
24 for the purpose of acquiring water use data;

25           ~~(4)~~ (d) Require decommissioning of water wells that are

1 not properly classified as active status water wells as defined in  
2 section 46-1204.02 or inactive status water wells as defined in  
3 section 46-1207.02;

4 ~~(5)~~ (e) Conduct investigations and cooperate or contract  
5 with agencies of the United States, agencies or political  
6 subdivisions of this state, public or private corporations, or  
7 any association or individual on any matter relevant to the  
8 administration of the act;

9 ~~(6)~~ (f) Report to and consult with the Department  
10 of Environmental Quality on all matters concerning the entry  
11 of contamination or contaminating materials into ground water  
12 supplies; and

13 ~~(7)~~ (g) Issue cease and desist orders, following ten  
14 days' notice to the person affected stating the contemplated action  
15 and in general the grounds for the action and following reasonable  
16 opportunity to be heard, to enforce any of the provisions of the  
17 act or of orders or permits issued pursuant to the act, to initiate  
18 suits to enforce the provisions of orders issued pursuant to the  
19 act, and to restrain the construction of illegal water wells or the  
20 withdrawal or use of water from illegal water wells.

21 Before any rule or regulation is adopted pursuant to  
22 this ~~section~~, subsection, a public hearing shall be held within  
23 the district. Notice of the hearing shall be given as provided in  
24 section 46-743.

25 (2) In addition to the powers enumerated in subsection

1 (1) of this section, a district may impose an immediate temporary  
2 stay for a period of one hundred eighty days on the construction  
3 of any new water well and on any increase in the number of  
4 acres historically irrigated, without prior notice or hearing, upon  
5 adoption of a resolution by the board finding that such temporary  
6 immediate stay is necessary. The district shall hold at least  
7 one public hearing on the matter within the district during such  
8 one hundred eighty days, with the notice of the hearing given  
9 as provided in section 46-743, prior to making a determination  
10 as to imposing a permanent stay or conditions in accordance with  
11 subsections (1) and (6) of section 46-739. Within forty-five days  
12 after a hearing pursuant to this subsection, the district shall  
13 decide whether to exempt from the immediate temporary stay the  
14 construction of water wells for which permits were issued prior  
15 to the date of the resolution commencing the stay but for which  
16 construction had not begun prior to such date. If construction of  
17 such water wells is allowed, all permits that were valid when the  
18 stay went into effect shall be extended by a time period equal to  
19 the length of the stay and such water wells shall otherwise be  
20 completed in accordance with section 46-738. Water wells listed in  
21 subsection (3) of section 46-714 and water wells of public water  
22 suppliers are exempt from this subsection.

23           Sec. 23. Section 46-715, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25           46-715 (1) Whenever the Department of Natural



1 Resources has designated a river basin, subbasin, or reach as  
2 overappropriated or has made a final determination that a river  
3 basin, subbasin, or reach is fully appropriated, the natural  
4 resources districts encompassing such river basin, subbasin, or  
5 reach and the department shall jointly develop an integrated  
6 management plan for such river basin, subbasin, or reach. The plan  
7 shall be completed, adopted, and take effect within three years  
8 after such designation or final determination unless the department  
9 and the natural resources districts jointly agree to an extension  
10 of not more than two additional years.

11 (2) In developing an integrated management plan, the  
12 effects of existing and potential new water uses on existing  
13 surface water appropriators and ground water users shall be  
14 considered. An integrated management plan shall include the  
15 following: (a) Clear goals and objectives with a purpose of  
16 sustaining a balance between water uses and water supplies so that  
17 the economic viability, social and environmental health, safety,  
18 and welfare of the river basin, subbasin, or reach can be achieved  
19 and maintained for both the near term and the long term; (b)  
20 a map clearly delineating the geographic area subject to the  
21 integrated management plan; (c) one or more of the ground water  
22 controls authorized for adoption by natural resources districts  
23 pursuant to section 46-739; (d) one or more of the surface water  
24 controls authorized for adoption by the department pursuant to  
25 section 46-716; and (e) a plan to gather and evaluate data,

1 information, and methodologies that could be used to implement  
2 sections 46-715 to 46-717, increase understanding of the surface  
3 water and hydrologically connected ground water system, and test  
4 the validity of the conclusions and information upon which the  
5 integrated management plan is based. The plan may also provide for  
6 utilization of any applicable incentive programs authorized by law.  
7 Nothing in the integrated management plan for a fully appropriated  
8 river basin, subbasin, or reach shall require a natural resources  
9 district to regulate ground water uses in place at the time of  
10 the department's preliminary determination that the river basin,  
11 subbasin, or reach is fully appropriated, but a natural resources  
12 district may voluntarily adopt such regulations. The applicable  
13 natural resources district may decide to include all water users  
14 within the district boundary in an integrated management plan.

15 (3) The ground water and surface water controls proposed  
16 for adoption in the integrated management plan pursuant to  
17 subsection (1) of this section shall, when considered together  
18 and with any applicable incentive programs, (a) be consistent with  
19 the goals and objectives of the plan, (b) be sufficient to ensure  
20 that the state will remain in compliance with applicable state and  
21 federal laws and with any applicable interstate water compact or  
22 decree or other formal state contract or agreement pertaining to  
23 surface water or ground water use or supplies, and (c) protect the  
24 ground water users whose water wells are dependent on recharge from  
25 the river or stream involved and the surface water appropriators on

1 such river or stream from streamflow depletion caused by surface  
2 water uses and ground water uses begun after the date the river  
3 basin, subbasin, or reach was designated as overappropriated or  
4 was preliminarily determined to be fully appropriated in accordance  
5 with section 46-713.

6 (4) (a) In any river basin, subbasin, or reach that is  
7 designated as overappropriated, when the designated area lies  
8 within two or more natural resources districts, the department and  
9 the affected natural resources districts shall jointly develop a  
10 basin-wide plan for the area designated as overappropriated. Such  
11 plan shall be developed using the consultation and collaboration  
12 process described in subdivision (b) of this subsection, shall  
13 be developed concurrently with the development of the integrated  
14 management plan required pursuant to subsections (1) through (3) of  
15 this section, and shall be designed to achieve, in the incremental  
16 manner described in subdivision (d) of this subsection, the goals  
17 and objectives described in subsection (2) of this section. The  
18 basin-wide plan shall be adopted after hearings by the department  
19 and the affected natural resources districts.

20 (b) In any river basin, subbasin, or reach designated  
21 as overappropriated and subject to this subsection, the department  
22 and each natural resources district encompassing such river basin,  
23 subbasin, or reach shall jointly develop an integrated management  
24 plan for such river basin, subbasin, or reach pursuant to  
25 subsections (1) through (3) of this section. Each integrated

1 management plan for a river basin, subbasin, or reach subject  
2 to this subsection shall be consistent with any basin-wide plan  
3 developed pursuant to subdivision (a) of this subsection. Such  
4 integrated management plan shall be developed after consultation  
5 and collaboration with irrigation districts, reclamation districts,  
6 public power and irrigation districts, mutual irrigation companies,  
7 canal companies, and municipalities that rely on water from  
8 within the affected area and that, after being notified of the  
9 commencement of the plan development process, indicate in writing  
10 their desire to participate in such process. In addition, the  
11 department or the affected natural resources districts may include  
12 designated representatives of other stakeholders. If agreement  
13 is reached by all parties involved in such consultation and  
14 collaboration process, the department and each natural resources  
15 district shall adopt the agreed-upon integrated management plan. If  
16 agreement cannot be reached by all parties involved, the integrated  
17 management plan shall be developed and adopted by the department  
18 and the affected natural resources district pursuant to sections  
19 46-715 to 46-718 or by the Interrelated Water Review Board pursuant  
20 to section 46-719.

21 (c) Any integrated management plan developed under  
22 this subsection shall identify the overall difference between  
23 the current and fully appropriated levels of development. Such  
24 determination shall take into account cyclical supply, including  
25 drought, identify the portion of the overall difference between the

1 current and fully appropriated levels of development that is due  
2 to conservation measures, and identify the portions of the overall  
3 difference between the current and fully appropriated levels of  
4 development that are due to water use initiated prior to July 1,  
5 1997, and to water use initiated on or after such date.

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

10 (i) The first incremental goals shall be to address the  
11 impact of streamflow depletions to (A) surface water appropriations  
12 and (B) water wells constructed in aquifers dependent upon recharge  
13 from streamflow, to the extent those depletions are due to water  
14 use initiated after July 1, 1997, and, unless an interstate  
15 cooperative agreement for such river basin, subbasin, or reach is  
16 no longer in effect, to prevent streamflow depletions that would  
17 cause noncompliance by Nebraska with such interstate cooperative  
18 agreement. During the first increment, the department and the  
19 affected natural resources districts shall also pursue voluntary  
20 efforts, subject to the availability of funds, to offset any  
21 increase in streamflow depletive effects that occur after July 1,  
22 1997, but are caused by ground water uses initiated prior to such  
23 date. The department and the affected natural resources districts  
24 may also use other appropriate and authorized measures for such  
25 purpose;

1           (ii) The department and the affected natural resources  
2 districts may amend an integrated management plan subject to this  
3 subsection (4) as necessary based on an annual review of the  
4 progress being made toward achieving the goals for that increment;

5           (iii) During the ten years following adoption of an  
6 integrated management plan developed under this subsection (4)  
7 or during the ten years after the adoption of any subsequent  
8 increment of the integrated management plan pursuant to subdivision  
9 (d)(iv) of this subsection, the department and the affected natural  
10 resources district shall conduct a technical analysis of the  
11 actions taken in such increment to determine the progress towards  
12 meeting the goals and objectives adopted pursuant to subsection (2)  
13 of this section. The analysis shall include an examination of (A)  
14 available supplies and changes in long-term availability, (B) the  
15 effects of conservation practices and natural causes, including,  
16 but not limited to, drought, and (C) the effects of the plan  
17 on reducing the overall difference between the current and fully  
18 appropriated levels of development identified in subdivision (4)(c)  
19 of this section. The analysis shall determine whether a subsequent  
20 increment is necessary in the integrated management plan to meet  
21 the goals and objectives adopted pursuant to subsection (2) of this  
22 section and reduce the overall difference between the current and  
23 fully appropriated levels of development identified in subdivision  
24 (4)(c) of this section;

25           (iv) Based on the determination made in subdivision

1 (d)(iii) of this subsection, the department and the affected  
2 natural resources districts, utilizing the consultative and  
3 collaborative process described in subdivision (b) of this  
4 subsection, shall if necessary identify goals for a subsequent  
5 increment of the integrated management plan. Subsequent increments  
6 shall be completed, adopted, and take effect not more than ten  
7 years after adoption of the previous increment; and

8 (v) If necessary, the steps described in subdivisions  
9 (d)(ii) through (iv) of this subsection shall be repeated until  
10 the department and the affected natural resources districts agree  
11 that the goals and objectives identified pursuant to subsection  
12 (2) of this section have been met and the overall difference  
13 between the current and fully appropriated levels of development  
14 identified in subdivision (4)(c) of this section has been addressed  
15 so that the river basin, subbasin, or reach has returned to a fully  
16 appropriated condition.

17 (5) In any river basin, subbasin, or reach that is  
18 designated as fully appropriated or overappropriated and whenever  
19 necessary to ensure that the state is in compliance with an  
20 interstate compact or decree or a formal state contract or  
21 agreement, the department, in consultation with the affected  
22 districts, shall forecast on an annual basis the maximum amount  
23 of water that may be available from streamflow for beneficial use  
24 in the short term and long term in order to comply with the  
25 requirement of subdivision (3)(b) of this section. This forecast

1 shall be made by January 1, 2008, and each January 1 thereafter.

2           Sec. 24. Section 46-1212, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           46-1212 Water well shall mean any excavation that is  
5 drilled, cored, bored, washed, driven, dug, jettted, or otherwise  
6 constructed for the purpose of exploring for ground water,  
7 monitoring ground water, utilizing the geothermal properties of  
8 the ground, obtaining hydrogeologic information, or extracting  
9 water from or injecting fluid as defined in section 81-1502 into  
10 the underground water reservoir. Water well shall not include any  
11 excavation made for obtaining or prospecting for oil or natural gas  
12 or for inserting media to repressure oil or natural gas bearing  
13 formations regulated by the Nebraska Oil and Gas Conservation  
14 ~~Commission.~~ described in subdivisions (1)(b) and (1)(c) of section  
15 46-601.01.

16           Sec. 25. (1) The Water Resources Cash Fund is created.  
17 The fund shall be administered by the Department of Natural  
18 Resources. Any money in the fund available for investment shall be  
19 invested by the state investment officer pursuant to the Nebraska  
20 Capital Expansion Act and the Nebraska State Funds Investment Act.

21           (2) The State Treasurer shall credit to the fund such  
22 money as is (a) transferred to the fund by the Legislature, (b)  
23 paid to the state as fees, deposits, payments, and repayments  
24 relating to the fund, both principal and interest, (c) donated as  
25 gifts, bequests, or other contributions to such fund from public or



1 private entities, (d) made available by any department or agency of  
2 the United States if so directed by such department or agency, and  
3 (e) credited to the fund from the excise taxes imposed by section  
4 66-1345.01 beginning January 1, 2013.

5 (3) The fund shall be expended by the department (a)  
6 to aid management actions taken to reduce consumptive uses of  
7 water in river basins, subbasins, or reaches which are deemed  
8 by the department overappropriated pursuant to section 46-713 or  
9 fully appropriated pursuant to section 46-714 or are bound by  
10 an interstate compact or decree or a formal state contract or  
11 agreement and (b) to the extent funds are not expended pursuant to  
12 subdivision (a) of this subsection, the department may conduct a  
13 statewide assessment of short-term and long-term water management  
14 activities and funding needs to meet statutory requirements in  
15 sections 46-713 to 46-718 and 46-739 and any requirements of an  
16 interstate compact or decree or formal state contract or agreement.  
17 The fund shall not be used to pay for administrative expenses or  
18 any salaries for the department or any political subdivision.

19 (4) It is the intent of the Legislature that two million  
20 seven hundred thousand dollars be transferred each fiscal year from  
21 the General Fund to the Water Resources Cash Fund for FY2009-10  
22 through FY2018-19.

23 (5) (a) Expenditures from the Water Resources Cash  
24 Fund may be made to natural resources districts eligible under  
25 subsection (3) of this section for activities to either achieve a

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

14 (i) Require an explanation of how the planned activity  
15 will assure compliance with an interstate compact or decree or a  
16 formal state contract or agreement as required by section 46-715  
17 and the controls, rules, and regulations designed to carry out the  
18 activity; and

19 (ii) A schedule of implementation of the activity or its  
20 components.

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

1 46-715 has been established.

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

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

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

12 Sec. 26. Section 61-210, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14 61-210 The Department of Natural Resources Cash Fund  
15 is created. The State Treasurer shall credit to such fund such  
16 money as is specifically appropriated or reappropriated by the  
17 Legislature. The State Treasurer shall also credit such fund with  
18 payments, if any, accepted for services rendered by the department  
19 and fees collected pursuant to subsection (6) of section 46-606  
20 and section 61-209. The funds made available to the Department  
21 of Natural Resources by the United States, through the Natural  
22 Resources Conservation Service of the Department of Agriculture or  
23 through any other agencies, shall be credited to the fund by the  
24 State Treasurer. Any money in the fund available for investment  
25 shall be invested by the state investment officer pursuant to

1 the Nebraska Capital Expansion Act and the Nebraska State Funds  
2 Investment Act. The Department of Natural Resources shall allocate  
3 money from the fund to pay costs of the programs or activities  
4 of the department. The Director of Administrative Services, upon  
5 receipt of proper vouchers approved by the department, shall issue  
6 warrants on the fund, and the State Treasurer shall countersign  
7 and pay from, but never in excess of, the amounts to the credit  
8 of the fund. ~~The State Treasurer shall transfer any money in the~~  
9 ~~Department of Water Resources Cash Fund and in the Nebraska Natural~~  
10 ~~Resources Commission Cash Fund on July 1, 2000, to the Department~~  
11 ~~of Natural Resources Cash Fund.~~

12           Sec. 27. Section 66-1345, Revised Statutes Cumulative  
13 Supplement, 2006, is amended to read:

14           66-1345 (1) There is hereby created the Ethanol  
15 Production Incentive Cash Fund which shall be used by the board  
16 to pay the credits created in section 66-1344 to the extent  
17 provided in this section. Any money in the fund available for  
18 investment shall be invested by the state investment officer  
19 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
20 State Funds Investment Act. The State Treasurer shall transfer to  
21 the Ethanol Production Incentive Cash Fund such money as shall be  
22 (a) appropriated to the Ethanol Production Incentive Cash Fund by  
23 the Legislature, (b) given as gifts, bequests, grants, or other  
24 contributions to the Ethanol Production Incentive Cash Fund from  
25 public or private sources, (c) made available due to failure to

1 fulfill conditional requirements pursuant to investment agreements  
2 entered into prior to April 30, 1992, (d) received as return on  
3 investment of the Ethanol Authority and Development Cash Fund, (e)  
4 credited to the Ethanol Production Incentive Cash Fund from the  
5 excise taxes imposed by section 66-1345.01, and (f) credited to the  
6 Ethanol Production Incentive Cash Fund pursuant to sections 66-489,  
7 ~~66-4,134,~~ 66-726, 66-1345.04, and 66-1519.

8 (2) The Department of Revenue shall, at the end of each  
9 calendar month, notify the State Treasurer of the amount of motor  
10 fuel tax that was not collected in the preceding calendar month  
11 due to the credits provided in section 66-1344. The State Treasurer  
12 shall transfer from the Ethanol Production Incentive Cash Fund to  
13 the Highway Trust Fund an amount equal to such credits less the  
14 following amounts:

15 (a) For 1993, 1994, and 1995, the amount generated during  
16 the calendar quarter by a one-cent tax on motor fuel pursuant to  
17 sections 66-489 and 66-6,107;

18 (b) For 1996, the amount generated during the calendar  
19 quarter by a three-quarters-cent tax on motor fuel pursuant to such  
20 sections;

21 (c) For 1997, the amount generated during the calendar  
22 quarter by a one-half-cent tax on motor fuel pursuant to such  
23 sections; and

24 (d) For 1998 and each year thereafter, no reduction.

25 For 1993 through 1997, if the amount generated pursuant

1 to subdivisions (a), (b), and (c) of this subsection and the  
2 amount transferred pursuant to subsection (1) of this section are  
3 not sufficient to fund the credits provided in section 66-1344,  
4 then the credits shall be funded through the Ethanol Production  
5 Incentive Cash Fund but shall not be funded through either the  
6 Highway Cash Fund or the Highway Trust Fund. For 1998 and each year  
7 thereafter, the credits provided in such section shall be funded  
8 through the Ethanol Production Incentive Cash Fund but shall not be  
9 funded through either the Highway Cash Fund or the Highway Trust  
10 Fund.

11           If, during any month, the amount of money in the Ethanol  
12 Production Incentive Cash Fund is not sufficient to reimburse the  
13 Highway Trust Fund for credits earned pursuant to section 66-1344,  
14 the Department of Revenue shall suspend the transfer of credits by  
15 ethanol producers until such time as additional funds are available  
16 in the Ethanol Production Incentive Cash Fund for transfer to the  
17 Highway Trust Fund. Thereafter, the Department of Revenue shall, at  
18 the end of each month, allow transfer of accumulated credits earned  
19 by each ethanol producer on a prorated basis derived by dividing  
20 the amount in the fund by the aggregate amount of accumulated  
21 credits earned by all ethanol producers.

22           (3) The State Treasurer shall transfer from the Ethanol  
23 Production Incentive Cash Fund to the Management Services Expense  
24 Revolving Fund the amount reported under subsection (4) of section  
25 66-1345.02 for each calendar month of the fiscal year as provided

1 in such subsection.

2 (4) On December 31, 2012, the State Treasurer shall  
3 transfer ~~one-half~~ of the unexpended and unobligated funds,  
4 including all subsequent investment interest, from the Ethanol  
5 Production Incentive Cash Fund to the ~~Nebraska Corn Development,~~  
6 ~~Utilization, and Marketing Fund and Grain Sorghum Development,~~  
7 ~~Utilization, and Marketing Fund~~ in the same proportion as funds  
8 were collected pursuant to section 66-1345.01 from corn and grain  
9 sorghum. The Department of Agriculture shall assist the State  
10 Treasurer in determining the amounts to be transferred to the  
11 funds. The remaining ~~one-half~~ of the unexpended and unobligated  
12 funds shall be transferred to the General Fund. Water Resources  
13 Cash Fund.

14 (5) Whenever the unobligated balance in the Ethanol  
15 Production Incentive Cash Fund exceeds twenty million dollars, the  
16 Department of Revenue shall notify the Department of Agriculture at  
17 which time the Department of Agriculture shall suspend collection  
18 of the excise tax levied pursuant to section 66-1345.01. If, after  
19 suspension of the collection of such excise tax, the balance of  
20 the fund falls below ten million dollars, the Department of Revenue  
21 shall notify the Department of Agriculture which shall resume  
22 collection of the excise tax.

23 (6) On or before December 1, 2003, and each December  
24 1 thereafter, the Department of Revenue and the Nebraska Ethanol  
25 Board shall jointly submit a report to the Legislature which shall

1 project the anticipated revenue and expenditures from the Ethanol  
2 Production Incentive Cash Fund through the termination of the  
3 ethanol production incentive programs pursuant to section 66-1344.  
4 The initial report shall include a projection of the amount  
5 of ethanol production for which the Department of Revenue has  
6 entered agreements to provide ethanol production credits pursuant  
7 to section 66-1344.01 and any additional ethanol production which  
8 the Department of Revenue and the Nebraska Ethanol Board reasonably  
9 anticipate may qualify for credits pursuant to section 66-1344.

10           Sec. 28. Section 66-1345.01, Revised Statutes Cumulative  
11 Supplement, 2006, is amended to read:

12           66-1345.01 An excise tax is levied upon all corn and  
13 grain sorghum sold through commercial channels in Nebraska or  
14 delivered in Nebraska. For any sale or delivery of corn or grain  
15 sorghum occurring on or after July 1, 1995, and before January  
16 1, 2000, the tax is three-fourths cent per bushel for corn and  
17 three-fourths cent per hundredweight for grain sorghum. For any  
18 sale or delivery of corn or grain sorghum occurring on or after  
19 January 1, 2000, and before January 1, 2001, the tax is one-half  
20 cent per bushel for corn and one-half cent per hundredweight for  
21 grain sorghum. For any sale or delivery of corn or grain sorghum  
22 occurring on or after October 1, 2001, and before October 1, 2004,  
23 the tax is one-half cent per bushel for corn and one-half cent per  
24 hundredweight for grain sorghum. For any sale or delivery of corn  
25 or grain sorghum occurring on or after October 1, 2004, and before



1 October 1, 2005, the tax is three-fourths cent per bushel for  
2 corn and three-fourths cent per hundredweight for grain sorghum.  
3 For any sale or delivery of corn or grain sorghum occurring on  
4 or after October 1, 2005, and before October 1, 2010, the tax is  
5 seven-eighths cent per bushel for corn and seven-eighths cent per  
6 hundredweight for grain sorghum. For any sale or delivery of corn  
7 or grain sorghum occurring on or after October 1, 2012, and before  
8 October 1, 2019, the tax is three-fifths cent per bushel for corn  
9 and three-fifths cent per hundredweight for grain sorghum. The tax  
10 shall be in addition to any fee imposed pursuant to sections 2-3623  
11 and 2-4012.

12           The excise tax shall be imposed at the time of sale or  
13 delivery and shall be collected by the first purchaser. The tax  
14 shall be collected, administered, and enforced in conjunction with  
15 the fees imposed pursuant to sections 2-3623 and 2-4012. The tax  
16 shall be collected, administered, and enforced by the Department of  
17 Agriculture. No corn or grain sorghum shall be subject to the tax  
18 imposed by this section more than once.

19           In the case of a pledge or mortgage of corn or grain  
20 sorghum as security for a loan under the federal price support  
21 program, the excise tax shall be deducted from the proceeds of such  
22 loan at the time the loan is made. If, within the life of the loan  
23 plus thirty days after the collection of the excise tax for corn  
24 or grain sorghum that is mortgaged as security for a loan under  
25 the federal price support program, the grower of the corn or grain

1 sorghum so mortgaged decides to purchase the corn or grain sorghum  
2 and use it as feed, the grower shall be entitled to a refund of  
3 the excise tax previously paid. The refund shall be payable by the  
4 department upon the grower's written application for a refund. The  
5 application shall have attached proof of the tax deducted.

6           The excise tax shall be deducted whether the corn or  
7 grain sorghum is stored in this or any other state. The excise  
8 tax shall not apply to the sale of corn or grain sorghum to the  
9 federal government for ultimate use or consumption by the people  
10 of the United States when the State of Nebraska is prohibited from  
11 imposing such tax by the Constitution of the United States and laws  
12 enacted pursuant thereto.

13           Sec. 29. Section 66-1345.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           66-1345.02 (1) The first purchaser, at the time of sale  
16 or delivery, shall retain the excise tax as provided in section  
17 66-1345.01 and shall maintain the necessary records of the excise  
18 tax for each sale or delivery of corn or grain sorghum. Records  
19 maintained by the first purchaser shall provide (a) the name and  
20 address of the seller or deliverer, (b) the date of the sale or  
21 delivery, (c) the number of bushels of corn or hundredweight of  
22 grain sorghum sold or delivered, and (d) the amount of excise  
23 tax retained on each sale or delivery. The records shall be open  
24 for inspection and audit by authorized representatives of the  
25 Department of Agriculture during normal business hours observed by

1 the first purchaser.

2 (2) The first purchaser shall render and have on file  
3 with the department by the last day of each January, April, July,  
4 and October on forms prescribed by the department a statement of  
5 the number of bushels of corn and hundredweight of grain sorghum  
6 sold or delivered in Nebraska. At the time the statement is filed,  
7 the first purchaser shall pay and remit to the department the  
8 excise tax.

9 (3) The department shall remit the excise tax collected  
10 to the State Treasurer for credit to the Ethanol Production  
11 Incentive Cash Fund within thirty days after the end of each  
12 quarter through December 31, 2010. Beginning January 1, 2013,  
13 the department shall remit the excise tax collected to the State  
14 Treasurer for credit to the Water Resources Cash Fund within thirty  
15 days after the end of each quarter.

16 (4) The department shall calculate its costs in  
17 collecting and enforcing the excise tax imposed by section  
18 66-1345.01 and shall report such costs to the budget division of  
19 the Department of Administrative Services within thirty days after  
20 the end of the fiscal year. Sufficient funds to cover such costs  
21 shall be transferred from the Ethanol Production Incentive Cash  
22 Fund to the Management Services Expense Revolving Fund at the end  
23 of each calendar month, with such transfers ending December 31,  
24 2010. Beginning January 1, 2013, the Department of Agriculture  
25 shall calculate its costs in collecting and enforcing the excise

1 tax imposed by section 66-1345.01 and shall report such costs to  
2 the budget division of the Department of Administrative Services  
3 within thirty days after the end of the fiscal year. Sufficient  
4 funds to cover such costs shall be transferred from the Water  
5 Resources Cash Fund to the Management Services Expense Revolving  
6 Fund at the end of each calendar month. Funds shall be transferred  
7 upon the receipt of a report of costs incurred by the Department of  
8 Agriculture for the previous calendar month by the budget division  
9 of the Department of Administrative Services.

10           Sec. 30. The State Treasurer shall transfer \$2,700,000  
11 from the General Fund to the Water Resources Cash Fund, on  
12 or before June 30, 2008, on such date as directed by the  
13 budget administrator of the budget division of the Department  
14 of Administrative Services.

15           Sec. 31. The State Treasurer shall transfer \$2,700,000  
16 from the General Fund to the Water Resources Cash Fund, on  
17 or before June 30, 2009, on such date as directed by the  
18 budget administrator of the budget division of the Department  
19 of Administrative Services.

20           Sec. 32. It is the intent of the Legislature that the  
21 Department of Natural Resources may undertake measures in fiscal  
22 year 2006-07 to further facilitate compliance with interstate  
23 compact or decree stipulations.

24           Sec. 33. Section 77-3442, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

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

5           (2)(a) Except as provided in subdivision (2)(d) of this  
6 section, school districts and multiple-district school systems,  
7 except learning communities and school districts that are members  
8 of learning communities, may levy a maximum levy of one dollar and  
9 five cents per one hundred dollars of taxable valuation of property  
10 subject to the levy.

11           (b) Except as provided in subdivision (2)(d) of this  
12 section, for fiscal year 2008-09 and each fiscal year thereafter,  
13 (i) learning communities may levy a maximum levy for the general  
14 fund budgets of member school districts equal to the ratio of the  
15 aggregate difference of one hundred ten percent of the formula  
16 needs as calculated pursuant to section 79-1007.02 minus the amount  
17 of state aid certified pursuant to section 79-1022 and minus the  
18 other actual receipts included in local system formula resources  
19 pursuant to section 79-1018.01 for each member school district for  
20 such school fiscal year divided by each one hundred dollars of  
21 taxable property subject to the levy, except that such levy shall  
22 not exceed one dollar and two cents on each one hundred dollars  
23 of taxable property subject to the levy, and (ii) school districts  
24 that are members of learning communities may levy a maximum levy  
25 of the difference of one dollar and two cents on each one hundred

1 dollars of taxable property subject to the levy minus the learning  
2 community levy pursuant to this subdivision for purposes of such  
3 school district's general fund budget and special building funds.

4 (c) Excluded from the limitations in subdivisions (a) and  
5 (b) of this subsection are amounts levied to pay for sums agreed to  
6 be paid by a school district to certificated employees in exchange  
7 for a voluntary termination of employment and amounts levied  
8 to pay for special building funds and sinking funds established  
9 for projects commenced prior to April 1, 1996, for construction,  
10 expansion, or alteration of school district buildings. For purposes  
11 of this subsection, commenced means any action taken by the school  
12 board on the record which commits the board to expend district  
13 funds in planning, constructing, or carrying out the project.

14 (d) Federal aid school districts may exceed the maximum  
15 levy prescribed by subdivision (2)(a) or (b) of this section  
16 only to the extent necessary to qualify to receive federal aid  
17 pursuant to Title VIII of Public Law 103-382, as such title existed  
18 on September 1, 2001. For purposes of this subdivision, federal  
19 aid school district means any school district which receives ten  
20 percent or more of the revenue for its general fund budget from  
21 federal government sources pursuant to Title VIII of Public Law  
22 103-382, as such title existed on September 1, 2001.

23 (e) For school fiscal year 2002-03 through school fiscal  
24 year 2007-08, school districts and multiple-district school systems  
25 may, upon a three-fourths majority vote of the school board of

1 the school district, the board of the unified system, or the  
2 school board of the high school district of the multiple-district  
3 school system that is not a unified system, exceed the maximum  
4 levy prescribed by subdivision (2)(a) of this section in an amount  
5 equal to the net difference between the amount of state aid that  
6 would have been provided under the Tax Equity and Educational  
7 Opportunities Support Act without the temporary aid adjustment  
8 factor as defined in section 79-1003 for the ensuing school fiscal  
9 year for the school district or multiple-district school system  
10 and the amount provided with the temporary aid adjustment factor.  
11 The State Department of Education shall certify to the school  
12 districts and multiple-district school systems the amount by which  
13 the maximum levy may be exceeded for the next school fiscal year  
14 pursuant to this subdivision (e) of this subsection on or before  
15 February 15 for school fiscal years 2004-05 through 2007-08.

16 (f) For fiscal year 2008-09 and each fiscal year  
17 thereafter, learning communities may levy a maximum levy of two  
18 cents on each one hundred dollars of taxable property subject to  
19 the levy for special building funds for member school districts.

20 (g) For fiscal year 2008-09 and each fiscal year  
21 thereafter, learning communities may levy a maximum levy of one  
22 cent on each one hundred dollars of taxable property subject to the  
23 levy for the learning community budget and for projects approved by  
24 the learning community coordinating council.

25 (3) Community colleges may levy a maximum levy on each

1 one hundred dollars of taxable property subject to the levy of  
2 seven cents, plus amounts allowed under subsection (7) of section  
3 85-1536.01, except that any community college whose valuation per  
4 reported aid equivalent student as defined in section 85-1503 was  
5 less than eighty-two percent of the average valuation per statewide  
6 reimbursable reported aid equivalent total as defined in section  
7 85-1503 for all community colleges for fiscal year 1997-98 may levy  
8 up to an additional one-half cent for each of fiscal years 2005-06  
9 and 2006-07 upon a three-fourths majority vote of the board.

10 ~~(4)~~ (4)(a) Natural resources districts may levy a maximum  
11 levy of four and one-half cents per one hundred dollars of taxable  
12 valuation of property subject to the levy.

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

23 (c) In addition, natural resources districts located in  
24 a river basin, subbasin, or reach that has been determined to  
25 be fully appropriated pursuant to section 46-714 or designated



1 as overappropriated pursuant to section 46-713 by the Department  
2 of Natural Resources shall also have the power and authority to  
3 levy a tax equal to the dollar amount by which their restricted  
4 funds budgeted to administer and implement ground water management  
5 activities and integrated management activities under the Nebraska  
6 Ground Water Management and Protection Act exceed their restricted  
7 funds budgeted to administer and implement ground water management  
8 activities and integrated management activities for FY2005-06, not  
9 to exceed three cents on each one hundred dollars of taxable  
10 valuation on all of the taxable property within the district for  
11 fiscal year 2006-07 and ~~not to exceed two cents on each one~~  
12 ~~hundred dollars of taxable valuation annually on all of the taxable~~  
13 ~~property within the district for fiscal years 2007-08 and 2008-09.~~  
14 and each fiscal year thereafter through fiscal year 2011-12.

15 (5) Educational service units may levy a maximum levy of  
16 one and one-half cents per one hundred dollars of taxable valuation  
17 of property subject to the levy.

18 (6)(a) Incorporated cities and villages which are not  
19 within the boundaries of a municipal county may levy a maximum levy  
20 of forty-five cents per one hundred dollars of taxable valuation  
21 of property subject to the levy plus an additional five cents per  
22 one hundred dollars of taxable valuation to provide financing for  
23 the municipality's share of revenue required under an agreement  
24 or agreements executed pursuant to the Interlocal Cooperation Act  
25 or the Joint Public Agency Act. The maximum levy shall include

1 amounts levied to pay for sums to support a library pursuant  
2 to section 51-201, museum pursuant to section 51-501, visiting  
3 community nurse, home health nurse, or home health agency pursuant  
4 to section 71-1637, or statue, memorial, or monument pursuant to  
5 section 80-202.

6 (b) Incorporated cities and villages which are within the  
7 boundaries of a municipal county may levy a maximum levy of ninety  
8 cents per one hundred dollars of taxable valuation of property  
9 subject to the levy. The maximum levy shall include amounts paid  
10 to a municipal county for county services, amounts levied to pay  
11 for sums to support a library pursuant to section 51-201, a museum  
12 pursuant to section 51-501, a visiting community nurse, home health  
13 nurse, or home health agency pursuant to section 71-1637, or a  
14 statue, memorial, or monument pursuant to section 80-202.

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

25 (8) Counties may levy or authorize a maximum levy of

1 fifty cents per one hundred dollars of taxable valuation of  
2 property subject to the levy, except that five cents per one  
3 hundred dollars of taxable valuation of property subject to the  
4 levy may only be levied to provide financing for the county's  
5 share of revenue required under an agreement or agreements executed  
6 pursuant to the Interlocal Cooperation Act or the Joint Public  
7 Agency Act. The maximum levy shall include amounts levied to pay  
8 for sums to support a library pursuant to section 51-201 or museum  
9 pursuant to section 51-501. The county may allocate up to fifteen  
10 cents of its authority to other political subdivisions subject  
11 to allocation of property tax authority under subsection (1) of  
12 section 77-3443 and not specifically covered in this section to  
13 levy taxes as authorized by law which do not collectively exceed  
14 fifteen cents per one hundred dollars of taxable valuation on any  
15 parcel or item of taxable property. The county may allocate to  
16 one or more other political subdivisions subject to allocation  
17 of property tax authority by the county under subsection (1) of  
18 section 77-3443 some or all of the county's five cents per one  
19 hundred dollars of valuation authorized for support of an agreement  
20 or agreements to be levied by the political subdivision for the  
21 purpose of supporting that political subdivision's share of revenue  
22 required under an agreement or agreements executed pursuant to the  
23 Interlocal Cooperation Act or the Joint Public Agency Act. If an  
24 allocation by a county would cause another county to exceed its  
25 levy authority under this section, the second county may exceed the

1 levy authority in order to levy the amount allocated.

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

7 (10) Property tax levies for judgments, except judgments  
8 or orders from the Commission of Industrial Relations, obtained  
9 against a political subdivision which require or obligate a  
10 political subdivision to pay such judgment, to the extent such  
11 judgment is not paid by liability insurance coverage of a  
12 political subdivision, for preexisting lease-purchase contracts  
13 approved prior to July 1, 1998, for bonded indebtedness approved  
14 according to law and secured by a levy on property, and for  
15 payments by a public airport to retire interest-free loans from the  
16 Department of Aeronautics in lieu of bonded indebtedness at a lower  
17 cost to the public airport are not included in the levy limits  
18 established by this section.

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

24 (12) Tax levies in excess of the limitations in this  
25 section shall be considered unauthorized levies under section

1 77-1606 unless approved under section 77-3444.

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

5 Sec. 34. If any section in this act or any part of any  
6 section is declared invalid or unconstitutional, the declaration  
7 shall not affect the validity or constitutionality of the remaining  
8 portions.

9 Sec. 35. Original sections 2-3231, 46-601.01, 46-609,  
10 46-644, 46-702, 46-707, 46-1212, and 66-1345.02, Reissue Revised  
11 Statutes of Nebraska, and sections 2-945.01, 2-958.02, 2-3202,  
12 2-3225, 13-808, 13-2530, 46-229.04, 46-602, 46-715, 61-210,  
13 66-1345, 66-1345.01, and 77-3442, Revised Statutes Cumulative  
14 Supplement, 2006, are repealed.

15 Sec. 36. Since an emergency exists, this act takes effect  
16 when passed and approved according to law.