

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1098

Final Reading

Introduced by Carlson, 38; Christensen, 44; Davis, 43; Kolowski, 31;
Schilz, 47.

Read first time January 22, 2014

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to natural resources; to amend sections 2-1501,
2 2-1504, 2-3226.05, 46-241, 46-701, and 46-715, Reissue
3 Revised Statutes of Nebraska, and section 77-1371,
4 Revised Statutes Cumulative Supplement, 2012; to change
5 the membership of and provide powers and duties for the
6 Nebraska Natural Resources Commission; to state findings
7 and intent regarding the Water Sustainability Fund; to
8 provide criteria, requirements, and priority for
9 distribution of the fund; to provide for grants and
10 loans; to change provisions relating to occupation taxes
11 imposed by national resources districts and water
12 storage; to provide for development of basin-wide plans
13 and require a public hearing on ground water augmentation
14 projects under the Nebraska Ground Water Management and
15 Protection Act; to change provisions relating to
16 assessment of irrigated cropland; to harmonize

1 provisions; to provide operative dates; to repeal the
2 original sections; and to declare an emergency.
3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-1501, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-1501 As used in ~~Chapter 2, article 15, sections 2-1501~~
4 to 2-15,123 and sections 3 to 10 of this act, unless the context
5 otherwise requires:

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

8 (2) State means the State of Nebraska;

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

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

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

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

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

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

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

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

14 (11) Director means the Director of Natural Resources;
15 ~~and~~

16 (12) Department means the Department of Natural
17 Resources; and -

18 (13) Combined sewer overflow project means a municipal
19 project to reduce overflows from a combined sewer system pursuant to
20 a long-term control plan approved by the Department of Environmental
21 Quality.

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

24 2-1504 (1) The Nebraska Natural Resources Commission is
25 established. The commission shall advise the department as requested

1 by the director and shall perform such other functions as are
2 specifically conferred on the commission by law. The commission shall
3 have no jurisdiction over matters pertaining to water rights.

4 (2) The voting members of the commission, ~~shall consist~~
5 ~~of the following members~~, all of whom shall have attained the age of
6 majority, shall be:

7 (a) One resident of each of the following river basins,
8 with delineations being those on the Nebraska river basin map
9 officially adopted by the commission and on file with the department:

10 (i) The Niobrara River, White River, and Hat Creek basin, (ii) the
11 North Platte River basin, (iii) the South Platte River basin, (iv)
12 the middle Platte River basin, (v) the lower Platte River basin, (vi)
13 the Loup River basin, (vii) the Elkhorn River basin, (viii) the
14 Missouri tributaries basin, (ix) the Republican River basin, (x) the
15 Little Blue River basin, (xi) the Big Blue River basin, and (xii) the
16 Nemaha River basin;

17 (b) One additional resident of each river basin which
18 encompasses one or more cities of the metropolitan class; and. ~~Each~~
19 ~~such additional basin member shall be a resident of a natural~~
20 ~~resources district which encompasses one or more cities of the~~
21 ~~metropolitan class and shall be selected in the same manner, at the~~
22 ~~same time, and for a four-year term having the same term sequence as~~
23 ~~provided for the other member from such basin; and~~

24 (c) ~~Three~~ Fourteen members ~~to be~~ appointed by the
25 Governor, subject to confirmation by the Legislature, ~~who shall~~

1 ~~serve at the pleasure of the Governor.~~ Of the members appointed by
2 the Governor, one shall represent ~~municipal users of water,~~ one shall
3 ~~represent surface water irrigators,~~ and one shall represent ground
4 ~~water irrigators.~~ each of the following categories: Agribusiness
5 interests; agricultural interests; ground water irrigators;
6 irrigation districts; manufacturing interests; metropolitan utilities
7 districts; municipal users of water from a city of the primary class;
8 municipal users of water from a city of the first or second class or
9 a village; outdoor recreation users; public power districts; public
10 power and irrigation districts; range livestock owners; surface water
11 irrigators; and wildlife conservation interests.

12 (3) ~~Successors to the members~~ Members of the commission
13 ~~representing river basins described in subdivision (2)(a) of this~~
14 ~~section~~ shall be selected for four-year terms at individual caucuses
15 of the natural resources district directors residing in the river
16 basin from which the member is selected. Such caucuses shall be held
17 for each basin within ten days following the first Thursday after the
18 first Tuesday of the year the term of office of the member from that
19 basin expires. The dates and locations for such caucuses shall be
20 established by the commission, and the commission shall provide
21 notice to the public by issuing press releases for publication in a
22 newspaper of general circulation in each county that comprises the
23 river basin for which a caucus election will be held. Terms of office
24 of such members shall follow the sequence originally determined by
25 the river basin representatives to the commission at their first

1 meeting on the third Thursday after the first Tuesday in January
2 1975. All river basin members shall take office on the third Thursday
3 after the first Tuesday in January following their selection and any
4 vacancy shall be filled for the unexpired term by a caucus held
5 within thirty days following the date such vacancy is created. Each
6 member of the commission representing a river basin shall qualify by
7 filing with the other members of the commission an acceptance in
8 writing of his or her selection.

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

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

18 (a) The Governor shall appoint the eleven additional
19 members added by this legislative bill within thirty days after the
20 operative date of this section. The eleven additional appointments
21 shall be for staggered four-year terms, as determined by the
22 Governor. The Governor shall also set the terms of the current
23 members of the commission appointed under such subdivision and
24 serving on the operative date of this section to staggered four-year
25 terms. Future appointments shall be for four-year terms. Members

1 whose terms have expired shall continue to serve until their
2 successors have been appointed. In the case of a vacancy, the
3 Governor shall appoint a successor for the unexpired term. Members
4 may be removed for cause. Initial appointees shall begin serving
5 immediately following notice of appointment, except that the member
6 appointed representing municipal users of water from the class of
7 city or a village that is being represented by the current member
8 representing municipal users of water and the members representing
9 surface water irrigators and ground water irrigators shall not begin
10 serving until the term of the current member representative of the
11 category expires or such member resigns or is otherwise removed; and

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

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

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

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

21 (6) After the members have been appointed as required
22 under this section, the commission shall revise or adopt and
23 promulgate rules and regulations as necessary to administer the Water
24 Sustainability Fund pursuant to sections 3 to 10 of this act.

25 Sec. 3. (1) The goals of the Water Sustainability Fund

1 are to: (a) Provide financial assistance to programs, projects, or
2 activities that increase aquifer recharge, reduce aquifer depletion,
3 and increase streamflow; (b) remediate or mitigate threats to
4 drinking water; (c) promote the goals and objectives of approved
5 integrated management plans or ground water management plans; (d)
6 contribute to multiple water supply management goals including flood
7 control, reducing threats to property damage, agricultural uses,
8 municipal and industrial uses, recreational benefits, wildlife
9 habitat, conservation, and preservation of water resources; (e)
10 assist municipalities with the cost of constructing, upgrading,
11 developing, and replacing sewer infrastructure facilities as part of
12 a combined sewer overflow project; (f) provide increased water
13 productivity and enhance water quality; (g) use the most cost-
14 effective solutions available; and (h) comply with interstate
15 compacts, decrees, other state contracts and agreements and federal
16 law.

17 (2) The Legislature finds that the goals of the Water
18 Sustainability Fund can be met by equally considering programs,
19 projects, or activities in the following categories: (a) Research,
20 data, and modeling; (b) rehabilitation or restoration of water supply
21 infrastructure, new water supply infrastructure, or water supply
22 infrastructure maintenance or flood prevention for protection of
23 critical infrastructure; (c) conjunctive management, storage, and
24 integrated management of ground water and surface water; and (d)
25 compliance with interstate compacts or agreements or other formal

1 state contracts or agreements or federal law.

2 Sec. 4. (1) It is the intent of the Legislature that the
3 Water Sustainability Fund be equitably distributed statewide to the
4 greatest extent possible for the long term and give priority funding
5 status to projects which are the result of federal mandates.

6 (2) Distributions to assist municipalities with the cost
7 of constructing, upgrading, developing, and replacing sewer
8 infrastructure facilities as part of a combined sewer overflow
9 project shall be based on a demonstration of need and shall equal ten
10 percent of the total annual appropriation to the Water Sustainability
11 Fund if (a) applicants have applied for such funding as required
12 under section 6 of this act and (b) any such application has been
13 recommended for further consideration by the director and is
14 subsequently approved for allocation by the commission pursuant to
15 subsection (1) of section 8 of this act. If more than one
16 municipality demonstrates a need for funds pursuant to this
17 subsection, funds shall be distributed proportionally based on
18 population.

19 (3) Any money in the Water Sustainability Fund may be
20 allocated by the commission to applicants in accordance with sections
21 3 to 10 of this act. Such money may be allocated in the form of
22 grants or loans for water sustainability programs, projects, or
23 activities undertaken within the state. The allocation of funds to a
24 program, project, or activity in one form shall not of itself
25 preclude additional allocations in the same or any other form to the

1 same program, project, or activity.

2 (4) A natural resources district is eligible for funding
3 from the Water Sustainability Fund only if the district has adopted
4 or is currently participating in the development of an integrated
5 management plan pursuant to subdivision (1)(a) or (b) of section
6 46-715.

7 (5) The commission shall utilize the resources and
8 expertise of and collaborate with the Department of Natural
9 Resources, the University of Nebraska, the Department of
10 Environmental Quality, the Nebraska Environmental Trust Board, and
11 the Game and Parks Commission on funding and planning for water
12 programs, projects, or activities.

13 (6) A biennial report shall be made to the Clerk of the
14 Legislature describing the work accomplished by the use of funds
15 towards the goals of the Water Sustainability Fund beginning on
16 December 31, 2015. The report submitted to the Clerk of the
17 Legislature shall be submitted electronically.

18 Sec. 5. The commission shall rank and score applications
19 for funding based on criteria that demonstrate the extent to which a
20 program, project, or activity:

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

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

24 (3) Contributes to water sustainability goals by
25 increasing aquifer recharge, reducing aquifer depletion, or

1 increasing streamflow;

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

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

9 (6) Is cost-effective;

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

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

18 (9) Improves water quality;

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

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

23 (12) Addresses a statewide problem or issue;

24 (13) Contributes to the state's ability to leverage state
25 dollars with local or federal government partners or other partners

1 to maximize the use of its resources;

2 (14) Contributes to watershed health and function; and

3 (15) Uses objectives described in the annual report and

4 plan of work for the state water planning and review process issued

5 by the department.

6 Sec. 6. (1) Applicants for funds may file an application

7 with the department for a grant or loan from the Water Sustainability

8 Fund. Applications for grants to the department itself shall be filed

9 by the department. Each application shall be filed in such manner and

10 form and be accompanied by such information as may be prescribed by

11 the director and the commission.

12 (2) Any such application shall:

13 (a) Describe the nature and purpose of the proposed

14 program, project, or activity;

15 (b) Set forth or be accompanied by a plan for development

16 of the proposed program, project, or activity, together with

17 engineering, economic, and financial feasibility data and

18 information, and such estimated costs of construction or

19 implementation as may be required by the director and the commission;

20 (c) State whether money other than that for which the

21 application is made will be used to help in meeting program, project,

22 or activity costs and whether such money is available or has been

23 sought for this purpose;

24 (d) When appropriate, state that the applicant holds or

25 can acquire title to all lands or has the necessary easements and

1 rights-of-way for the program, project, or activity and related lands
2 and has or may acquire all water rights necessary for the proposed
3 program, project, or activity;

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

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

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

24 (4) Requests for utilization of the Water Sustainability
25 Fund for state participation in any water and related land-water

1 resources projects shall also be filed with the department for the
2 director's evaluation, investigation, and recommendations. Such
3 requests shall be filed in the manner and form and be accompanied by
4 such information as shall be prescribed by the department and the
5 commission.

6 Sec. 7. (1) Each program, project, or activity for which
7 funding is requested, whether such request has as its origin an
8 application or the action of the department itself, shall be reviewed
9 as provided in sections 3 to 10 of this act by the director prior to
10 the approval of any allocation for such program, project, or activity
11 by the commission.

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

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

20 (b) The proposed program, project, or activity is
21 economically and financially feasible based upon standards adopted by
22 the commission pursuant to sections 3 to 10 of this act;

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

25 (d) The plan of development minimizes any adverse impacts

1 on the natural environment;

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

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

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

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

13 (3) The director and staff of the department shall carry
14 out their powers and duties under sections 3 to 10 of this act
15 independently of and without prejudice to their powers and duties
16 under other provisions of law.

17 (4) No member of the commission shall be eligible to
18 participate in the action of the commission concerning an application
19 for funding to any entity in which such commission member has any
20 interest. The director may be delegated additional responsibilities
21 consistent with the purposes of sections 3 to 10 of this act. It
22 shall be the sole responsibility of the commission to determine the
23 priority in which funds are allocated for eligible programs,
24 projects, or activities under section 5 of this act.

25 Sec. 8. (1) The director shall make recommendations based

1 upon his or her review of the criteria set forth in section 7 of this
2 act of whether an application should be considered further or
3 rejected and the form of allocation he or she deems appropriate. The
4 commission shall act in accordance with such recommendations
5 according to the application procedures adopted and promulgated in
6 rules and regulations.

7 (2) If, after review of the recommendation by the
8 director, the commission determines that an application for a grant,
9 loan, acquisition of an interest, or combination thereof pursuant to
10 sections 3 to 10 of this act is satisfactory and qualified to be
11 approved, before the final approval of such application may be given
12 and the funds allocated, the department shall enter into an agreement
13 in the name of the state with the applicant agency or organization
14 and with any other organizations it deems to be involved in the
15 program, project, or activity to which funds shall be applied. The
16 department shall also enter into such agreements as are appropriate
17 before allocation of any funds for the acquisition of an interest in
18 any qualified program, project, or activity when such acquisition is
19 initiated by the department itself pursuant to section 9 of this act.
20 All agreements entered into pursuant to this section shall include,
21 but not be limited to, a specification of the amount of funds
22 involved, whether the funds are considered as a grant or loan or for
23 the acquisition of an interest in the name of the state, and, if a
24 combination of these is involved, the amount of funds allocated to
25 each category, the specific purpose for which the allocation is made,

1 the terms of administration of the allocated funds, and any penalties
2 to be imposed upon the applicant organization should it fail to apply
3 or repay the funds in accordance with the agreement.

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

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

24 (5) The state shall have a lien upon a program, project,
25 or activity constructed, improved, or renovated with money from the

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

17 Sec. 9. In order to develop Nebraska's water resources,
18 the department, using the process provided for in subsection (4) of
19 section 6 of this act, and with the approval of the commission, may
20 acquire interests in water and related land resources projects in the
21 name of the state utilizing the Water Sustainability Fund. Such use
22 of the fund shall be made when the public benefits obtained from the
23 projects or a part thereof are statewide in nature and when
24 associated costs are determined to be more appropriately financed by
25 other than a local organization. Such use of the fund may be made

1 upon the determination by the department and the commission that such
2 acquisition is appropriate under sections 3 to 10 of this act. The
3 department, with the approval of the commission, may also acquire
4 interests in water resource projects in the name of the state to meet
5 future demands for usable water. Such water resource projects may
6 include, but not be limited to, the construction of dams and
7 reservoirs to provide surplus water storage capacity for municipal
8 and industrial water demands and for other projects to assure an
9 adequate quantity of usable water. In furtherance of these goals, the
10 department may contract with the federal government or any of its
11 agencies or departments for the inclusion of additional water supply
12 storage space behind existing or proposed structures.

13 Sec. 10. The Appropriations Committee of the Legislature
14 shall, beginning with the FY2019-21 biennial budget review process,
15 conduct a biennial analysis of the financial status of the Water
16 Sustainability Fund, including a review of the committed and
17 uncommitted balance of the fund and the financial impact of pending
18 programs, projects, or activities. The committee shall base its
19 recommendation for transfers to the Water Sustainability Fund upon
20 information provided in the review process.

21 Sec. 11. Section 2-3226.05, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 2-3226.05 (1) A district with an integrated management
24 plan as described in subsection (1) of section 2-3226.01 may levy an
25 occupation tax upon the activity of irrigation of agricultural lands

1 within such district on an annual basis, not to exceed ten dollars
2 per irrigated acre, the proceeds of which may be used for (a)
3 repaying principal and interest on any bonds or refunding bonds
4 issued pursuant to section 2-3226.01 for one or more projects under
5 section 2-3226.04, (b) the repayment of financial assistance received
6 by the district pursuant to section 2-3226.07, or (c) payment of all
7 or any part of the costs and expenses of one or more qualified
8 projects described in section 2-3226.04. If such district has more
9 than one river basin as described in section 2-1504 within its
10 jurisdiction, such district shall confine such occupation tax
11 authorized in this section to the geographic area affected by an
12 integrated management plan adopted in accordance with section 46-715.

13 (2)(a) Acres classified by the county assessor as
14 irrigated shall be subject to such district's occupation tax unless
15 on or before ~~March~~June 1 in each calendar year the record owner
16 certifies to the district the nonirrigation status of such acres for
17 the same calendar year.

18 (b) A district may exempt from the occupation tax acres
19 that are enrolled in local, state, or federal temporary irrigation
20 retirement programs that prohibit the application of irrigation water
21 in the year for which the tax is levied.

22 (c) Except as provided in subdivisions (2)(a) and (b) of
23 this section, a district is prohibited from providing an exemption
24 from, or allowing a request for a local refund of, an occupation tax
25 on irrigated acres regardless of the irrigation source while the

1 record owner maintains irrigated status on such acres in the year for
2 which the tax is levied.

3 ~~(d) Notwithstanding subdivisions (2)(b) and (c) of this~~
4 ~~section, the record owner may present evidence of the nonirrigation~~
5 ~~status of the acres subject to the tax within twelve months after the~~
6 ~~date the tax was levied and the district may refund amounts collected~~
7 ~~upon such acres if an occupation tax was not levied by the district~~
8 ~~the previous year and the district had not adopted an integrated~~
9 ~~management plan as described in subsection (1) of section 2-3226.01~~
10 ~~by March 1 in the current year. Subdivision (2)(d) of this section~~
11 ~~terminates on October 1, 2012.~~

12 (3) Any such occupation tax shall remain in effect so
13 long as the natural resources district has bonds outstanding which
14 have been issued stating such occupation tax as an available source
15 for payment and for the purpose of paying all or any part of the
16 costs and expenses of one or more projects authorized pursuant to
17 section 2-3226.04.

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

1 sale for delinquent property taxes provided for in section 77-1804.
2 In addition, the list shall be provided to natural resources
3 districts which levied the delinquent occupation taxes. The list
4 shall include the record owner's name, the parcel identification
5 number, and the amount of delinquent occupation tax. For services
6 rendered in the collection of the occupation tax, the county
7 treasurer shall receive the fee provided for collection of general
8 natural resources district money under section 33-114.

9 (5) Such lien shall be inferior only to general taxes
10 levied by political subdivisions of the state. When such occupation
11 taxes have become delinquent and the real property on which the
12 irrigation took place has not been offered at any tax sale, the
13 district may proceed in district court in the county in which the
14 real estate is situated to foreclose in its own name the lien in the
15 same manner and with like effect as a foreclosure of a real estate
16 mortgage, except that sections 77-1903 to 77-1917 shall govern when
17 applicable.

18 Sec. 12. Section 46-241, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 46-241 (1) Every person intending to construct and
21 operate a storage reservoir for irrigation or any other beneficial
22 purpose or intending to construct and operate a facility for
23 intentional underground water storage and recovery shall, except as
24 provided in subsections (2) and (3) of this section and section
25 46-243, make an application to the department upon the prescribed

1 form and provide such plans, drawings, and specifications as are
2 necessary to comply with the Safety of Dams and Reservoirs Act. Such
3 application shall be filed and proceedings had thereunder in the same
4 manner and under the same rules and regulations as other
5 applications. Upon the approval of such application under this
6 section and any approval required by the act, the applicant shall
7 have the right to construct and impound in such reservoir, or store
8 in and recover from such underground water storage facility, all
9 water not otherwise appropriated and any appropriated water not
10 needed for immediate use, to construct and operate necessary ditches
11 for the purpose of conducting water to such storage reservoir or
12 facility, and to condemn land for such reservoir, ditches, or other
13 facility. The procedure to condemn property shall be exercised in the
14 manner set forth in sections 76-704 to 76-724.

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

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

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

10 (5) The owner of a storage reservoir or facility shall be
11 liable for all damages arising from leakage or overflow of the water
12 therefrom or from the breaking of the embankment of such reservoir.
13 The owner or possessor of a reservoir or intentional underground
14 water storage facility does not have the right to store water in such
15 reservoir or facility during the time that such water is required
16 downstream in ditches for direct irrigation or for any reservoir or
17 facility holding a senior right. Every person who owns, controls, or
18 operates a reservoir or intentional underground water storage
19 facility, except political subdivisions of this state, shall be
20 required to pass through the outlets of such reservoir or facility,
21 whether presently existing or hereafter constructed, a portion of the
22 measured inflows to furnish water for livestock in such amounts and
23 at such times as directed by the department to meet the requirements
24 for such purposes as determined by the department, except that a
25 reservoir or facility owner shall not be required to release water

1 for this purpose which has been legally stored. Any dam shall be
2 constructed in accordance with the Safety of Dams and Reservoirs Act,
3 and the outlet works shall be installed so that water may be released
4 in compliance with this section. The requirement for outlet works may
5 be waived by the department upon a showing of good cause. Whenever
6 any person diverts water from a public stream and returns it into the
7 same stream, he or she may take out the same amount of water, less a
8 reasonable deduction for losses in transit, to be determined by the
9 department, if no prior appropriator for beneficial use is prejudiced
10 by such diversion.

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

16 Sec. 13. Section 46-701, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 46-701 Sections 46-701 to 46-754 and sections 15 and 16
19 of this act shall be known and may be cited as the Nebraska Ground
20 Water Management and Protection Act.

21 Sec. 14. Section 46-715, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 46-715 (1)(a) Whenever the Department of Natural
24 Resources has designated a river basin, subbasin, or reach as
25 overappropriated or has made a final determination that a river

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

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

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

1 the goals and objectives of a basin-wide plan pursuant to section 15
2 of this act, but a natural resources district may voluntarily adopt
3 such regulations. The applicable natural resources district may
4 decide to include all water users within the district boundary in an
5 integrated management plan.

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

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

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

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

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

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

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

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

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

18 (4) The ground water and surface water controls proposed
19 for adoption in the integrated management plan pursuant to subsection
20 (1) of this section shall, when considered together and with any
21 applicable incentive programs, (a) be consistent with the goals and
22 objectives of the plan, (b) be sufficient to ensure that the state
23 will remain in compliance with applicable state and federal laws and
24 with any applicable interstate water compact or decree or other
25 formal state contract or agreement pertaining to surface water or

1 ground water use or supplies, and (c) protect the ground water users
2 whose water wells are dependent on recharge from the river or stream
3 involved and the surface water appropriators on such river or stream
4 from streamflow depletion caused by surface water uses and ground
5 water uses begun, in the case of a river basin, subbasin, or reach
6 designated as overappropriated or preliminarily determined to be
7 fully appropriated in accordance with section 46-713, after the date
8 of such designation or preliminary determination.

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

23 (b) In any river basin, subbasin, or reach designated as
24 overappropriated and subject to this subsection, the department and
25 each natural resources district encompassing such river basin,

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

23 (c) Any integrated management plan developed under this
24 subsection shall identify the overall difference between the current
25 and fully appropriated levels of development. Such determination

1 shall take into account cyclical supply, including drought, identify
2 the portion of the overall difference between the current and fully
3 appropriated levels of development that is due to conservation
4 measures, and identify the portions of the overall difference between
5 the current and fully appropriated levels of development that are due
6 to water use initiated prior to July 1, 1997, and to water use
7 initiated on or after such date.

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

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

1 appropriate and authorized measures for such purpose;

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

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

25 (iv) Based on the determination made in subdivision (d)

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

8 (v) If necessary, the steps described in subdivisions (d)
9 (ii) through (iv) of this subsection shall be repeated until the
10 department and the affected natural resources districts agree that
11 the goals and objectives identified pursuant to subsection (2) of
12 this section have been met and the overall difference between the
13 current and fully appropriated levels of development identified in
14 subdivision (5)(c) of this section has been addressed so that the
15 river basin, subbasin, or reach has returned to a fully appropriated
16 condition.

17 (6) 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 agreement,
21 the department, in consultation with the affected districts, shall
22 forecast on an annual basis the maximum amount of water that may be
23 available from streamflow for beneficial use in the short term and
24 long term in order to comply with the requirement of subdivision (4)
25 (b) of this section. This forecast shall be made by January 1, 2008,

1 and each January 1 thereafter.

2 Sec. 15. This section shall apply notwithstanding any
3 other provision of the Nebraska Ground Water Management and
4 Protection Act.

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

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

1 the basin-wide plan.

2 (3) A basin-wide plan shall be completed, adopted, and
3 take effect within three years after the operative date of this
4 section, unless the department and the natural resources districts
5 jointly agree to an extension of not more than an additional two
6 years.

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

18 (5)(a) A basin-wide plan developed under this section
19 shall utilize the best generally-accepted methodologies and available
20 information, data, and science to evaluate the effect of existing
21 uses of hydrologically connected water on existing surface water and
22 ground water users. The plan shall include a process to gather and
23 evaluate data, information, and methodologies to increase
24 understanding of the surface water and hydrologically connected
25 ground water system within the basin, subbasin, or reach and test the

1 validity of the conclusions, information, and assumptions upon which
2 the plan is based.

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

15 (c) A basin-wide plan shall be developed using a
16 consultation and collaboration process involving representatives from
17 irrigation districts, reclamation districts, public power and
18 irrigation districts, mutual irrigation companies, canal companies,
19 ground water users, range livestock owners, the Game and Parks
20 Commission, and municipalities that rely on water from within the
21 affected area and that, after being notified of the commencement of
22 the plan development process, indicate in writing their desire to
23 become an official participant in such process. The department and
24 affected natural resources districts shall involve official
25 participants in formulating, evaluating, and recommending plans and

1 management actions and work to reach an agreement among all official
2 participants involved in a basin-wide plan. In addition, the
3 department or the affected natural resources districts may include
4 designated representatives of other stakeholders. If agreement is
5 reached by all parties involved in such consultation and
6 collaboration process, the department and the affected natural
7 resources districts shall adopt the agreed-upon basin-wide plan. If
8 agreement cannot be reached by all parties involved, the basin-wide
9 plan shall be developed and adopted by the department and the
10 affected natural resources districts or by the Interrelated Water
11 Review Board pursuant to section 46-719.

12 (d) Within five years after the adoption of the basin-
13 wide plan, and every five years thereafter, the department and
14 affected natural resources districts shall conduct a technical
15 analysis of the actions taken in a river basin to determine the
16 progress towards meeting the goals and objectives of the plan. The
17 analysis shall include an examination of (i) available supplies,
18 current uses, and changes in long-term water availability, (ii) the
19 effects of conservation practices and natural causes, including, but
20 not limited to, drought, and (iii) the effects of the plan in meeting
21 the goal of sustaining a balance between water uses and water
22 supplies. The analysis shall determine if changes or modifications to
23 the basin-wide plan are needed to meet the goals and objectives
24 pursuant to subdivision (4)(a) of this section. The department and
25 affected natural resources districts shall present the results of the

1 analysis and any recommended modifications to the plan at a public
2 meeting and shall provide for at least a thirty-day public comment
3 period before holding a public hearing on the recommended
4 modifications. The department shall submit a report to the
5 Legislature of the results of this analysis and the progress made
6 under the basin-wide plan. The report shall be submitted
7 electronically. Any official participant or stakeholder may submit
8 comments to the department and affected natural resources districts
9 on the final basin-wide plan adopted by the department and affected
10 natural resources districts, which shall be made a part of the report
11 to the Legislature.

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

22 (f) The department and the affected natural resources
23 districts may utilize, when necessary, the Interrelated Water Review
24 Board process provided in section 46-719 for disputes arising from
25 developing, implementing, and enforcing a basin-wide plan developed

1 under this section.

2 Sec. 16. On and after the operative date of this section,
3 a board shall not vote to enter into a ground water augmentation
4 project without conducting a public hearing on the project, with
5 notice of the hearing given as provided in section 46-743.

6 Sec. 17. Section 77-1371, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 77-1371 Comparable sales are recent sales of properties
9 that are similar to the property being assessed in significant
10 physical, functional, and location characteristics and in their
11 contribution to value. When using comparable sales in determining
12 actual value of an individual property under the sales comparison
13 approach provided in section 77-112, the following guidelines shall
14 be considered in determining what constitutes a comparable sale:

15 (1) Whether the sale was financed by the seller and
16 included any special financing considerations or the value of
17 improvements;

18 (2) Whether zoning affected the sale price of the
19 property;

20 (3) For sales of agricultural land or horticultural land
21 as defined in section 77-1359, whether a premium was paid to acquire
22 property. A premium may be paid when proximity or tax consequences
23 cause the buyer to pay more than actual value for agricultural land
24 or horticultural land;

25 (4) Whether sales or transfers made in connection with

1 foreclosure, bankruptcy, or condemnations, in lieu of foreclosure, or
2 in consideration of other legal actions should be excluded from
3 comparable sales analysis as not reflecting current market value;

4 (5) Whether sales between family members within the third
5 degree of consanguinity include considerations that fail to reflect
6 current market value;

7 (6) Whether sales to or from federal or state agencies or
8 local political subdivisions reflect current market value;

9 (7) Whether sales of undivided interests in real property
10 or parcels less than forty acres or sales conveying only a portion of
11 the unit assessed reflect current market value;

12 (8) Whether sales or transfers of property in exchange
13 for other real estate, stocks, bonds, or other personal property
14 reflect current market value;

15 (9) Whether deeds recorded for transfers of convenience,
16 transfers of title to cemetery lots, mineral rights, and rights of
17 easement reflect current market value;

18 (10) Whether sales or transfers of property involving
19 railroads or other public utility corporations reflect current market
20 value;

21 (11) Whether sales of property substantially improved
22 subsequent to assessment and prior to sale should be adjusted to
23 reflect current market value or eliminated from such analysis;

24 (12) For agricultural land or horticultural land as
25 defined in section 77-1359 which is or has been receiving the special

1 valuation pursuant to sections 77-1343 to 77-1347.01, whether the
2 sale price reflects a value which the land has for purposes or uses
3 other than as agricultural land or horticultural land and therefor
4 does not reflect current market value of other agricultural land or
5 horticultural land; and

6 (13) Whether sales or transfers of property are in a
7 similar market area and have similar characteristics to the property
8 being assessed; and -

9 (14) For agricultural land and horticultural land as
10 defined in section 77-1359 which is within a class or subclass of
11 irrigated cropland pursuant to section 77-1363, whether the
12 difference in well capacity or in water availability due to federal,
13 state, or local regulatory actions or limited source affected the
14 sale price of the property. If data on current well capacity or
15 current water availability is not available from a federal, state, or
16 local government entity, this subdivision shall not be used to
17 determine what constitutes a comparable sale.

18 The Property Tax Administrator may issue guidelines for
19 assessing officials for use in determining what constitutes a
20 comparable sale. Guidelines shall take into account the factors
21 listed in this section and other relevant factors as prescribed by
22 the Property Tax Administrator.

23 Sec. 18. Sections 17 and 19 of this act become operative
24 three calendar months after the adjournment of this legislative
25 session. The other sections of this act become operative on their

1 effective date.

2 Sec. 19. Original section 77-1371, Revised Statutes
3 Cumulative Supplement, 2012, is repealed.

4 Sec. 20. Original sections 2-1501, 2-1504, 2-3226.05,
5 46-241, 46-701, and 46-715, Reissue Revised Statutes of Nebraska, are
6 repealed.

7 Sec. 21. Since an emergency exists, this act takes effect
8 when passed and approved according to law.