

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 317

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

Read first time January 16, 2025

Committee: Natural Resources

1 A BILL FOR AN ACT relating to the Department of Water, Energy, and
2 Environment; to amend sections 2-408, 2-969, 2-1501, 2-1504, 2-1508,
3 2-1509, 2-1510, 2-1511, 2-1588, 2-1592, 2-1593, 2-1594, 2-1595,
4 2-2626, 2-3202, 2-3225, 2-3241, 2-3254, 2-3279, 2-3280, 2-4602,
5 2-4603, 2-4604, 2-4901, 13-1701, 13-2008, 13-2009, 13-2042.01,
6 16-6,106, 25-1062.01, 25-1064, 25-1920, 25-2159, 25-2160, 31-415,
7 31-509, 31-515, 31-516, 31-1003, 31-1015, 37-707, 37-708.01, 46-106,
8 46-122, 46-190, 46-192, 46-193, 46-1,155, 46-1,157, 46-205,
9 46-226.02, 46-226.03, 46-229, 46-229.02, 46-229.04, 46-229.06,
10 46-230, 46-233, 46-233.01, 46-235, 46-250, 46-252, 46-254, 46-256,
11 46-258, 46-261, 46-263.02, 46-273, 46-286, 46-288, 46-289, 46-290,
12 46-291, 46-292, 46-293, 46-294, 46-294.01, 46-294.02, 46-294.05,
13 46-2,104, 46-2,105, 46-2,108, 46-2,109, 46-2,110, 46-2,111,
14 46-2,112, 46-2,113, 46-2,114, 46-2,115, 46-2,116, 46-2,116.01,
15 46-2,117, 46-2,118, 46-2,119, 46-2,120, 46-2,122, 46-2,125,
16 46-2,139, 46-302, 46-303, 46-304, 46-305, 46-312, 46-315, 46-514,
17 46-583, 46-601.01, 46-602, 46-604, 46-606, 46-609, 46-610,
18 46-613.01, 46-613.02, 46-637, 46-638, 46-639, 46-640, 46-641,
19 46-642, 46-644, 46-645, 46-648, 46-649, 46-653, 46-654, 46-655.01,
20 46-676, 46-677, 46-678, 46-679, 46-680, 46-682, 46-683, 46-683.01,
21 46-684, 46-685, 46-686, 46-686.01, 46-688, 46-691, 46-703, 46-704,
22 46-705, 46-706, 46-707, 46-709, 46-711, 46-712, 46-713, 46-714,
23 46-715, 46-716, 46-717, 46-718, 46-719, 46-720, 46-721, 46-722,

1 46-723, 46-724, 46-725, 46-726, 46-728, 46-729, 46-730, 46-731,
2 46-732, 46-733, 46-736, 46-737, 46-739, 46-740, 46-742, 46-743,
3 46-745, 46-746, 46-748, 46-749, 46-750, 46-751, 46-753, 46-754,
4 46-801, 46-802, 46-803, 46-804, 46-1001, 46-1011, 46-1102, 46-1108,
5 46-1109, 46-1204.01, 46-1207, 46-1217, 46-1222, 46-1224, 46-1235,
6 46-1301, 46-1304, 46-1403, 46-1404, 46-1502, 46-1613, 46-1614,
7 46-1641, 46-1642, 46-1669, 54-2417, 54-2421, 54-2429, 54-2430,
8 57-1407, 57-1502, 57-1609, 57-1614, 57-1619, 58-202, 60-6,363,
9 60-6,364, 60-6,367, 60-6,368, 61-201, 61-202, 61-203, 61-204,
10 61-205, 61-207, 61-208, 61-209, 61-210, 61-211, 61-215, 61-216,
11 70-669, 71-3508.04, 71-3524, 76-2,124, 77-3,112, 81-101, 81-102,
12 81-2,294, 81-502, 81-829.05, 81-1108.55, 81-1316, 81-1502, 81-1503,
13 81-1537, 81-1540, 81-1561, 81-1566, 81-15,118, 81-15,120, 81-15,124,
14 81-15,124.04, 81-15,124.05, 81-15,125, 81-15,126, 81-15,127,
15 81-15,129, 81-15,149, 81-15,159, 81-15,159.01, 81-15,159.02,
16 81-15,166, 81-15,170, 81-15,175, 81-15,177, 81-15,178, 81-15,179,
17 81-15,180, 81-15,183, 81-15,184, 81-15,185, 81-15,185.01,
18 81-15,185.02, 81-15,185.03, 81-15,186, 81-15,213, 81-15,229,
19 81-15,235, 81-15,242, 81-15,243, 81-15,260, 81-15,262, 81-15,263,
20 81-15,292, 81-15,299, 81-15,300, 81-15,302, 81-15,312, 81-1604,
21 81-1606, 81-1607, 81-1609, 81-1611, 81-1612, 81-1625, 81-1635,
22 81-1636, 81-1637, 81-1638, 81-1640, 81-3449, 81-3453, 84-166,
23 84-602.04, 85-162.03, 86-570, and 88-550, Reissue Revised Statutes
24 of Nebraska, and sections 2-414, 2-415, 2-416, 2-1507, 19-1201,
25 19-1202, 19-1203, 19-1204, 19-5706, 31-508, 37-806, 37-814,
26 46-1,164, 46-1,165, 46-296, 49-506, 49-617, 54-2940, 58-221, 61-206,
27 61-218, 61-222, 61-224, 61-226, 61-227, 61-228, 61-303, 61-305,
28 61-401, 61-403, 61-404, 61-405, 61-502, 61-520, 66-203, 66-204,
29 66-301, 66-302, 66-303, 66-304, 66-489.02, 66-1004, 66-1009,
30 66-1105, 66-1344, 66-1504, 66-1518, 66-1529.02, 66-2001, 66-2201,
31 66-2216, 69-2011, 69-2502, 70-1003, 71-2433, 71-3503, 71-5301,

1 71-5316, 71-5328, 71-6406, 72-804, 72-805, 76-2602, 76-2608,
2 77-27,150, 77-27,151, 77-27,152, 77-27,153, 77-27,154, 77-27,187.01,
3 77-27,236, and 77-3442, Revised Statutes Cumulative Supplement,
4 2024; to merge the Department of Natural Resources with the
5 Department of Environment and Energy; to rename the department, the
6 director, and certain funds; to change procedures for appointment of
7 the director; to create a new position; to provide, change,
8 transfer, and eliminate powers and duties; to provide exemptions
9 from the State Personnel System; to change and eliminate provisions
10 relating to irrigation districts and natural resources districts; to
11 eliminate provisions relating to the Conservation Corporation Act,
12 the Low-Level Radioactive Waste Disposal Act, the Nebraska Soil
13 Survey Fund, and the state water planning and review process; to
14 eliminate obsolete provisions; to change a sunset date for the
15 Nebraska Litter Reduction and Recycling Act; to harmonize
16 provisions; to provide an operative date; to repeal the original
17 sections; to outright repeal sections 2-1596, 2-1597, 2-1598,
18 2-1599, 2-15,100, 2-15,101, 2-15,103, 2-15,105, 2-15,106, 2-3277,
19 2-3278, 2-4201, 2-4202, 2-4203, 2-4204, 2-4205, 2-4206, 2-4207,
20 2-4208, 2-4209, 2-4210, 2-4211, 2-4212, 2-4213, 2-4214, 2-4215,
21 2-4216, 2-4217, 2-4218, 2-4219, 2-4220, 2-4221, 2-4222, 2-4223,
22 2-4224, 2-4225, 2-4226, 2-4227, 2-4228, 2-4229, 2-4230, 2-4231,
23 2-4232, 2-4233, 2-4234, 2-4235, 2-4236, 2-4237, 2-4238, 2-4239,
24 2-4240, 2-4241, 2-4242, 2-4243, 2-4244, 2-4245, 2-4246, 46-199,
25 71-3508.02, 81-1578, 81-1579, 81-1579.01, 81-1580, 81-1581, 81-1582,
26 81-1583, 81-1584, 81-1584.01, 81-1585, 81-1586, 81-1586.01, 81-1587,
27 81-1588, 81-1589, 81-1590, 81-1590.01, 81-1591, 81-1591.01, 81-1592,
28 81-1593, 81-1594, 81-1595, 81-1596, 81-1597, 81-1598, 81-1599,
29 81-1599.01, 81-1599.02, 81-15,100, 81-15,101, 81-15,101.01,
30 81-15,101.02, 81-15,101.03, 81-15,101.04, 81-15,101.05, 81-15,102,
31 81-15,102.01, 81-15,102.02, 81-15,102.03, 81-15,103, 81-15,104,

1 81-15,104.01, 81-15,105, 81-15,105.01, 81-15,106, 81-15,107,
2 81-15,108, 81-15,109, 81-15,110, 81-15,111, 81-15,112, 81-15,112.01,
3 81-15,113, 81-15,113.01, 81-15,113.02, 81-15,114, 81-15,115,
4 81-15,116, 81-15,254, 81-15,255, 81-15,256, 81-15,257, 81-15,258,
5 81-15,259, 81-15,293, 81-15,294, 81-15,295, 81-15,296, 81-15,297,
6 and 81-15,298, Reissue Revised Statutes of Nebraska; and to declare
7 an emergency.

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

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

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

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

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

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

21 **Sec. 4.** No suit, action, or other proceeding, judicial or
22 administrative, lawfully commenced prior to July 1, 2025, or which could
23 have been commenced prior to that date, by or against the Department of
24 Natural Resources or the Department of Environment and Energy, or any
25 director or any employee thereof in such director's or employee's
26 official capacity or in relation to the discharge of his or her official
27 duties, shall abate by reason of the transfer of duties and functions
28 from the Department of Natural Resources to the Department of Water,
29 Energy, and Environment or the renaming of the Department of Environment
30 and Energy as the Department of Water, Energy, and Environment.

31 **Sec. 5.** On and after July 1, 2025, unless otherwise specified,

1 whenever any provision of law refers to the Department of Natural
2 Resources or the Department of Environment and Energy in connection with
3 duties and functions of the Department of Water, Energy, and Environment,
4 such law shall be construed as referring to the Department of Water,
5 Energy, and Environment.

6 **Sec. 6.** On July 1, 2025, all items of property, real and personal,
7 including office furniture and fixtures, books, documents, and records of
8 the Department of Natural Resources pertaining to the duties and
9 functions transferred to the Department of Water, Energy, and Environment
10 pursuant to this legislative bill shall become the property of such
11 department.

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

14 2-408 For purposes of the Resilient Soils and Water Quality Act:

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

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

21 (3) Producer learning community means an agricultural producer-led,
22 nonprofit, voluntary membership organization dedicated to fostering
23 learning, skills, and abilities and the gathering and sharing of
24 knowledge for the purpose of carrying out the Resilient Soils and Water
25 Quality Act.

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

28 2-414 (1) The nitrogen reduction incentive program is created and
29 shall be administered by the Department of Water, Energy, and Environment
30 ~~Natural Resources~~. The department may collaborate with natural resources
31 districts to administer the program.

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

2 (a) Provide incentive payments to farmers; and

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

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

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

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

16 (6) The department shall:

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

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

22 (c) Consult with farmers and commercial entities in the agriculture
23 industry to determine a per-acre payment rate tied to the commercial
24 fertilizer rate reduction but not less than ten dollars per acre; and

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

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

30 (i) Five million dollars; or

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

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

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

6 2-415 The Department of Water, Energy, and Environment ~~Natural~~
7 ~~Resources~~ may adopt and promulgate rules and regulations that adopt a
8 standard for labeled commercial fertilizer products to qualify for the
9 nitrogen reduction incentive program and may adopt and promulgate rules
10 and regulations to carry out the Nitrogen Reduction Incentive Act.

11 **Sec. 10.** Section 2-416, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 2-416 (1) The Nitrogen Reduction Incentive Cash Fund is created and
14 shall be administered by the Department of Water, Energy, and Environment
15 ~~Natural Resources~~ for purposes of the Nitrogen Reduction Incentive Act.
16 The Nitrogen Reduction Incentive Cash Fund may consist of transfers as
17 directed by the Legislature and gifts, grants, bequests, and money from
18 any public or private source.

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

23 (3) Any such grant applied for by the Department of Water, Energy,
24 and Environment ~~Natural Resources~~ that is awarded to the Department of
25 Water, Energy, and Environment ~~Natural Resources~~ or the State of Nebraska
26 shall be credited to the Nitrogen Reduction Incentive Cash Fund.

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

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

1 2-969 The Riparian Vegetation Management Task Force is created. The
2 Governor shall appoint the members of the task force. The members shall
3 include one surface water project representative from each river basin
4 that has ever been determined to be fully appropriated pursuant to
5 section 46-714 or 46-720 or is designated as overappropriated pursuant to
6 section 46-713 by the Department of Water, Energy, and Environment
7 ~~Natural Resources~~; one surface water project representative from a river
8 basin that has not been determined to be fully appropriated pursuant to
9 section 46-714 or 46-720 or is not designated as overappropriated
10 pursuant to section 46-713 by the Department of Water, Energy, and
11 Environment ~~Natural Resources~~; one representative from the Department of
12 Agriculture, the Department of Water, Energy, and Environment ~~Environment~~
13 ~~and Energy, the Department of Natural Resources~~, the office of the State
14 Forester, the Game and Parks Commission, and the University of Nebraska;
15 three representatives selected from a list of at least ten individuals
16 nominated by the Nebraska Association of Resources Districts; two
17 representatives selected from a list of at least five individuals
18 nominated by the Nebraska Weed Control Association; one riparian
19 landowner from each of the state's congressional districts; and one
20 representative from the Nebraska Environmental Trust. In addition to such
21 members, any member of the Legislature may serve as a nonvoting, ex
22 officio member of the task force at his or her option. For administrative
23 and budgetary purposes only, the task force shall be housed within the
24 Department of Agriculture.

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

27 2-1501 As used in sections 2-1501 to 2-15,123, unless the context
28 otherwise requires:

- 29 (1) Commission means the Nebraska Natural Resources Commission;
30 (2) State means the State of Nebraska;
31 (3) Agency of this state means the government of this state and any

1 subdivision, agency, or instrumentality, corporate or otherwise, of the
2 government of this state;

3 (4) United States or agencies of the United States means the United
4 States of America, the Natural Resources Conservation Service of the
5 United States Department of Agriculture, and any other agency or
6 instrumentality, corporate or otherwise, of the United States of America;

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

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

15 (7) Local organization means any natural resources district,
16 drainage district, irrigation district, or other public district, county,
17 city, or state agency;

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

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

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

27 (11) Chief Water Officer means the Chief Water Officer of the
28 Department of Water, Energy, and Environment ~~Director means the Director~~
29 ~~of Natural Resources;~~

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

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

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

7 2-1504 (1) The Nebraska Natural Resources Commission is established.
8 The commission shall advise the department as requested by the Chief
9 Water Officer ~~director~~ and shall perform such other functions as are
10 specifically conferred on the commission by law. The commission shall
11 have no jurisdiction over matters pertaining to water rights.

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

15 (a) One resident of each of the following river basins, with
16 delineations being those on the Nebraska river basin map officially
17 adopted by the commission and on file with the department: (i) The
18 Niobrara River, White River, and Hat Creek basin, (ii) the North Platte
19 River basin, (iii) the South Platte River basin, (iv) the middle Platte
20 River basin, (v) the lower Platte River basin, (vi) the Loup River basin,
21 (vii) the Elkhorn River basin, (viii) the Missouri tributaries basin,
22 (ix) the Republican River basin, (x) the Little Blue River basin, (xi)
23 the Big Blue River basin, and (xii) the Nemaha River basin;

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

26 (c) Fourteen members appointed by the Governor, subject to
27 confirmation by the Legislature. Of the members appointed by the
28 Governor, one shall represent each of the following categories:
29 Agribusiness interests; agricultural interests; ground water irrigators;
30 irrigation districts; manufacturing interests; metropolitan utilities
31 districts; municipal users of water from a city of the primary class;

1 municipal users of water from a city of the first or second class or a
2 village; outdoor recreation users; public power districts; public power
3 and irrigation districts; range livestock owners; surface water
4 irrigators; and wildlife conservation interests.

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

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

31 (5) For members of the commission described in subdivision (2)(c) of

1 this section:

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

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

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

24 (ii) Give recognition to the importance of both water quantity and
25 water quality; and

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

29 (6) After the members have been appointed as required under this
30 section, the commission shall revise or adopt and promulgate rules and
31 regulations as necessary to administer the Water Sustainability Fund

1 pursuant to sections 2-1506 to 2-1513.

2 **Sec. 14.** Section 2-1507, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 2-1507 (1) It is the intent of the Legislature that the Water
5 Sustainability Fund be equitably distributed statewide to the greatest
6 extent possible for the long term and give priority funding status to
7 projects which are the result of federal mandates.

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

20 (3) Any money in the Water Sustainability Fund may be allocated by
21 the commission to applicants in accordance with sections 2-1506 to
22 2-1513. Such money may be allocated in the form of grants or loans for
23 water sustainability programs, projects, or activities undertaken within
24 the state. The allocation of funds to a program, project, or activity in
25 one form shall not of itself preclude additional allocations in the same
26 or any other form to the same program, project, or activity. The
27 commission shall, when ranking and scoring applications for funding,
28 prioritize projects for drinking water improvements for any federally
29 recognized Indian tribe whose drinking water is under a no-drink order
30 from the United States Environmental Protection Agency.

31 (4) When the commission has approved an allocation of funds to a

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

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

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

23 (7) A biennial report shall be made to the Clerk of the Legislature
24 describing the work accomplished by the use of funds towards the goals of
25 the Water Sustainability Fund beginning on December 31, 2015. The report
26 submitted to the Clerk of the Legislature shall be submitted
27 electronically.

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

30 2-1508 The commission shall rank and score applications for funding
31 based on criteria that demonstrate the extent to which a program,

1 project, or activity:

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

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

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

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

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

13 (6) Is cost-effective;

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

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

21 (9) Improves water quality;

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

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

26 (12) Addresses a statewide problem or issue;

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

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

31 ~~(15) Uses objectives described in the annual report and plan of work~~

1 ~~for the state water planning and review process issued by the department.~~

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

4 2-1509 (1) Applicants for funds may file an application with the
5 department for a grant or loan from the Water Sustainability Fund.
6 Applications for grants to the department itself shall be filed by the
7 department. Each application shall be filed in such manner and form and
8 be accompanied by such information as may be prescribed by the Chief
9 Water Officer ~~director~~ and the commission.

10 (2) Any such application shall:

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

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

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

21 (d) When appropriate, state that the applicant holds or can acquire
22 title to all lands or has the necessary easements and rights-of-way for
23 the program, project, or activity and related lands and has or may
24 acquire all water rights necessary for the proposed program, project, or
25 activity;

26 (e) Show that the applicant possesses all necessary authority to
27 undertake or participate in the proposed program, project, or activity;
28 and

29 (f) Demonstrate the probable environmental and ecological
30 consequences that may result from such proposed program, project, or
31 activity.

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

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

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

23 2-1510 (1) Each program, project, or activity for which funding is
24 requested, whether such request has as its origin an application or the
25 action of the department itself, shall be reviewed as provided in
26 sections 2-1506 to 2-1513 by the Chief Water Officer ~~director~~ prior to
27 the approval of any allocation for such program, project, or activity by
28 the commission.

29 (2) The Chief Water Officer ~~director~~ may recommend approval of and
30 the commission may approve grants or loans, including the appropriate
31 repayment period and the rate of interest, for program, project, or

1 activity costs or acquisition of interests in programs, projects, or
2 activities if after investigation and evaluation the Chief Water Officer
3 ~~director~~ finds that:

4 (a) The plan does not conflict with any existing Nebraska state land
5 plan;

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

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

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

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

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

19 (g) The plan considers other plans and programs of the state and
20 resources development plans of the political subdivisions of the state;
21 and

22 (h) The money required from the Water Sustainability Fund is
23 available.

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

28 (4) No member of the commission shall be eligible to participate in
29 the action of the commission concerning an application for funding to any
30 entity in which such commission member has any interest. The Chief Water
31 Officer ~~director~~ may be delegated additional responsibilities consistent

1 with the purposes of sections 2-1506 to 2-1513. It shall be the sole
2 responsibility of the commission to determine the priority in which funds
3 are allocated for eligible programs, projects, or activities under
4 section 2-1508.

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

7 2-1511 (1) The Chief Water Officer ~~director~~ shall make
8 recommendations based upon his or her review of the criteria set forth in
9 section 2-1510 of whether an application should be considered further or
10 rejected and the form of allocation he or she deems appropriate. The
11 commission shall act in accordance with such recommendations according to
12 the application procedures adopted and promulgated in rules and
13 regulations.

14 (2) If, after review of the recommendation by the Chief Water
15 Officer ~~director~~, the commission determines that an application for a
16 grant, loan, acquisition of an interest, or combination thereof pursuant
17 to sections 2-1506 to 2-1513 is satisfactory and qualified to be
18 approved, before the final approval of such application may be given and
19 the funds allocated, the department shall enter into an agreement in the
20 name of the state with the applicant agency or organization and with any
21 other organizations it deems to be involved in the program, project, or
22 activity to which funds shall be applied. The department shall also enter
23 into such agreements as are appropriate before allocation of any funds
24 for the acquisition of an interest in any qualified program, project, or
25 activity when such acquisition is initiated by the department itself
26 pursuant to section 2-1512. All agreements entered into pursuant to this
27 section shall include, but not be limited to, a specification of the
28 amount of funds involved, whether the funds are considered as a grant or
29 loan or for the acquisition of an interest in the name of the state, and,
30 if a combination of these is involved, the amount of funds allocated to
31 each category, the specific purpose for which the allocation is made, the

1 terms of administration of the allocated funds, the term of such
2 agreement, which shall not exceed ten years, and any penalties to be
3 imposed upon the applicant organization should it fail to apply or repay
4 the funds in accordance with the agreement.

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

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

24 (5) The state shall have a lien upon a program, project, or activity
25 constructed, improved, or renovated with money from the Water
26 Sustainability Fund for the amount of the loan together with any interest
27 thereon. This lien shall attach to all program, project, or activity
28 facilities, equipment, easements, real property, and property of any kind
29 or nature in which the loan recipient has an interest and which is
30 associated with the program, project, or activity. The department shall
31 file a statement of the lien, its amount, terms, and a description of the

1 program, project, or activity with the register of deeds of each county
2 in which the program, project, or activity or any part thereof is
3 located. The register of deeds shall record the lien, and it shall be
4 indexed as other liens are required by law to be indexed. The lien shall
5 be valid until paid in full or otherwise discharged. The lien shall be
6 foreclosed in accordance with applicable state law governing foreclosure
7 of mortgages and liens. Any lien provided for by this section may be
8 subordinate to that which secures federal assistance or other secured
9 assistance received on the same program, project, or activity.

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

12 2-1588 (1) No money in the Nebraska Resources Development Fund may
13 be reallocated by the commission in accordance with sections 2-1586 to
14 2-1595 for utilization by the department, by any state office, agency,
15 board, or commission, or by any political subdivision of the state which
16 has the authority to develop the state's water and related land resources
17 after March 30, 2014. The commission may commit appropriated funds to
18 projects approved as of March 30, 2014, not to exceed amounts
19 specifically allocated to such projects prior to March 30, 2014, unless
20 specific appropriations or transfers to exceed the March 30, 2014,
21 allocation amounts are approved by the Legislature. If such specific
22 appropriations or transfers are made, the commission shall develop
23 procedures to allocate the additional funding to projects approved as of
24 March 30, 2014. Allocations shall not exceed funds appropriated for such
25 purpose. Any of such funds remaining after all such project costs have
26 been completely funded shall be transferred to the Water Sustainability
27 Fund by the State Treasurer. Prior to March 30, 2014, the Nebraska
28 Resources Development Fund may be allocated in the form of grants or
29 loans or for acquiring state interests in water and related land
30 resources programs and projects undertaken within the state. The
31 allocation of funds to a program or project in one form shall not of

1 itself preclude additional allocations in the same or any other form to
2 the same program or project. Funds may also be allocated to assist
3 natural resources districts in the preparation of management plans as
4 provided in section 46-709. Funds so allocated shall not be subject to
5 sections 2-1589 to 2-1595.

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

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

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

22 2-1592 (1) Any organization qualified to apply for and receive funds
23 from the Nebraska Resources Development Fund may file an application with
24 the department for a grant or loan from such fund. Applications for
25 grants to the department itself shall be filed by the department. Each
26 application shall be filed in such manner and form and be accompanied by
27 such information as may be prescribed by the Chief Water Officer ~~director~~
28 and the commission. No applications may be made to receive funds by grant
29 or loan from the Nebraska Resources Development Fund after March 30,
30 2014.

31 (2) Any such application shall:

1 (a) Describe the nature and purpose of the proposed program or
2 project;

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

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

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

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

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

19 (3) Upon receipt of an application, the Chief Water Officer ~~director~~
20 shall evaluate and investigate all aspects of the proposed program or
21 project and the proposed schedule for development and completion of such
22 program or project, determine the eligibility of the program or project
23 for funding, and make appropriate recommendations to the commission
24 pursuant to sections 2-1586 to 2-1595. As a part of his or her
25 investigation, the Chief Water Officer ~~director~~ shall consider whether
26 the plan for development of the program or project is satisfactory. If
27 the Chief Water Officer ~~director~~ determines that the plan is
28 unsatisfactory or that the application does not contain adequate
29 information upon which to make determinations, the Chief Water Officer
30 ~~director~~ shall return the application to the applicant and may make such
31 recommendations to the applicant as are considered necessary to make the

1 plan or the application satisfactory.

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

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

11 2-1593 Each program or project for which funding is requested,
12 whether such request has as its origin an application or the action of
13 the department itself, shall be reviewed as provided in sections 2-1586
14 to 2-1595 by the Chief Water Officer ~~director~~ prior to the approval of
15 any allocation for such program or project by the commission. The Chief
16 Water Officer ~~director~~ shall within a reasonable time, not to exceed six
17 months, after receipt of such request report to the commission the
18 results of his or her review and shall recommend approval or rejection of
19 funding for the program or project. The Chief Water Officer ~~director~~
20 shall indicate what form of allocation he or she deems to be appropriate.
21 In the case of an approved application recommended for a loan, the
22 commission shall indicate the appropriate repayment period and the rate
23 of interest. The commission shall act in accordance with such
24 recommendations unless action to the contrary is approved by each
25 commission member eligible to vote on the specific recommendation under
26 consideration. No member of the commission shall be eligible to
27 participate in the action of the commission concerning an application for
28 funding to any entity in which such commission member has any interest.
29 The Chief Water Officer ~~director~~ may be delegated additional
30 responsibilities consistent with the purposes of sections 2-1586 to
31 2-1595. It shall be the sole responsibility of the commission to

1 determine the priority in which funds are allocated for eligible programs
2 and projects under sections 2-1586 to 2-1595.

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

5 2-1594 The Chief Water Officer ~~director~~ may recommend approval of
6 and the commission may approve grants or loans for program or project
7 costs or acquisition of interests in projects if after investigation and
8 evaluation the Chief Water Officer ~~director~~ finds that:

9 (1) The plan does not conflict with any existing Nebraska state land
10 plan;

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

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

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

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

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

23 (7) The plan considers other plans and programs of the state in
24 accordance with section 84-135 and resources development plans of the
25 political subdivisions of the state; and

26 (8) The money required from the Nebraska Resources Development Fund
27 is available.

28 The Chief Water Officer ~~director~~ and staff of the department shall
29 carry out their powers and duties under sections 2-1586 to 2-1595
30 independently of and without prejudice to their powers and duties under
31 other provisions of law.

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

3 2-1595 (1) If after review of the recommendation by the Chief Water
4 Officer ~~director~~ the commission determines that an application for a
5 grant, loan, acquisition of an interest, or combination thereof pursuant
6 to sections 2-1586 to 2-1595 is satisfactory and qualified to be
7 approved, before the final approval of such application may be given and
8 the funds allocated, the department shall enter into an agreement in the
9 name of the state with the applicant agency or organization and with any
10 other organizations it deems to be involved in the program or project to
11 which funds shall be applied. The department shall also enter into such
12 agreements as are appropriate before allocation of any funds for the
13 acquisition of interest in any qualified project when such acquisition is
14 initiated by the department itself pursuant to section 2-1590. All
15 agreements entered into pursuant to this section shall include, but not
16 be limited to, a specification of the amount of funds involved, whether
17 the funds are considered as a grant, loan, or for the acquisition of an
18 interest in the name of the state, and, if a combination of these is
19 involved, the amount of funds allocated to each category, the specific
20 purpose for which the allocation is made, the terms of administration of
21 the allocated funds, and any penalties to be imposed upon the applicant
22 organization should it fail to apply or repay the funds in accordance
23 with the agreement.

24 (2) If the allocation to be approved is a loan, the department and
25 the applicant or applicants shall include in the agreement provisions for
26 repayment to the Nebraska Resources Development Fund of money loaned
27 together with any interest at reasonable rates as established by the
28 commission. The agreement shall further provide that repayment of the
29 loan together with any interest thereon shall commence no later than one
30 full year after construction of the project is completed and that
31 repayment shall be completed within the time period specified by the

1 commission. The repayment period shall not exceed fifty years, except
2 that the commission may extend the time for making repayment in the event
3 of extreme emergency or hardship. Such agreement shall also provide for
4 such assurances of and security for repayment of the loan as shall be
5 considered necessary by the department.

6 (3) With the express approval of the commission, an applicant may
7 convey its interest in a project to a successor. The department shall
8 contract with the qualified successor in interest of the original obligor
9 for repayment of the loan together with any interest thereon and for
10 succession to its rights and obligations in any contract with the
11 department.

12 (4) The state shall have a lien upon a project constructed,
13 improved, or renovated with money from the fund for the amount of the
14 loan together with any interest thereon. This lien shall attach to all
15 project facilities, equipment, easements, real property, and property of
16 any kind or nature in which the loan recipient has an interest and which
17 is associated with the project. The department shall file a statement of
18 the lien, its amount, terms, and a description of the project with the
19 county register of deeds of each county in which the project or any part
20 thereof is located. The county register of deeds shall record the lien
21 and it shall be indexed as other liens are required by law to be indexed.
22 The lien shall be valid until paid in full or otherwise discharged. The
23 lien shall be foreclosed in accordance with applicable state law
24 governing foreclosure of mortgages and liens. Any lien provided for by
25 this section may be subordinate to that which secures federal assistance
26 or other secured assistance received on the same project.

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

29 2-2626 The department shall have the following powers, functions,
30 and duties:

31 (1) To administer, implement, and enforce the Pesticide Act and

1 serve as the lead state agency for the regulation of pesticides. The
2 department shall involve the natural resources districts and other state
3 agencies, including the Department of Water, Energy, and Environment
4 ~~Environment and Energy or the Department of Natural Resources~~, in matters
5 relating to water quality. Nothing in the act shall be interpreted in any
6 way to affect the powers of any other state agency or of any natural
7 resources district to regulate for ground water quality or surface water
8 quality as otherwise provided by law;

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

23 (3) After notice and public hearing, to adopt and promulgate rules
24 and regulations providing lists of state-limited-use pesticides for the
25 entire state or for a designated area within the state, subject to the
26 following:

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

29 (i) The Department of Agriculture determines that the pesticide,
30 when used in accordance with its directions for use, warnings, and
31 cautions and for uses for which it is registered, may without additional

1 regulatory restrictions cause unreasonable adverse effects on humans or
2 the environment, including injury to the applicator or other persons
3 because of acute dermal or inhalation toxicity of the pesticides;

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

7 (iii) The Department of Agriculture determines that the pesticide
8 requires additional restrictions to meet the requirements of the
9 Pesticide Act, the federal act, or any plan adopted under the Pesticide
10 Act or the federal act;

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

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

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

23 (e) The state management plan and pesticide management plans may
24 impose progressively more rigorous pesticide management practices as
25 pesticides are detected in ground water or surface water at increasing
26 fractions of the standards adopted by the Department of Water, Energy,
27 and Environment ~~Environment and Energy~~; and

28 (f) A pesticide management plan may impose progressively more
29 rigorous pesticide management practices to address any unreasonable
30 adverse effect of pesticides on humans or the environment. When
31 appropriate, a pesticide management plan may establish action levels for

1 imposition of such progressively more rigorous management practices based
2 upon measurable indicators of the adverse effect on humans or the
3 environment;

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

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

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

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

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

17 (e) Reporting and record-keeping requirements for persons
18 distributing or using pesticide products made available under 7 U.S.C.
19 136i-1 of the federal act and for persons required to keep records under
20 the Pesticide Act;

21 (f) Methods to be used in the application of pesticides when the
22 Department of Agriculture finds that such regulations are necessary to
23 carry out the purpose and intent of the Pesticide Act. Such regulations
24 may include methods to be used in the application of a restricted-use
25 pesticide or state-limited-use pesticide, may relate to the time, place,
26 manner, methods, materials, amounts, and concentrations in connection
27 with the use of the pesticide, may restrict or prohibit use of the
28 pesticides in designated areas during specified periods of time, and may
29 provide specific examples and technical interpretations of subdivision
30 (4) of section 2-2646. The regulations shall encompass all reasonable
31 factors which the department deems necessary to prevent damage or injury

1 by drift or misapplication to (i) plants, including forage plants, or
2 adjacent or nearby property, (ii) wildlife in the adjoining or nearby
3 areas, (iii) fish and other aquatic life in waters in reasonable
4 proximity to the area to be treated, (iv) surface water or ground water,
5 and (v) humans, animals, or beneficial insects. In adopting and
6 promulgating such regulations, the department shall give consideration to
7 pertinent research findings and recommendations of other agencies of the
8 state, the federal government, or other reliable sources. The department
9 may, by regulation, require that notice of a proposed use of a pesticide
10 be given to landowners whose property is adjacent to the property to be
11 treated or in the immediate vicinity thereof if the department finds that
12 such notice is necessary to carry out the purpose of the act;

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

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

17 (i) Establishment of the components of any state management plan or
18 pesticide management plan;

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

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

25 (5) To enter any public or private premises at any reasonable time
26 to:

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

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

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

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

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

7 (f) Inspect, examine, or take samples from any application
8 equipment, building, or place owned, controlled, or operated by any
9 person engaging in an activity regulated by the act if, from probable
10 cause, it appears that the application equipment, building, or place
11 contains a pesticide;

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

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

23 (8)(a) To sue in the name of the director to enjoin any violation of
24 the act. Venue for such action shall be in the county in which the
25 alleged violation occurred, is occurring, or is threatening to occur; and

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

28 (9) To impose or levy an administrative fine of not more than five
29 thousand dollars for each violation on any person who has violated any
30 provision, requirement, condition, limitation, or duty imposed by the act
31 or rules and regulations adopted and promulgated pursuant to the act. A

1 violation means each action which violates any separate or distinct
2 provision, requirement, condition, limitation, or duty imposed by the act
3 or rules and regulations adopted and promulgated pursuant to the act;

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

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

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

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

18 (14) To adopt classifications of restricted-use pesticides as
19 determined by the federal agency under the federal act. In addition to
20 the restricted-use pesticides classified by the administrator, the
21 Department of Agriculture may also determine state-limited-use pesticides
22 for the state or for designated areas within the state as provided in
23 subdivision (3) of this section;

24 (15) To receive grants-in-aid from any federal entity, and to enter
25 into cooperative agreements with any federal entity, any agency of this
26 state, any subdivision of this state, any agency of another state, any
27 Indian tribe, or any private person for the purpose of obtaining
28 consistency with or assistance in the implementation of the Pesticide
29 Act. The Department of Agriculture may reimburse any such entity from the
30 Pesticide Administrative Cash Fund for the work performed under the
31 cooperative agreement. The department may delegate its administrative

1 responsibilities under the act to cities of the metropolitan and primary
2 classes if it reasonably believes that such cities can perform the
3 responsibilities in a manner consistent with the act and the rules and
4 regulations adopted and promulgated under it;

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

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

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

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

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

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

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

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

22 2-3202 For purposes of Chapter 2, article 32, unless the context
23 otherwise requires:

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

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

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

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

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

31 (6) Manager means the chief executive hired by a majority vote of

1 the board to be the supervising officer of the district; and

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

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

6 2-3225 (1)(a) Each district shall have the power and authority to
7 levy a tax of not to exceed four and one-half cents on each one hundred
8 dollars of taxable valuation annually on all of the taxable property
9 within such district unless a higher levy is authorized pursuant to
10 section 77-3444.

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

20 (c) In addition to the power and authority granted in subdivisions
21 (1)(a) and (b) of this section, each district located in a river basin,
22 subbasin, or reach that has been determined to be fully appropriated
23 pursuant to section 46-714 or designated overappropriated pursuant to
24 section 46-713 by the Department of Water, Energy, and Environment
25 ~~Natural Resources~~ shall also have the power and authority to levy a tax
26 equal to the dollar amount by which its restricted funds budgeted to
27 administer and implement ground water management activities and
28 integrated management activities under the Nebraska Ground Water
29 Management and Protection Act exceed its restricted funds budgeted to
30 administer and implement ground water management activities and
31 integrated management activities for FY2005-06, not to exceed three cents

1 on each one hundred dollars of taxable valuation on all of the taxable
2 property within the district for fiscal year 2006-07 and each fiscal year
3 thereafter through fiscal year 2017-18.

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

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

25 **Sec. 27.** Section 2-3241, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 2-3241 Each district shall have the power and authority to provide
28 technical and other assistance as may be necessary or desirable in rural
29 areas to abate the lowering of water quality in the state caused by
30 sedimentation, effluent from feedlots, and runoff from cropland areas
31 containing agricultural chemicals. Such assistance shall be coordinated

1 with the programs and the stream quality standards as established by the
2 department ~~Department of Environment and Energy~~.

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

5 2-3254 (1) The board shall hold a hearing upon the question of the
6 desirability and necessity, in the interest of the public health, safety,
7 and welfare, of the establishment of or altering the boundaries of an
8 existing improvement project area and the undertaking of such a project,
9 upon the question of the appropriate boundaries describing affected land,
10 upon the propriety of the petition, and upon all relevant questions
11 regarding such inquiries. When a hearing has been initiated by petition,
12 such hearing shall be held within one hundred twenty days of the filing
13 of such petition. Notice of such hearing shall be published prior thereto
14 once each week for three consecutive weeks in a legal newspaper published
15 or of general circulation in the district. Landowners within the limits
16 of the territory described in the petition and all other interested
17 parties, including any appropriate agencies of state or federal
18 government, shall have the right to be heard. If the board finds, after
19 consultation with such appropriate agencies of state and federal
20 government and after the hearing, that the project conforms with all
21 applicable law and with the district's goals, criteria, and policies, it
22 shall enter its findings in the board's official records and shall, with
23 the aid of such engineers, surveyors, and other assistants as it may have
24 chosen, establish an improvement project area or alter the boundaries of
25 an existing improvement project area, proceed to make detailed plans and
26 cost estimates, determine the total benefits, and carry out the project
27 as provided in subsections (2) and (3) of this section. If the board
28 finds that the project does not so conform, the findings shall be entered
29 in the board's records and copies of such findings shall be furnished to
30 the petitioners and the commission.

31 (2) When any such special project would result in the provision of

1 revenue-producing continuing services, the board shall, prior to
2 commencement of construction of such project, determine, by circulation
3 of petitions or by some other appropriate method, if such project can be
4 reasonably expected to generate sufficient revenue to recover the
5 reimbursable costs thereof. If it is determined that the project cannot
6 be reasonably expected to generate sufficient revenue, the project and
7 all work in connection therewith shall be suspended. If it is determined
8 that the project can be reasonably expected to generate sufficient
9 revenue, the board shall divide the total benefits of the project as
10 provided in sections 2-3252 to 2-3254. If the proposed project involves
11 the supply of water for any beneficial use, including a public water
12 system as defined in section 71-5301, all plans and specifications for
13 the project shall be filed with the secretary of the district and the
14 Director of Water, Energy, and Environment ~~Natural Resources~~, except that
15 ~~if such project involves a public water system as defined in section~~
16 ~~71-5301, the filing of the information shall be with the Department of~~
17 ~~Environment and Energy rather than the Director of Natural Resources.~~ No
18 construction of any such special project shall begin until the plans and
19 specifications for such improvement have been approved by the Chief Water
20 Officer of the Department of Water, Energy, and Environment. When such a
21 special project involves a public water system as defined in section
22 71-5301, the Director of Water, Energy, and Environment shall ~~Director of~~
23 ~~Natural Resources and the Department of Environment and Energy, if~~
24 ~~applicable, except that if such special project involves a public water~~
25 ~~system as defined in section 71-5301, only the Department of Environment~~
26 ~~and Energy shall be required to review such plans and specifications and~~
27 approve the same if in compliance with the Nebraska Safe Drinking Water
28 Act and departmental rules and regulations adopted and promulgated under
29 the act. All prescribed conditions having been complied with, each
30 landowner within the improvement project area shall, within any limits
31 otherwise prescribed by law, subscribe to a number of benefit units in

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

23 (3) When the special project would not result in the provision of
24 revenue-producing continuing services, the board shall apportion the
25 benefits thereof accruing to the several tracts of land within the
26 district which will be benefited thereby, on a system of units. The land
27 least benefited shall be apportioned one unit of assessment, and each
28 tract receiving a greater benefit shall be apportioned a greater number
29 of units or fraction thereof, according to the benefits received. Nothing
30 contained in this section shall prevent the district from establishing
31 separate areas within the improvement project area so as to permit future

1 allocation of costs for particular portions of the work to specific
2 subareas. This subarea method of allocation shall not be used in any
3 improvement project area which has heretofore made a final apportionment
4 of units of benefits and shall not thereafter be changed except by
5 compliance with the procedure prescribed in this section.

6 (4) A notice shall be inserted for at least one week in a newspaper
7 published or of general circulation in the improvement project area
8 stating the time when and the place where the directors shall meet for
9 the purpose of hearing all parties interested in the apportionment of
10 benefits by reason of the improvement, at which time and place such
11 parties may appear in person or by counsel or may file written objections
12 thereto. The directors shall then proceed to hear and consider the same
13 and shall make the apportionments fair and just according to benefits
14 received from the improvement. The directors, having completed the
15 apportionment of benefits, shall make a detailed report of the same and
16 file such report with the county clerk. The board of directors shall
17 include in such report a statement of the actual expenses incurred by the
18 district to that time which relate to the proposed project and the actual
19 cost per benefit unit thereof. Thereupon the board of directors shall
20 cause to be published, once each week for three consecutive weeks in a
21 newspaper published or of general circulation in the improvement project
22 area, a notice that the report required in this subsection has been filed
23 and notice shall also be sent to each party appearing to have a direct
24 legal interest in such apportionment, which notice shall include the
25 description of the lands in which each party notified appears to have
26 such interest, the units of benefit assigned to such lands, the amount of
27 actual costs assessable to date to such lands, and the estimated total
28 costs of the project assessable to such lands upon completion thereof, as
29 provided by sections 25-520.01 to 25-520.03. If the owners of record
30 title representing more than fifty percent of the estimated total
31 assessments file with the board within thirty days of the final

1 publication of such notice written objections to the project proposed,
2 such project and work in connection therewith shall be suspended, such
3 project shall not be done in such project area, and all expenses relating
4 to such project incurred by and accrued to the district may, at the
5 direction of the board of directors, be assessed upon the lands which
6 were to have been benefited by the completion of such improvement project
7 in accordance with the apportionment of benefits determined and
8 procedures established in this section. Upon completing the establishment
9 of an improvement project area or altering the boundaries of an existing
10 improvement project area as provided in this subsection and upon
11 determining the reimbursable cost of the project and the period of time
12 over which such cost shall be assessed, the board of directors shall
13 determine the amount of money necessary to raise each year by special
14 assessment within such improvement project area and apportion the same in
15 dollars and cents to each tract benefited according to the apportionment
16 of benefits as determined by this section. The board of directors shall
17 also, from time to time as it deems necessary, order an additional
18 assessment upon the lands and property benefited by the project, using
19 the original apportionment of benefits as a basis to ascertain the
20 assessment to each tract of land benefited, to carry out a reasonable
21 program of operation and maintenance upon the construction or capital
22 improvements involved in such project. The chairperson and secretary
23 shall thereupon return lists of such tracts with the amounts chargeable
24 to each of the county clerks of each county in which assessed lands are
25 located, who shall place the same on duplicate tax lists against the
26 lands and lots so assessed. Such assessments shall be collected and
27 accounted for by the county treasurer at the same time as general real
28 estate taxes, and such assessments shall be and remain a perpetual lien
29 against such real estate until paid. All provisions of law for the sale,
30 redemption, and foreclosure in ordinary tax matters shall apply to such
31 special assessments.

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

3 2-3279 All plans submitted by a district under section ~~sections~~
4 ~~2-3276 to 2-3278, except those filed in compliance with state~~
5 ~~requirements or for the purpose of state financial assistance,~~ shall be
6 accorded a thirty-day period for review and comment. Failure to reply
7 within thirty days shall be conclusive that the plans have been endorsed
8 by the reviewing agency. All comments on plans shall be reviewed by the
9 district and alterations of the plans may be made as the district deems
10 appropriate. If any state agency comments indicate a lack of conformance
11 with the goals, criteria, and policies of any outdoor recreation plan,
12 any fish and wildlife plan, or indicate a conflict with state policies or
13 plans approved by the Legislature, such plans shall be altered as deemed
14 necessary by the district prior to proceeding with implementation.

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

17 2-3280 No state funds shall be allocated or disbursed to a district
18 unless that district has submitted its master plan in accordance with
19 sections 2-3229 and 2-3276 ~~to 2-3280~~ and until the disbursing agency has
20 determined that such funds are for plans, facilities, works, and programs
21 which are in conformance with the plans of the agency.

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

24 2-4602 The Legislature recognizes that erosion and sedimentation are
25 serious problems throughout the state. Changes in farm and ranch
26 enterprises, operations, and ownership, demands made upon farm and ranch
27 enterprises which do not encourage sound resource utilization, rapid
28 shifts in land use from agricultural and rural to nonagricultural and
29 urban uses, construction of streets, highways, pipelines, recreation
30 areas, schools and universities, public utilities and facilities,
31 conversion of grasslands to croplands, and other land-disturbing

1 activities have caused excessive wind erosion and water runoff and
2 accelerated the process of soil erosion and sediment deposition. This has
3 resulted in the pollution of the waters of the state and damage to
4 domestic, agricultural, industrial, recreational, fish and wildlife, and
5 other resources. It is declared to be the policy of the state to
6 strengthen and extend the present erosion and sediment control activities
7 and programs of the state for both rural and urban lands, to improve
8 water quality, and to establish and implement, through the Director of
9 Water, Energy, and Environment ~~Natural Resources~~ and the Nebraska Natural
10 Resources Commission, a statewide, comprehensive, and coordinated erosion
11 and sediment control program to reduce damage from wind erosion and storm
12 water runoff, to retard nonpoint pollution from sediment and related
13 pollutants, and to conserve and protect land, air, and other resources of
14 the state. This program shall be carried out by the natural resources
15 districts in cooperation with the counties, municipalities, and other
16 local governments and political subdivisions of the state and other
17 public and private entities.

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

20 2-4603 For purposes of the Erosion and Sediment Control Act, unless
21 the context otherwise requires:

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

23 (2) Conservation agreement means an agreement between the owner or
24 operator of a farm unit and the district in which the owner or operator
25 agrees to implement a farm unit conservation plan or, with the approval
26 of the district within which the farm unit is located, a portion of a
27 farm unit conservation plan. The agreement shall include a schedule for
28 implementation and may be conditioned on the district or other public
29 entity furnishing technical, planning, or financial assistance in the
30 establishment of the soil and water conservation practices necessary to
31 implement the plan or a portion of the plan;

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

3 (4) District means a natural resources district;

4 (5) Erosion or sediment control practice means:

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

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

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

23 (6) Excess erosion means the occurrence of erosion in excess of the
24 applicable soil-loss tolerance level which causes or contributes to an
25 accumulation of sediment upon the lands of any other person to the
26 detriment or damage of such other person;

27 (7) Farm unit conservation plan means a plan jointly developed by
28 the owner and, if appropriate, the operator of a farm unit and the
29 district within which the farm unit is located based upon the determined
30 conservation needs for the farm unit and identifying the soil and water
31 conservation practices which may be expected to prevent soil loss by

1 erosion from that farm unit in excess of the applicable soil-loss
2 tolerance level. The plan may also, if practicable, identify alternative
3 practices by which such objective may be attained;

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

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

13 (b) Installation of aboveground public utility lines and
14 connections, fenceposts, sign posts, telephone poles, electric poles, and
15 other kinds of posts or poles;

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

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

19 (e) Activities related to the operation, construction, or
20 maintenance of industrial or commercial public power district or public
21 power and irrigation district facilities or sites when such activity is
22 conducted pursuant to state or federal law or is part of the operational
23 plan for such facility or site;

24 (9) Person means any individual, partnership, limited liability
25 company, firm, association, joint venture, public or private corporation,
26 trust, estate, commission, board, institution, utility, cooperative,
27 municipality or other political subdivision of this state, interstate
28 body, or other legal entity;

29 (10) Soil and water conservation practice means a practice which
30 serves to prevent erosion of soil by wind or water in excess of the
31 applicable soil-loss tolerance level from land used only for

1 agricultural, horticultural, or silvicultural purposes. Soil and water
2 conservation practice includes, but is not limited to:

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

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

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

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

23 2-4604 (1) The director shall, in cooperation with the commission,
24 ~~the Department of Environment and Energy,~~ the Natural Resources
25 Conservation Service of the United States Department of Agriculture, and
26 other appropriate state and federal agencies, develop and coordinate a
27 comprehensive state erosion and sediment control program designed to
28 reduce soil erosion in this state to tolerable levels. The program, which
29 shall be reasonable and attainable, shall include:

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

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

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

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

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

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

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

20 2-4901 (1) The Climate Assessment Response Committee is hereby
21 created. The office of the Governor shall be the lead agency and shall
22 oversee the committee and its activities. The committee shall be composed
23 of representatives appointed by the Governor with the approval of a
24 majority of the Legislature from livestock producers, crop producers, the
25 Nebraska Emergency Management Agency, and the Conservation and Survey
26 Division and Cooperative Extension Service of the University of Nebraska.
27 The Director of Agriculture or his or her designee, the chief executive
28 officer of the Department of Health and Human Services or his or her
29 designee, and the Director of Water, Energy, and Environment ~~Natural~~
30 ~~Resources~~ or his or her designee shall be ex officio members of the
31 committee. Representatives from the federal Consolidated Farm Service

1 Agency and Federal Crop Insurance Corporation may also serve on the
2 committee at the invitation of the Governor. The chairperson of the
3 Committee on Agriculture of the Legislature and the chairperson of the
4 Committee on Natural Resources of the Legislature shall be nonvoting, ex
5 officio members of the committee. The Governor may appoint a member of
6 the Governor's Policy Research Office and any other state agency
7 representatives or invite any other federal agencies to name
8 representatives as he or she deems necessary. The Governor shall appoint
9 one of the Climate Assessment Response Committee members to serve as the
10 chairperson of the committee. Committee members shall be reimbursed for
11 expenses as provided in sections 81-1174 to 81-1177.

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

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

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

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

25 13-1701 For purposes of sections 13-1701 to 13-1714 and 76-2,119:

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

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

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

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

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

12 13-2008 Department shall mean the Department of Water, Energy, and
13 Environment ~~Environment and Energy~~.

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

16 13-2009 Director shall mean the Director of Water, Energy, and
17 Environment ~~Environment and Energy~~.

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

20 13-2042.01 (1) The department ~~Department of Environment and Energy~~
21 shall rebate to the municipality or county of origin ten cents of the
22 disposal fee required by section 13-2042 for solid waste disposed of at
23 landfills regulated by the department or transported for disposal out of
24 state from a solid waste processing facility holding a permit under the
25 Integrated Solid Waste Management Act and when such solid waste
26 originated in a municipality or county with a purchasing policy approved
27 by the department. The fee shall be rebated on a schedule agreed upon
28 between the municipality or county and the department. The schedule shall
29 be no more often than quarterly and no less often than annually.

30 (2) Any municipality or county may apply to the department for the
31 rebate authorized in subsection (1) of this section if the municipality

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

22 (3) A municipality or county shall file a report complying with the
23 rules and regulations adopted pursuant to this section with the
24 department ~~Department of Environment and Energy~~ before April 1 of each
25 year documenting purchasing practices for the past calendar year in order
26 to continue receiving the rebate. The report shall include, but not be
27 limited to, quantities of products, materials, or supplies purchased
28 which were manufactured or produced from recycled material. The
29 department shall provide copies of each report to the materiel division
30 in a timely manner. If the department determines that a municipality or
31 county is not following the purchasing policy presented in the approved

1 application or that the purchasing policy presented in the approved
2 application is not effective in assuring that a preference is given to
3 products, materials, or supplies which are manufactured or produced from
4 recycled material, the department shall suspend the rebate until it
5 determines that the municipality or county is giving a preference to
6 products, materials, or supplies which are manufactured or produced from
7 recycled material pursuant to a written purchasing policy approved by the
8 department subsequent to the suspension. The materiel division may make
9 recommendations to the department regarding suspensions and
10 reinstatements of rebates. The Department of Administrative Services may
11 adopt and promulgate rules and regulations establishing procedures for
12 reviewing applications and for annual reports.

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

16 (5) The council shall adopt and promulgate rules and regulations
17 establishing criteria for application procedures, for accepting and
18 denying applications, for required reports, and for suspending and
19 reinstating the rebate. The materiel division shall recommend to the
20 council criteria for accepting and denying applications and for
21 suspending and reinstating the rebate. The materiel division may make
22 other recommendations to the council regarding rules and regulations
23 authorized under this section.

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

26 16-6,106 Cities of the first class are hereby authorized and
27 empowered to develop and implement and from time to time amend, change,
28 and modify a general plan or program of flood and storm water control,
29 drainage, and disposal for such city. If the plan or program requires
30 works of improvement outside of the city limits, it shall be submitted
31 for review to the boards of the county or counties affected and to the

1 Department of Water, Energy, and Environment ~~Natural Resources~~. To
2 accomplish such purposes, or any of them, the city may to the extent
3 deemed needful or useful in the judgment of the city council:

4 (1) Procure and contract for professional and technical assistance
5 of all kinds;

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

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

23 **Sec. 40.** Section 19-1201, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 19-1201 (1) There is hereby established the Revitalize Rural
26 Nebraska Grant Program. The governing body of a city of the first class,
27 a city of the second class, or a village may apply, on behalf of the city
28 or village, to the Department of Water, Energy, and Environment
29 ~~Environment and Energy~~ for approval of a dilapidated commercial property
30 demolition grant. The Director of Water, Energy, and Environment
31 ~~Environment and Energy~~ shall prescribe the form and manner of

1 application.

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

9 (3) There shall be no limit on the amount that can be awarded to
10 each applicant within the available funding. It is the intent of the
11 Legislature that if the department does not award all of the available
12 appropriation for grants under the program, the unobligated amount of the
13 appropriation shall be reappropriated for the next fiscal year to be
14 awarded during the next grant period.

15 **Sec. 41.** Section 19-1202, Revised Statutes Cumulative Supplement,
16 2024, is amended to read:

17 19-1202 The Department of Water, Energy, and Environment ~~Environment~~
18 ~~and Energy~~ shall award a grant to a city or village under the Revitalize
19 Rural Nebraska Grant Program based on a completed application that
20 demonstrates:

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

23 (2) The city or village owns the property or is completing the
24 process prescribed in section 18-1722;

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

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

29 (5) The city or village is able to contribute matching funds,
30 whether in cash or in-kind donations, in the amount of ten percent for a
31 village, fifteen percent for a city of the second class, and twenty

1 percent for a city of the first class.

2 **Sec. 42.** Section 19-1203, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 19-1203 If a city or village fails to engage in the demolition of
5 the commercial property identified in the application for a grant under
6 the Revitalize Rural Nebraska Grant Program within twenty-four months
7 after receiving the grant, the city or village shall return the grant to
8 the Department of Water, Energy, and Environment ~~Environment and Energy~~.
9 The department shall remit such grant money to the State Treasurer for
10 credit to the Revitalize Rural Nebraska Fund.

11 **Sec. 43.** Section 19-1204, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 19-1204 The Revitalize Rural Nebraska Fund is created. The
14 Department of Water, Energy, and Environment ~~Environment and Energy~~ shall
15 use the fund for the Revitalize Rural Nebraska Grant Program. The fund
16 shall include transfers as directed by the Legislature, money from grants
17 returned under section 19-1203, and money from private contributions and
18 other sources provided for purposes of the program. Any money in the
19 Revitalize Rural Nebraska Fund available for investment shall be invested
20 by the state investment officer pursuant to the Nebraska Capital
21 Expansion Act and the Nebraska State Funds Investment Act. Any interest
22 earned on the fund shall be used for the program.

23 **Sec. 44.** Section 19-5706, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 19-5706 The Department of Economic Development may consult with
26 statewide associations representing municipal officials, economic
27 developers, the Department of Transportation, and the Department of
28 Water, Energy, and Environment ~~Environment and Energy~~ in order to carry
29 out the Municipality Infrastructure Aid Act.

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

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

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

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

16 25-1064 (1) The injunction may be granted at the time of commencing
17 the action or at any time afterward before judgment by the Court of
18 Appeals or the Supreme Court or any judge thereof. No restraining order
19 or temporary injunction should be granted at the time of the commencement
20 of the action if the relief demanded involves the delivery of irrigation
21 water and the Chief Water Officer Director of Natural Resources, as
22 defined in section 25-1062.01, is a party except in accordance with the
23 procedure prescribed in subsection (5) of this section.

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

26 (3) Any judge of the district court, except when the relief demanded
27 involves the delivery of irrigation water and the director is a party,
28 may grant a temporary restraining order without notice to the adverse
29 party or his or her attorney only if (a) it clearly appears from specific
30 facts shown by affidavit that immediate and irreparable injury, loss, or
31 damage will result to the applicant before the adverse party or his or

1 her attorney can be heard in opposition and (b) the applicant or his or
2 her attorney certifies to the court in writing the efforts, if any, which
3 have been made to give such notice and the reasons supporting the
4 applicant's claim that such notice shall not be required.

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

28 (4) In the absence from the county of the district judges, any judge
29 of the county court, except when the relief demanded involves the
30 delivery of irrigation water and the director is a party, may grant a
31 temporary restraining order without notice to the adverse party or his or

1 her attorney only if (a) it clearly appears from specific facts shown by
2 affidavit that immediate and irreparable injury, loss, or damage will
3 result to the applicant before the adverse party or his or her attorney
4 can be heard in opposition and (b) the applicant or his or her attorney
5 certifies to the court in writing the efforts, if any, which have been
6 made to give such notice and the reasons supporting the applicant's claim
7 that such notice shall not be required. The judge of the county court
8 shall direct that reasonable notice be given to the party against whom
9 the temporary restraining order is issued to attend at a specified time
10 or place before the district court or any judge thereof to show cause why
11 a temporary injunction should not be issued.

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

23 (5) The Supreme Court or any judge thereof, the Court of Appeals or
24 any judge thereof, the district court or any judge thereof, or a judge of
25 the county court, if and when he or she has jurisdiction, shall have no
26 power, when the relief demanded involves the delivery of irrigation water
27 and the Chief Water Officer ~~director~~ is a party, to grant a restraining
28 order or temporary injunction at the time of the commencement of the
29 action, except when notice by either registered or certified letter has
30 been mailed seventy-two hours prior to the time of hearing to the Chief
31 Water Officer ~~director~~ and the division supervisor in the water division

1 created by section 61-212 in which the action is brought and, in the
2 manner provided in section 25-1062.01, to all appropriators whose rights
3 to the delivery of irrigation water might in any manner be affected, of
4 the time and place of the hearing. At the hearing on the restraining
5 order or temporary injunction, the Chief Water Officer ~~director~~,
6 appropriators, or riparian owners shall be entitled to be heard, in
7 person or by their attorney or attorneys, on the question of whether the
8 restraining order should be granted and, if so, in what amount the bond
9 or undertaking is to be fixed.

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

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

17 25-1920 In all actions in which a temporary injunction has been
18 granted and entered in the district court, which order allowing the
19 temporary injunction is or has been superseded for by law, and in which
20 action the trial court, on the merits, determined that the temporary
21 injunction ought not to have been granted and a permanent injunction was
22 refused in such action, such cause shall be advanced by the Court of
23 Appeals or Supreme Court for hearing. In all such actions, if the relief
24 demanded involves the delivery of irrigation water, and the Chief Water
25 Officer ~~Director of Natural Resources~~, as defined in section 25-1062.01,
26 is a party, any appeal from the judgment or decree of the district court
27 shall be perfected within thirty days after the entry of such judgment,
28 decree, or final order by the district court, and the cause shall be
29 advanced for hearing before the Court of Appeals or Supreme Court.

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

1 25-2159 When the right to require the performance of the act is
2 clear and it is apparent that no valid excuse can be given for not
3 performing it, a peremptory mandamus may be allowed in the first
4 instance. In all other cases, the alternative writ must be first issued,
5 except that a peremptory mandamus in the first instance shall not be
6 given in any case involving the delivery of irrigation water if the Chief
7 Water Officer ~~Director of Natural Resources~~ as defined in section
8 25-1062.01 is a party.

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

11 25-2160 The motion for the writ must be made upon affidavit. The
12 court may require a notice of the application to be given to the adverse
13 party, may grant an order to show cause why it should not be allowed, or
14 may grant the writ without notice. No peremptory writ of mandamus shall
15 be allowed in any case involving the delivery of irrigation water if the
16 Chief Water Officer ~~Director of Natural Resources~~, as defined in section
17 25-1062.01, is a party unless notice by either registered or certified
18 mail has been given, as provided therein, seventy-two hours prior to the
19 time of hearing to the Chief Water Officer ~~director~~ and division
20 supervisor in the water division created by section 61-212 in which the
21 action is brought and to all appropriators whose rights to the delivery
22 of water might in any manner be affected, of the time and place of the
23 hearing. In such case, any person, natural or artificial, injured or
24 likely to be injured by the granting of such writ, may intervene in such
25 action at any stage of the proceedings and become a party to such
26 litigation.

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

29 31-415 The drainage district shall have power to purchase such real
30 estate or easement therein as it may need, and if it cannot agree on the
31 purchase price of any needed real estate or easement therein, it shall

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

23 **Sec. 51.** Section 31-508, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 31-508 If a sanitary drainage district has constructed one or more
26 channels, drains, or ditches from a city of the primary class to or
27 beyond the boundaries of the district downstream and there remains from
28 the lower terminus of such improvement a portion or continuation of the
29 watercourse unimproved, the Department of Water, Energy, and Environment
30 ~~Natural Resources~~ shall investigate the conditions of such watercourse,
31 and if the department determines that further improvement in such

1 watercourse downstream is for the interest of lands adjacent to such
2 watercourse below the point of the improvement, the department shall file
3 a plan of such improvement in the office of the county clerk of each of
4 the counties in which any of the lands to be benefited are situated and
5 in which any portion of the watercourse to be improved is located. Such
6 plan shall describe the boundaries of the district to be benefited and
7 shall contain an estimate of the benefits that would accrue to the
8 sanitary district by reason of such improvement as well as the cost
9 thereof and an estimate of the special benefits that would accrue to
10 lands adjacent to the watercourse by reason of improved drainage, such
11 estimate being detailed as to the various tracts of land under separate
12 ownership as shown by the records of the county in which such lands are
13 situated.

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

16 31-509 When the Department of Water, Energy, and Environment ~~Natural~~
17 ~~Resources~~ files a report and estimate, the county clerk of such county
18 shall publish a notice once each week for three weeks in a newspaper
19 published in the county seat of each of the counties having land within
20 the sanitary drainage district, which notice shall state the filing of
21 the report and estimate, the boundaries of the district to be benefited,
22 that an election will be held at the office of the county clerk between
23 the hours of 8 a.m. and 6 p.m. on a day named in the notice, and that at
24 the election the question of the formation of a sanitary drainage
25 district to include the area described in the report will be determined.
26 The election shall be held in accordance with sections 31-406 to 31-408,
27 except that no directors shall be elected. If a majority vote for the
28 creation of a district based on acreage represented, the sanitary
29 drainage district shall have jurisdiction to make the improvements
30 recommended by the Department of Water, Energy, and Environment ~~Natural~~
31 ~~Resources~~ and to levy a special assessment on the lands specially

1 benefited. If a majority vote against the creation of a district, the
2 work shall not be done.

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

5 31-515 The proceedings for imposing of special assessment by the
6 board of trustees shall be, as nearly as may be, according to those for
7 special assessments by the mayor and council under the law governing
8 cities of the first class. If improvements are recommended by the
9 Department of Water, Energy, and Environment ~~Natural Resources~~ and a
10 sanitary drainage district is formed adjacent to a watercourse previously
11 improved above such district pursuant to sections 31-508 and 31-509, the
12 board of trustees shall advertise for bids for the construction of such
13 improvements as are recommended by the department and in accordance with
14 plans recommended by the department.

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

17 31-516 Upon the completion of the improvement, notice shall be given
18 that the trustees will sit as a board of equalization, at a day and hour
19 in such notice stated, for the purpose of equalizing the assessments of
20 such portion of the cost of such improvement as the report of the
21 Department of Water, Energy, and Environment ~~Natural Resources~~ finds to
22 represent the special benefits of the land the drainage of which such
23 improvements would improve. At such hearing such board of equalization
24 shall hear all complaints with reference to the assessments proposed
25 under the findings of the department. The trustees sitting as a board of
26 equalization shall have power to increase or decrease such special
27 assessments to the end that the property shall be assessed its equitable
28 portion of the cost of such improvement, but not exceeding in the
29 aggregate the percentage of the total cost recommended by the department
30 to be assessed against such property and not exceeding in any case the
31 actual special benefits accruing to such land. Notice of such meeting of

1 the board of equalization shall be given by publishing a notice thereof
2 in a paper, published in the county seat in each of the counties where
3 any of the lands to be assessed are situated, once each week for three
4 consecutive weeks. Appeals from the findings of such board of
5 equalization may be taken in the manner provided for appeals from
6 assessments of drainage districts organized under sections 31-401 to
7 31-450.

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

10 31-1003 Department shall mean the Department of Water, Energy, and
11 Environment Natural Resources.

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

14 31-1015 Obstruction shall mean any wall, wharf, embankment, levee,
15 dike, pile, abutment, projection, excavation, channel rectification,
16 bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse,
17 fill, or other analogous structure or matter which may impede, retard, or
18 change the direction of the flow of water, either in itself or by
19 catching or collecting debris carried by such water, or that is placed
20 where the natural flow of the water would carry such structure or matter
21 downstream to the damage or detriment of either life or property.
22 Obstruction shall not include a dam designed to store or divert water for
23 which permission for construction has been obtained from the department
24 ~~Department of Natural Resources~~ pursuant to the Safety of Dams and
25 Reservoirs Act.

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

28 37-707 (1) The commission is directed to place suitable signs
29 showing the boundaries of the refuges, as designated in section 37-706,
30 using the map adopted by the commission ~~Department of Natural Resources~~
31 pursuant to this section, on all roads leading into such refuges.

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

6 ~~(b) The department shall make the initial boundary determinations~~
7 ~~for the state game refuge in Garden County by March 1, 2005. The~~
8 ~~department shall make the initial boundary determinations for the~~
9 ~~remaining state game refuges by January 1, 2006.~~

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

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

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

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

30 (e) All rules and regulations adopted and promulgated pursuant to
31 this section by the Department of Natural Resources as it existed prior

1 to July 1, 2025, shall remain in effect unless revised, amended,
2 repealed, or nullified pursuant to law.

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

5 37-708.01 (1) The validity of any rule or regulation adopted by the
6 ~~commission~~ Department of Natural Resources pursuant to sections 37-701 to
7 37-708 may be determined pursuant to section 84-911.

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

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

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

22 **Sec. 59.** Section 37-806, Revised Statutes Cumulative Supplement,
23 2024, is amended to read:

24 37-806 (1)(a) Any species of wildlife or wild plants determined to
25 be an endangered species pursuant to the Endangered Species Act shall be
26 an endangered species under the Nongame and Endangered Species
27 Conservation Act, and any species of wildlife or wild plants determined
28 to be a threatened species pursuant to the Endangered Species Act shall
29 be a threatened species under the Nongame and Endangered Species
30 Conservation Act.

31 (b) Within a reasonable time after any federal listing, downlisting,

1 removal, or uplisting, the commission may determine that any species of
2 wildlife or wild plant should receive a different state-listed status
3 throughout all or any portion of the range of such species within this
4 state by completing the formal listing process as prescribed in this
5 section or by retaining its previous state-listed status.

6 (2) In addition to the species determined to be endangered or
7 threatened pursuant to the Endangered Species Act, the commission shall,
8 by adopting and promulgating rules and regulations, determine whether any
9 species of wildlife or wild plants normally occurring within this state
10 is an endangered or threatened species as a result of any of the
11 following factors:

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

14 (b) Overutilization for commercial, recreational, scientific,
15 educational, or other purposes;

16 (c) Disease or predation;

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

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

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

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

28 (i) Provided public notice of such proposed action by publication in
29 a newspaper of general circulation in each county in that portion of the
30 subject species' range in which it is endangered or threatened or, if the
31 subject species' range extends over more than five counties, in a

1 newspaper of statewide circulation distributed in the county;

2 (ii) Provided notice of such proposed action to and allowed comment
3 from the Department of Agriculture, the Department of Water, Energy, and
4 Environment ~~Environment and Energy, the Department of Natural Resources,~~
5 and any other state agency that the commission determines might be
6 impacted by the proposed action;

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

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

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

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

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

27 (viii) For species proposed to be added under this subsection but
28 not for species proposed to be removed under this subsection, developed
29 an outline of the potential impacts, requirements, or rules and
30 regulations that may be placed on private landowners, or on other persons
31 who hold state-recognized property rights on behalf of themselves or

1 others, as a result of the listing of the species or the development of a
2 proposed program for the conservation of the species as required in
3 subsection (1) of section 37-807.

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

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

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

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

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

9 (6) Except with respect to species of wildlife or wild plants
10 determined to be endangered or threatened pursuant to the Endangered
11 Species Act, the commission shall, upon the petition of an interested
12 person, conduct a review of any listed or unlisted species proposed to be
13 removed from or added to the lists published pursuant to subsection (5)
14 of this section, but only if the commission publishes a public notice
15 that such person has presented substantial evidence that warrants such a
16 review.

17 (7) Whenever any species of wildlife or wild plants is listed as a
18 threatened species pursuant to subsection (5) of this section, the
19 commission shall issue such rules and regulations as are necessary to
20 provide for the conservation of such species. The commission may
21 prohibit, with respect to any threatened species of wildlife or wild
22 plants, any act prohibited under subsection (8) or (9) of this section.

23 (8) With respect to any endangered species of wildlife, it shall be
24 unlawful, except as provided in subsection (7) of this section or section
25 37-807, for any person subject to the jurisdiction of this state to:

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

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

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

1 or

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

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

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

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

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

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

21 (11) The commission may permit any act otherwise prohibited by
22 subsection (8) of this section for scientific purposes or to enhance the
23 propagation or survival of the affected species.

24 (12) Any law, rule, regulation, or ordinance of any political
25 subdivision of this state that applies with respect to the taking,
26 importation, exportation, possession, sale or offer for sale, processing,
27 delivery, carrying, transportation other than under the jurisdiction of
28 the Public Service Commission, or shipment of species determined to be
29 endangered or threatened species pursuant to the Nongame and Endangered
30 Species Conservation Act shall be void to the extent that it may
31 effectively (a) permit that which is prohibited by the act or by any rule

1 or regulation that implements the act or (b) prohibit that which is
2 authorized pursuant to an exemption or permit provided for in the act or
3 in any rule or regulation that implements the act. The Nongame and
4 Endangered Species Conservation Act shall not otherwise be construed to
5 void any law, rule, regulation, or ordinance of any political subdivision
6 of this state which is intended to conserve wildlife or wild plants.

7 **Sec. 60.** Section 37-814, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 37-814 (1) Any federally designated critical habitat under the
10 Endangered Species Act shall be critical habitat under the Nongame and
11 Endangered Species Conservation Act.

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

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

19 (ii) Overutilization for commercial, recreational, scientific,
20 educational, or other purposes;

21 (iii) Disease or predation;

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

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

25 (b) The commission shall not designate as critical habitat for any
26 endangered or threatened species the entire geographical area that can be
27 occupied by such endangered or threatened species unless the commission
28 determines that such designation is essential for the survival of the
29 endangered or threatened species.

30 (c) The commission may, concurrently with making a determination
31 under subsection (2) of section 37-806 that a species is an endangered or

1 threatened species, designate any habitat of such species that is also
2 considered to be critical habitat.

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

6 (e) The commission may revise any previous designation of critical
7 habitat.

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

11 (b) Except with respect to critical habitat designated under
12 subsection (1) of this section, the commission shall not designate or
13 remove designation of critical habitat for a species from any list
14 published pursuant to subsection (5) of this section unless the
15 commission:

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

21 (ii) Provides notice of such proposed action to and allows comment
22 from the Department of Agriculture, the Department of Water, Energy, and
23 Environment ~~Environment and Energy, the Department of Natural Resources,~~
24 and any other state agency that the commission determines might be
25 impacted by the proposed action;

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

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

1 being proposed;

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

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

7 (vii) Submits the scientific, commercial, and other data that is the
8 basis of the proposed action to scientists or experts outside and
9 independent of the commission for peer review of the data and
10 conclusions. If the commission submits the data to a state or federal
11 fish and wildlife agency for peer review, the commission shall also
12 submit the data to scientists or experts not affiliated with such agency
13 for review. For purposes of this section, state fish and wildlife agency
14 does not include a postsecondary educational institution; and

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

21 (c) The inadvertent failure to provide notice as required by
22 subdivision (3)(b) of this section shall not prohibit the designation of
23 critical habitat and shall not be deemed to be a violation of the
24 Administrative Procedure Act or the Nongame and Endangered Species
25 Conservation Act.

26 (d) When the commission proposes to designate or remove designation
27 of critical habitat under this subsection, public notice under
28 subdivision (3)(b)(i) of this section shall include (i) the critical
29 habitat proposed to be listed as designated critical habitat and a
30 description of the portion of the range in which the species for which
31 critical habitat is proposed to be designated is endangered or

1 threatened, (ii) a declaration that the commission submitted the data
2 that is the basis for the listing for peer review and developed an
3 outline if required under subdivision (b)(viii) of this subsection, and
4 (iii) a declaration of the availability of the peer review, including an
5 explanation of any changes or modifications the commission has made to
6 its proposal as a result of the peer review, and the outline required
7 under subdivision (b)(viii) of this subsection, if applicable, for public
8 examination.

9 (e) In cases when the commission determines that an emergency
10 situation exists that requires the designation of critical habitat to
11 provide for the continued existence of a species as a viable component of
12 the wild fauna or flora of the state, the commission may add the
13 designated critical habitat to such lists after first publishing public
14 notice that such an emergency situation exists together with a summary of
15 facts that support such determination.

16 (4) In determining whether any endangered or threatened species
17 requires the designation of critical habitat, the commission shall take
18 into consideration those actions being carried out by the federal
19 government, by other states, by other agencies of this state or its
20 political subdivisions, or by any other person which may affect the
21 species under consideration.

22 (5) The commission shall adopt and promulgate rules and regulations
23 containing a list of all designated critical habitat in this state and
24 the endangered or threatened species for which such critical habitat was
25 designated. Each species on such list shall be referred to by both
26 scientific and common name or names, if any.

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

29 46-106 The petition for the proposed district shall be published for
30 at least two weeks before the time at which the same is to be presented,
31 in some newspaper printed and published in the county where the petition

1 is presented, together with a notice stating the time of the meeting at
2 which the petition will be presented. A copy of such petition and all
3 maps and other papers filed with the petition shall be filed in the
4 office of the Department of Water, Energy, and Environment ~~Natural~~
5 ~~Resources~~ for at least four weeks before the date set for such hearing.
6 The Chief Water Officer of the Department of Water, Energy, and
7 Environment ~~Director of Natural Resources~~ shall examine such petition,
8 maps, and other papers and, if he or she deems it necessary, shall
9 further examine the proposed district, the works proposed to be
10 purchased, or the location of the works to be constructed. The Chief
11 Water Officer ~~director~~ shall prepare a report upon the matter in such
12 form as he or she deems advisable and submit the report to the county
13 board at the meeting set for the hearing of the petition.

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

16 46-122 (1) It is hereby expressly provided that all water
17 distributed for irrigation purposes shall attach to and follow the tract
18 of land to which it is applied unless a change of location has been
19 approved by the board of directors pursuant to sections 46-2,127 to
20 46-2,129 or by the Department of Water, Energy, and Environment ~~Natural~~
21 ~~Resources~~ pursuant to section 46-294 or sections 46-2,122 to 46-2,126.

22 (2) The board of directors may by the adoption of appropriate bylaws
23 provide for the suspension of water delivery to any land in such district
24 upon which the irrigation taxes levied and assessed thereon shall remain
25 due and unpaid for two years. It shall be the duty of the directors to
26 make all necessary arrangements for right-of-way for laterals from the
27 main canal to each tract of land subject to assessment, and when
28 necessary the board shall exercise its right of eminent domain to procure
29 right-of-way for the laterals and shall make such rules in regard to the
30 payment for such right-of-way as may be just and equitable.

31 (3) In times of reduced water supply, when the volume of water is

1 not adequate to be beneficially used when equitably apportioned to all
2 landowners in the district, the board may, after providing notice to
3 landowners in a portion of the district and upon receiving no objections
4 from the majority of such landowners, elect not to deliver water to that
5 portion of the district. Such election shall not subject the district to
6 liability under section 46-160 and shall not affect the rights of
7 landowners in that portion of the district to water deliveries in the
8 future. Any election to not deliver water to a portion of the district
9 shall be made on a year-to-year basis, not to exceed ten years, and such
10 election shall not subject any landowner to adjudication of his or her
11 water right under section 46-229. The board may adjust the tolls or
12 charges made to landowners within the district to reflect the decrease in
13 supply to those landowners in the portion of the district not receiving
14 water pursuant to such election by the board.

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

17 46-190 After a sale of the property and franchises of the district,
18 the board of directors shall, with the amount realized from such sale,
19 together with such other funds as such district may have, make
20 settlement, payment, and redemption, if possible, of all outstanding
21 bonded and other indebtedness of the district, but shall in no case pay
22 more than the market value of such outstanding bonds with interest up to
23 the time of payment. In cases when bonds not yet due cannot be redeemed
24 by reason of the refusal of the owner thereof to surrender them before
25 due, the board may invest the surplus money of the district, after paying
26 all debts that can be paid, in state, county, or other safe bonds,
27 bearing the same or greater rate of interest, if possible, than the
28 district bonds thus outstanding, for the purpose of paying such
29 outstanding bonds of the district when due. In case the amount realized
30 from the sale of such district property, together with other money of the
31 district, is insufficient for the payment of all the indebtedness of the

1 district, assessments shall continue to be made against the lands
2 included in the district in the manner provided by law for assessments to
3 pay bonds and other indebtedness of irrigation districts until a
4 sufficient amount is raised to fully pay all obligations of such
5 district.

6 Any balance of funds remaining after the sale or disposition of all
7 property belonging to the district and after all obligations and
8 indebtedness of the district have been paid or discharged shall be
9 distributed by the county treasurer to all assessment payers of the
10 district of record as of the date of the filing in the office of the
11 Department of Water, Energy, and Environment ~~Natural Resources~~ of the
12 report referred to in section 46-192. Such distribution shall be made pro
13 rata in accordance with the number of acres of irrigable land owned
14 within the district as of the date of the last assessment against such
15 land for the district prior to the date of the filing of such report.

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

18 46-192 After all the property of the district is disposed of as
19 provided in sections 46-186 to 46-188, except for any balance of funds
20 remaining after all of the obligations of such district have been paid,
21 the directors of such district shall file in the office of the county
22 clerk of each county in which such district is located, and in the office
23 of the Department of Water, Energy, and Environment ~~Natural Resources~~, a
24 report attested by the secretary of the board, stating that the district
25 has disposed of its property and franchises, except for any balance of
26 funds remaining, and has discontinued operation, which report shall be
27 recorded in the miscellaneous record of such counties. Each easement and
28 right-of-way, whether owned by the district in fee or otherwise, shall
29 automatically be terminated and extinguished and such interest together
30 with any canal or other structure shall become the property of the owner
31 of the land upon which such easement, right-of-way, canal, or other

1 structure is located or, if owned in fee by the district, shall become
2 the property of the owner of the land adjacent thereto, upon the filing
3 of the report with the department. If any person has any claim against
4 such district which is not settled or disposed of at the time of the
5 filing of such report and such person fails or neglects to bring suit
6 upon such claim within one year after the time of the filing of such
7 report, such claim or claims shall be forever barred as against such
8 district as well as against all persons and property therein.

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

11 46-193 As soon as practicable after the organization of any such
12 district, the board of directors shall, by a resolution entered on its
13 record, formulate a general plan of its proposed operation in which it
14 shall state (1) what constructed works or other property it proposes to
15 purchase and the cost of purchasing the same and (2) what construction
16 work it proposes to do and how it proposes to raise the funds for
17 carrying out such plan. For the purpose of ascertaining the cost of any
18 such construction work, the board shall cause such surveys, examinations,
19 and plans to be made as will demonstrate the practicability of such plan
20 and furnish the proper basis for an estimate of the costs of carrying out
21 the same. All such surveys, examinations, maps, plans, and estimates
22 shall be made under the direction of a competent irrigation engineer and
23 certified by the engineer. The board shall then submit a copy of the same
24 to the Chief Water Officer of the Department of Water, Energy, and
25 Environment ~~Director of Natural Resources~~ within ninety days thereafter,
26 who shall file a report upon the same with the board, which report shall
27 contain such matters as in the judgment of the director may be desirable.

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

30 46-1,155 Any two or more irrigation districts may merge into one
31 district if a petition for merger signed by a majority of the board of

1 directors of each district or signed by a majority of the electors of
2 each district is filed with the boards of directors of the districts to
3 be merged. Such petition shall include a plan for the merger, which plan
4 shall contain:

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

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

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

13 (4) The amount of outstanding indebtedness of each district and
14 proposed disposition thereof;

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

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

18 (7) Such other matters as the petitioners determine proper to be
19 included.

20 A certified copy of the petition for merger shall be filed with the
21 Department of Water, Energy, and Environment ~~Natural Resources~~ and the
22 department shall either approve or disapprove such petition within twenty
23 days. The boards of directors of the districts shall not take further
24 action without such approval.

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

27 46-1,157 When such plan has been approved by the Department of
28 Water, Energy, and Environment ~~Natural Resources~~, it shall be designated
29 as the final approved plan and shall be submitted to a vote as provided
30 in section 46-1,158.

31 **Sec. 68.** Section 46-1,164, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 46-1,164 There is hereby created the Surface Water Irrigation
3 Infrastructure Fund to be administered by the Department of Water,
4 Energy, and Environment ~~Natural Resources~~. The fund shall be used to
5 provide grants in accordance with section 46-1,165 to irrigation
6 districts. There shall be a one-time transfer of fifty million dollars
7 from the Cash Reserve Fund to the Surface Water Irrigation Infrastructure
8 Fund to carry out the purposes of section 46-1,165. Any money in the
9 Surface Water Irrigation Infrastructure Fund available for investment
10 shall be invested by the state investment officer pursuant to the
11 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
12 Act. Investment earnings from investment of money in the fund shall be
13 credited to the fund.

14 **Sec. 69.** Section 46-1,165, Revised Statutes Cumulative Supplement,
15 2024, is amended to read:

16 46-1,165 The Department of Water, Energy, and Environment ~~Natural~~
17 ~~Resources~~ shall establish procedures and criteria for awarding grants to
18 irrigation districts from the Surface Water Irrigation Infrastructure
19 Fund to be used for repair or construction of any headgate, flume,
20 diversion structure, check valve, or any other physical structure used
21 for irrigation projects. The department may award grants, not to exceed
22 five million dollars per applicant, to an irrigation district that
23 applies to the department based on criteria and procedures established by
24 the department. In order to receive a grant under this section, a grant
25 applicant shall provide matching funds equal to ten percent of the grant
26 amount awarded for such project.

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

29 46-205 The priority of an appropriation shall date from the filing
30 of the application in the office of the Department of Water, Energy, and
31 Environment ~~Natural Resources~~.

1 **Sec. 71.** Section 46-226.02, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 46-226.02 (1) The Chief Water Officer ~~director~~ may approve an
4 application filed pursuant to section 46-226.01 or 46-297 subject to the
5 following conditions:

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

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

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

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

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

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

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

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

31 (b) The underground water storage method; and

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

3 **Sec. 72.** Section 46-226.03, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-226.03 For purposes of sections 46-226 to 46-243:

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

8 (2) Chief Water Officer means the Chief Water Officer of the
9 Department of Water, Energy, and Environment ~~Director means the Director~~
10 ~~of Natural Resources~~;

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

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

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

18 (6) Public water supplier means a city, village, municipal
19 corporation, metropolitan utilities district, rural water district,
20 natural resources district, irrigation district, reclamation district, or
21 sanitary and improvement district which supplies or intends to supply
22 water to inhabitants of cities, villages, or rural areas for domestic or
23 municipal purposes;

24 (7) Underground water storage has the same meaning as in section
25 46-296; and

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

29 **Sec. 73.** Section 46-229, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-229 All appropriations for water must be for a beneficial or

1 useful purpose and, except as provided in sections 46-290 to 46-294 and
2 46-2,122 to 46-2,125, when the owner of an appropriation or his or her
3 successor in interest ceases to use it for such purpose for more than
4 five consecutive years, the right may be terminated only by the Chief
5 Water Officer ~~director~~ pursuant to sections 46-229.02 to 46-229.05.

6 **Sec. 74.** Section 46-229.02, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-229.02 (1) If, based upon the results of a field investigation or
9 upon information, however obtained, the department makes preliminary
10 determinations (a) that an appropriation has not been used, in whole or
11 in part, for a beneficial or useful purpose or having been so used at one
12 time has ceased to be used, in whole or in part, for such purpose for
13 more than five consecutive years and (b) that the department knows of no
14 reason that constitutes sufficient cause, as provided in section
15 46-229.04, for such nonuse or that such nonuse has continued beyond the
16 additional time permitted because of the existence of any applicable
17 sufficient cause, the department shall serve notice of such preliminary
18 determinations upon the owner or owners of such appropriation and upon
19 any other person who is an owner of the land under such appropriation.
20 Such notice shall contain the information required by section 46-229.03,
21 shall be provided in the manner required by such section, and shall be
22 posted on the department's website. Each owner of the appropriation and
23 any owner of the land under such appropriation shall have thirty days
24 after the mailing or last publication, as applicable, of such notice to
25 notify the department, on a form provided by the department, that he or
26 she contests the department's preliminary determination of nonuse or the
27 department's preliminary determination of the absence of sufficient cause
28 for such nonuse. Such notification shall indicate the reason or reasons
29 the owner is contesting the department's preliminary determination and
30 include any information the owner believes is relevant to the issues of
31 nonuse or sufficient cause for such nonuse.

1 (2) If no owner of the appropriation or of the land under the
2 appropriation provides notification to the department in accordance with
3 subsection (1) of this section, the Chief Water Officer ~~director~~ may
4 issue an order canceling the appropriation in whole or in part. The
5 extent of such cancellation shall not exceed the extent described in the
6 department's notice to the owner or owners in accordance with subsection
7 (1) of this section. A copy of the order canceling the appropriation, or
8 part thereof, shall be posted on the department's website and shall be
9 provided to the owner or owners of the appropriation and to any other
10 owner of the land under the appropriation in the same manner that notices
11 are to be given in accordance with subsection (2), (3), or (4) of section
12 46-229.03, as applicable. No cancellation under this subsection shall
13 prohibit an irrigation district, a reclamation district, a public power
14 and irrigation district, or a mutual irrigation company or canal company
15 from asserting the rights provided by subsections (5) and (6) of section
16 46-229.04.

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

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

1 issue an order canceling the appropriation to the extent agreed to by the
2 owner or owners and shall provide a copy of such order to such owner or
3 owners.

4 (5) If the department determines that subsections (2), (3), and (4)
5 of this section do not apply, it shall schedule and conduct a hearing on
6 the cancellation of the appropriation in whole or in part. Notice of the
7 hearing shall be provided to the owner or owners who filed notices with
8 the department pursuant to subsection (1) of this section, to any other
9 owner of the appropriation known to the department, and to any other
10 owner of the land under the appropriation. The notice shall be posted on
11 the department's website and shall be served or published, as applicable,
12 in the manner provided in subsection (2), (3), or (4) of section
13 46-229.03, as applicable.

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

27 (7) A water appropriation that has not been perfected pursuant to
28 the terms of the permit may be canceled by the department without
29 complying with sections 46-229.01 to 46-229.04 if the owner of such
30 appropriation fails to comply with any of the conditions of approval in
31 the permit, except that this subsection does not apply to appropriations

1 to which subsection (2) of section 46-237 applies.

2 **Sec. 75.** Section 46-229.04, Reissue Revised Statutes of Nebraska, is
3 amended to read:

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

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

20 (a) Such nonuse was caused by the unavailability of water for that
21 use. For a river basin, subbasin, or reach that has been designated as
22 overappropriated pursuant to section 46-713 or determined by the
23 department to be fully appropriated pursuant to section 46-714, the
24 period of time within which sufficient cause for nonuse because of the
25 unavailability of water may be deemed to exist may be extended beyond
26 thirty years by the department upon petition therefor by the owner of the
27 appropriation if the department determines that an integrated management
28 plan being implemented in the river basin, subbasin, or reach involved is
29 likely to result in restoration of a usable water supply for the
30 appropriation; or

31 (b) The land subject to the appropriation is under an acreage

1 reserve program or production quota or is otherwise withdrawn from use as
2 required for participation in any federal, state, or natural resources
3 district program, or such land was previously under such a program but
4 currently is not under such a program and there have been not more than
5 five consecutive years of nonuse on such land subsequent to when that
6 land was last under such program.

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

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

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

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

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

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

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

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

29 (d) The works, diversions, or other facilities essential to use the
30 water were destroyed by a cause not within the control of the owner of
31 the appropriation and good faith efforts to repair or replace the works,

1 diversions, or facilities have been and are being made;

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

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

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

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

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

15 (6) When it is determined by the Chief Water Officer ~~director~~ that
16 an appropriation, for which the location of use has been temporarily
17 transferred in accordance with sections 46-290 to 46-294, has not been
18 used at the new location for more than five years and that no sufficient
19 cause for such nonuse exists, the right to use that appropriation at the
20 temporary location of use shall be terminated. Notice of that termination
21 shall be posted on the department's website and shall be given in the
22 manner provided in subsection (2), (3), or (4) of section 46-229.03. The
23 right to reinstate use of that appropriation at the location of use
24 prior to the temporary transfer shall continue to exist for five years
25 after the Chief Water Officer's ~~director's~~ determination, but if such use
26 is not reinstated at that location within such five-year period, the
27 appropriation shall be subject to cancellation in accordance with
28 sections 46-229 to 46-229.04.

29 (7) If at the time of a hearing conducted in accordance with
30 subsection (1) of this section there is an application for incidental or
31 intentional underground water storage pending before the department and

1 filed by the owner of the appropriation, the proceedings shall be
2 consolidated.

3 **Sec. 76.** Section 46-229.06, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-229.06 When a departmental proceeding that is conducted pursuant
6 to sections 46-229 to 46-229.04 concerns the partial cancellation of an
7 appropriation, the department may receive evidence on the question of
8 whether, following such partial cancellation, a reduction in the rate of
9 diversion to the maximum rate prescribed in section 46-231 would result
10 in an authorized diversion rate less than the rate necessary, in the
11 interests of good husbandry, for the production of crops on the lands
12 that remain subject to the appropriation. If the Chief Water Officer
13 ~~director~~ determines, based on a preponderance of the evidence, that such
14 rate would be less than the rate necessary, in the interests of good
15 husbandry, for the production of crops, he or she may approve a diversion
16 rate for the remaining portion of the appropriation greater than the
17 maximum rate authorized by section 46-231. Such increased rate can be no
18 greater than the rate authorized for the appropriation prior to the
19 partial cancellation and no greater than the rate determined by the Chief
20 Water Officer ~~director~~ to be necessary, in the interests of good
21 husbandry, for the production of crops on the lands that remain subject
22 to the appropriation.

23 **Sec. 77.** Section 46-230, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-230 (1) As the adjudication of a stream progresses and as each
26 claim is finally adjudicated, the Chief Water Officer ~~director~~ shall make
27 and cause to be entered of record in his or her office an order
28 determining and establishing the priorities of right to use the water of
29 such stream, the amount of the appropriation of the persons claiming
30 water from such stream and the character of use for which each
31 appropriation is found to have been made, and the address of the owner of

1 each water appropriation.

2 (2) Whenever requested by the department, the owner of any
3 appropriation not held by an irrigation district, reclamation district,
4 public power and irrigation district, or mutual irrigation or canal
5 company shall provide the department with the name, address, and
6 telephone number of each then-current owner of the appropriation and with
7 the name, address, and telephone number of any tenant or other person who
8 is authorized by the owner to receive opening and closing notices and
9 other departmental communications relating to the appropriation. Each
10 appropriation owner shall also notify the department any time there is a
11 change in any of such names, addresses, or telephone numbers. Notice of
12 ownership changes may be provided to the department in the manner
13 provided in section 76-2,124 or in any other manner authorized by the
14 department. If notice of an ownership change is provided other than in
15 accordance with such section, the notice shall include such evidence of
16 ownership as the Chief Water Officer ~~director~~ may require. Notice of all
17 other changes may be provided in any manner authorized by the department.
18 Upon receipt of any new information, the department shall update its
19 records. The department shall not collect a fee for the filing of any
20 such information or for updating its records.

21 **Sec. 78.** Section 46-233, Reissue Revised Statutes of Nebraska, is
22 amended to read:

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

1 waters for induced ground water recharge.

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

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

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

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

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

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

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

1 (c) January 1, 1980, for water supply wells and facilities
2 constructed and placed in service on or after January 1, 1970, and on or
3 before December 31, 1979;

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

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

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

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

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

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

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

31 **Sec. 79.** Section 46-233.01, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-233.01 (1) Application may be made to the department for a permit
3 to appropriate any of the public surface waters of the State of Nebraska
4 to be diverted or stored in Nebraska for use in any other state.

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

7 (a) Whether unappropriated water exists in the source of supply
8 named in the application;

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

11 (c) Whether denial of the application is demanded by the public
12 interest; and

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

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

17 (a) The economic, environmental, and other benefits of the proposed
18 use;

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

21 (c) Any current beneficial uses being made of the unappropriated
22 water;

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

26 (e) Alternative sources of water supply available to the applicant;
27 and

28 (f) Any other factors consistent with the purposes of this section
29 that the Chief Water Officer ~~director~~ deems relevant to protecting the
30 interests of the state and its citizens.

31 The application shall be deemed in the public interest if the

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

8 **Sec. 80.** Section 46-235, Reissue Revised Statutes of Nebraska, is
9 amended to read:

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

1 has been made up, the department shall render an opinion of facts and of
2 law based upon the evidence before it.

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

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

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

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

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

1 modified, relocated, or reconstructed, the Chief Water Officer ~~director~~
2 shall cause to be modified the approval of the application to allow for
3 the regulation of junior appropriators, subject to the restrictions or
4 conditions applicable to public water suppliers.

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

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

14 (a) There is unappropriated water available for the appropriation;
15 and

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

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

1 (b) In determining whether an application for an appropriation for
2 induced ground water recharge is in the public interest, the Chief Water
3 Officer's ~~director's~~ considerations shall include, but not be limited to,
4 the possible adverse effects on existing surface water or ground water
5 users and the economic, social, and environmental value of such uses,
6 including, but not limited to, irrigation, recreation, fish and wildlife,
7 public water supply, induced ground water recharge for public water
8 supply systems, and water quality maintenance.

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

13 **Sec. 81.** Section 46-250, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-250 The owner of any ditch, storage reservoir, storage capacity,
16 or other device for appropriating water may, upon petition to the
17 Department of Water, Energy, and Environment ~~Natural Resources~~, and upon
18 its approval, change the point at which the water under any water
19 appropriation of record is diverted from a natural stream or reservoir,
20 change the line of any flume, ditch, or aqueduct, or change a storage
21 site. No reclamation district or power appropriator may change the
22 established return flow point without the approval of the department.

23 **Sec. 82.** Section 46-252, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-252 (1) Any person may conduct, either from outside the state or
26 from sources located in the state, quantities of water over and above
27 those already present into or along any of the natural streams or
28 channels of this state, for purposes of instream beneficial uses or
29 withdrawal of some or all of such water for out-of-stream beneficial
30 uses, at any point without regard to any prior appropriation of water
31 from such stream, due allowance being made for losses in transit to be

1 determined by the Department of Water, Energy, and Environment Natural
2 Resources. The department shall monitor movement of the water by
3 measurements or other means and shall be responsible for assuring that
4 such quantities are not subsequently diverted or withdrawn by others
5 unless they are authorized to do so by the person conducting the water.

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

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

23 (4) Any person holding a storage use permit pursuant to section
24 46-242 shall not be required to obtain the permit required by this
25 section.

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

28 **Sec. 83.** Section 46-254, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-254 Any person owning or in control of any ditch, reservoir, or
31 other device for appropriating or using water who willfully opens,

1 closes, changes, or interferes with any headgate or controlling gate, or
2 by any method or means takes any water from any natural stream,
3 reservoir, or other source, through any ditch or canal to any land or
4 lands, or allows the same to be done, or uses or allows to be used any
5 water upon any land or lands, or for any other purpose whatsoever,
6 without authority from the Department of Water, Energy, and Environment
7 ~~Natural Resources~~, or who stores water in or releases water from a
8 reservoir other than in compliance with orders of the department ~~Director~~
9 ~~of Natural Resources or his or her representative~~, shall be guilty of a
10 Class II misdemeanor. Each day that the water is allowed to run without
11 authority from the department shall constitute a separate offense.

12 **Sec. 84.** Section 46-256, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-256 Persons owning or controlling any ditch, canal, or reservoir
15 for the purpose of storing or using water for any purpose shall, upon
16 thirty days' notice by the Department of Water, Energy, and Environment
17 ~~Natural Resources~~, construct and maintain at the point of diversion a
18 substantial headgate, of a design approved by the department, so built
19 that it may be closed, or partially closed and fastened at any stage with
20 lock or seal. They shall also construct a device for measuring and
21 apportioning the water appropriated, which device shall be of a design
22 approved by the department and built at the most practical point to be
23 selected and fixed by it. If they neglect or refuse, for a period of ten
24 days, to construct such headgate and measuring device, the department
25 shall refuse to allow any water to be delivered to or used by or through
26 any such ditch, canal, or reservoir or any other contrivance or device
27 for appropriating, using, or storing water, and the department may
28 construct bars, dams, or other obstructions to prevent such delivery or
29 use.

30 **Sec. 85.** Section 46-258, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-258 Any owner or person in control of any ditch for irrigation
2 purposes shall have the ditch in order to receive water from the source
3 of supply on or before April 15 of each year, shall construct necessary
4 outlets in the banks for the delivery of water to all persons who are
5 entitled to the same, and shall maintain a substantial headgate and
6 measuring box or weir at the head of each lateral, which shall be
7 constructed in accordance with plans and specifications approved by the
8 Department of Water, Energy, and Environment ~~Natural Resources~~. A
9 multiplicity of outlets shall be avoided. The outlet shall be at the most
10 convenient and practicable point consistent with the protection and
11 safety of the ditch and the efficient distribution of water among the
12 various claimants thereof.

13 **Sec. 86.** Section 46-261, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-261 (1) The Department of Water, Energy, and Environment ~~Natural~~
16 ~~Resources~~ may require an appropriator or his or her agent to furnish the
17 department, by April 1 in any year, a list or map of all lands to be
18 irrigated, the acreage of each tract, and the names of the owners,
19 controllers, or officers for every ditch, reservoir, or other device for
20 appropriating, diverting, carrying, or distributing water to be used as a
21 basis for the distribution of water until April 1 of the following year,
22 and if so ordered such a list or map shall be furnished by the
23 appropriator or his or her agent to the department.

24 (2) By April 1, any district or company which has transferred an
25 appropriation pursuant to sections 46-2,127 to 46-2,129 in the previous
26 calendar year shall provide the department:

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

30 (b) The water appropriation permit number under sections 46-233 to
31 46-235 and the priority date of the water appropriation;

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

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

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

6 (3) The department may require the owner or controller of any canal
7 or ditch to install an approved recording gauge at one or more specific
8 locations to record the amount of water used.

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

25 (5) The department may deny an appropriator the right to any water
26 to be delivered to or used by or through any ditch, reservoir, or other
27 contrivance for the appropriation, use, or storage of water if the
28 appropriator is not in compliance with this section, with subsection (2)
29 of section 46-230, or with any conditions of any permit, notice, or order
30 of the department concerning the appropriation. The department may
31 construct bars or dams or may install such other devices as are necessary

1 to prevent such delivery or use.

2 **Sec. 87.** Section 46-263.02, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-263.02 The Department of Water, Energy, and Environment ~~Natural~~
5 ~~Resources~~ is hereby authorized and empowered to offer and pay out of the
6 fees collected by the department rewards of not to exceed twenty-five
7 dollars in any case for the apprehension and conviction of any person or
8 persons violating the provisions of section 46-263.01.

9 **Sec. 88.** Section 46-273, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-273 The United States of America is hereby authorized, in
12 conformity to the laws of the State of Nebraska, to appropriate, develop,
13 and store any unappropriated flood or unused waters, in connection with
14 any project constructed by the United States pursuant to the provisions
15 of an Act of Congress approved June 17, 1902, being An Act providing for
16 the reclamation of arid lands (32 Stat. L. 388), and all acts amendatory
17 thereof and supplemental thereto. When the officers of the United States
18 Bureau of Reclamation determine that any water so developed or stored is
19 in excess of the needs of the project as then completed or is flood or
20 unused water, the United States may contract to furnish such developed,
21 stored, flood, or unused water, under the terms and conditions imposed by
22 Act of Congress and the rules and regulations of the United States, to
23 any person who may have theretofore been granted a permit to appropriate
24 a portion of the normal flow of any stream, if the water so appropriated
25 shall, during some portion of the year, be found insufficient for the
26 needs of the land to which it is appurtenant. The United States and every
27 person entering into a contract as herein provided shall have the right
28 to conduct such water into and along any of the natural streams of the
29 state, but not so as to raise the waters thereof above the ordinary high
30 water mark, and may take out the same again at any point desired, without
31 regard to the prior rights of others to water from the same stream; but

1 due allowance shall be made for losses in transit, the amount of such
2 allowance to be determined by the Department of Water, Energy, and
3 Environment Natural Resources. The department shall supervise and enforce
4 the distribution of such water so delivered with like authority and under
5 the same provisions as in the case of general appropriators.

6 **Sec. 89.** Section 46-286, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-286 An ephemeral natural stream shall mean that portion of a
9 natural stream in which water flows only after a precipitation event or
10 when augmented by surface water runoff caused by the pumping of ground
11 water for irrigation. The portion of a natural stream that is shown as an
12 intermittent stream on the most recent United States Geological Survey
13 topographic quadrangle map published prior to July 18, 2008, shall be
14 considered an ephemeral natural stream unless the Department of Water,
15 Energy, and Environment Natural Resources has investigated the stream and
16 determined that the stream or a reach of the stream is perennial or
17 intermittent and subject to Chapter 46, article 2. The department's
18 determination for the purposes of this section shall be adopted and
19 promulgated in rule or regulation.

20 **Sec. 90.** Section 46-288, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-288 For purposes of this section and section 46-289, unless the
23 context otherwise requires:

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

26 (2) Beneficial use shall include, but not be limited to, reasonable
27 and efficient use of water for domestic, municipal, agricultural,
28 industrial, commercial, power production, subirrigation, fish and
29 wildlife, ground water recharge, interstate compact, water quality
30 maintenance, or recreational purposes. Nothing in this subdivision shall
31 be construed to affect the preferences for use of surface water as

1 provided in section 46-204;

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

5 (4) River basin shall mean any of the following natural hydrologic
6 basins of the state as shown on maps located in the Department of Water,
7 Energy, and Environment ~~Natural Resources~~: (a) The White River and Hat
8 Creek basin; (b) the Niobrara River basin; (c) the Platte River basin,
9 including the North Platte and South Platte River basins, except that for
10 purposes of transfer between the North and South Platte River basins each
11 shall be considered a separate river basin; (d) the Loup River basin; (e)
12 the Elkhorn River basin; (f) the Republican River basin; (g) the Little
13 Blue River basin; (h) the Big Blue River basin; (i) the Nemaha River
14 basin; and (j) the Missouri tributaries basin.

15 **Sec. 91.** Section 46-289, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-289 The Legislature finds, recognizes, and declares that the
18 transfer of water to outside the boundaries of a river basin may have
19 impacts on the water and other resources in the basin and that such
20 impacts differ from those caused by uses of water within the same basin
21 in part because any unused water will not be returned to the stream from
22 which it is taken for further use in that river basin. The Legislature
23 therefor recognizes the need to delineate factors for consideration by
24 the Chief Water Officer of the Department of Water, Energy, and
25 Environment ~~Director of Natural Resources~~ when evaluating an application
26 made pursuant to section 46-233 which involves an interbasin transfer of
27 water in order to determine whether denial of such application is
28 demanded by the public interest. Those considerations shall include, but
29 not be limited to, the following factors:

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

- 1 (2) Any adverse impacts of the proposed interbasin transfer and use;
- 2 (3) Any current beneficial uses being made of the unappropriated
- 3 water in the basin of origin;
- 4 (4) Any reasonably foreseeable future beneficial uses of the water
- 5 in the basin of origin;
- 6 (5) The economic, environmental, and other benefits of leaving the
- 7 water in the basin of origin for current or future beneficial uses;
- 8 (6) Alternative sources of water supply available to the applicant;
- 9 and
- 10 (7) Alternative sources of water available to the basin of origin
- 11 for future beneficial uses.

12 The application shall be deemed in the public interest if the
13 overall benefits to the state and the applicant's basin are greater than
14 or equal to the adverse impacts to the state and the basin of origin. The
15 Chief Water Officer's ~~director's~~ order granting or denying an application
16 shall specify the reasons for such action, including a discussion of the
17 required factors for consideration, and shall document such decision by
18 reference to the hearing record, if any, and to any other sources used by
19 the Chief Water Officer ~~director~~ in making the decision.

20 **Sec. 92.** Section 46-290, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-290 (1)(a) Except as provided in this section and sections
23 46-2,120 to 46-2,130, any person having a permit to appropriate water for
24 beneficial purposes issued pursuant to sections 46-233 to 46-235,
25 46-240.01, 46-241, 46-242, or 46-637 and who desires (i) to transfer the
26 use of such appropriation to a location other than the location specified
27 in the permit, (ii) to change that appropriation to a different type of
28 appropriation as provided in subsection (3) of this section, or (iii) to
29 change the purpose for which the water is to be used under a natural-
30 flow, storage, or storage-use appropriation to a purpose not at that time
31 permitted under the appropriation shall apply for approval of such

1 transfer or change to the Department of Water, Energy, and Environment
2 ~~Natural Resources~~.

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

31 (2) If a proposed transfer or change is to be temporary in nature, a

1 copy of the proposed agreement between the current appropriator and the
2 person who is to be responsible for use of water under the appropriation
3 while the transfer or change is in effect shall be submitted at the same
4 time as the application.

5 (3) Regardless of whether a transfer or a change in the purpose of
6 use is involved, the following changes in type of appropriation, if found
7 by the Chief Water Officer of the Department of Water, Energy, and
8 Environment ~~Director of Natural Resources~~ to be consistent with section
9 46-294, may be approved subject to the following:

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

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

16 (c) A natural-flow appropriation for direct out-of-stream use, for
17 aboveground reservoir storage, or for intentional underground water
18 storage may be changed to an instream appropriation subject to sections
19 46-2,107 to 46-2,119 if the Chief Water Officer ~~director~~ determines that
20 the resulting instream appropriation would be consistent with
21 subdivisions (2), (3), and (4) of section 46-2,115;

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

28 (e) An appropriation for the manufacturing of hydropower at a
29 facility located on a natural stream channel may be permanently changed
30 in full to an instream basin-management appropriation to be held jointly
31 by the Game and Parks Commission and any natural resources district or

1 combination of natural resources districts. The beneficial use of such
2 change is to maintain the streamflow for fish, wildlife, and recreation
3 that was available from the manufacturing of hydropower prior to the
4 change. Such changed appropriation may also be utilized by the owners of
5 the appropriation to assist in the implementation of an approved
6 integrated management plan or plans developed pursuant to sections 46-714
7 to 46-718 for each natural resources district within the river basin. Any
8 such change under this section shall be subject to review under sections
9 46-229 to 46-229.06 to ensure that the beneficial uses of the change of
10 use are still being achieved; and

11 (f) The incidental underground water storage portion, whether or not
12 previously quantified, of a natural-flow or storage-use appropriation may
13 be separated from the direct-use portion of the appropriation and may be
14 changed to a natural-flow or storage-use appropriation for intentional
15 underground water storage at the same location if the historic
16 consumptive use of the direct-use portion of the appropriation is
17 transferred to another location or is terminated, but such a separation
18 and change may be approved only if, after the separation and change, (i)
19 the total permissible diversion under the appropriation will not
20 increase, (ii) the projected consequences of the separation and change
21 are consistent with the provisions of any integrated management plan
22 adopted in accordance with section 46-718 or 46-719 for the geographic
23 area involved, and (iii) if the location of the proposed intentional
24 underground water storage is in a river basin, subbasin, or reach
25 designated as overappropriated in accordance with section 46-713, the
26 integrated management plan for that river basin, subbasin, or reach has
27 gone into effect, and that plan requires that the amount of the
28 intentionally stored water that is consumed after the change will be no
29 greater than the amount of the incidentally stored water that was
30 consumed prior to the change. Approval of a separation and change
31 pursuant to this subdivision (f) shall not exempt any consumptive use

1 associated with the incidental recharge right from any reduction in water
2 use required by an integrated management plan for a river basin,
3 subbasin, or reach designated as overappropriated in accordance with
4 section 46-713.

5 Whenever any change in type of appropriation is approved pursuant to
6 this subsection and as long as that change remains in effect, the
7 appropriation shall be subject to the statutes, rules, and regulations
8 that apply to the type of appropriation to which the change has been
9 made.

10 (4) The Legislature finds that induced ground water recharge
11 appropriations issued pursuant to sections 46-233 and 46-235 and instream
12 appropriations issued pursuant to section 46-2,115 are specific to the
13 location identified in the appropriation. Neither type of appropriation
14 shall be transferred to a different location, changed to a different type
15 of appropriation, or changed to permit a different purpose of use.

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

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

1 location of use, type of appropriation, and purpose of use as prior to
2 such approval.

3 (6) A quantified or unquantified appropriation for incidental
4 underground water storage may be transferred to a new location along with
5 the direct-use appropriation with which it is recognized if the Chief
6 Water Officer ~~director~~ finds such transfer to be consistent with section
7 46-294 and determines that the geologic and other relevant conditions at
8 the new location are such that incidental underground water storage will
9 occur at the new location. The Chief Water Officer ~~director~~ may request
10 such information from the applicant as is needed to make such
11 determination and may modify any such quantified appropriation for
12 incidental underground water storage, if necessary, to reflect the
13 geologic and other conditions at the new location.

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

23 (8) Any appropriation for manufacturing of hydropower changed under
24 subdivision (3)(e) of this section shall maintain the priority date and
25 preference category of the original manufacturing appropriation and shall
26 be subject to condemnation and subordination pursuant to sections 70-668
27 and 70-669. Any person holding a subordination agreement that was
28 established prior to such change of appropriation shall be entitled to
29 enter into a new subordination agreement for terms consistent with the
30 original subordination agreement at no additional cost. Any person having
31 obtained a condemnation award that was established prior to such change

1 of appropriation shall be entitled to the same benefits created by such
2 award, and any obligations created by such award shall become the
3 obligations of the new owner of the appropriation changed under this
4 section.

5 **Sec. 93.** Section 46-291, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-291 (1) Upon receipt of an application filed under section 46-290
8 for a transfer in the location of use of an appropriation, the Department
9 of Water, Energy, and Environment ~~Natural Resources~~ shall review it for
10 compliance with this subsection. The Chief Water Officer of the
11 Department of Water, Energy, and Environment ~~Director of Natural~~
12 ~~Resources~~ may approve the application without notice or hearing if he or
13 she determines that: (a) The appropriation is used and will continue to
14 be used exclusively for irrigation purposes; (b) the only lands involved
15 in the proposed transfer are (i) lands within the quarter section of land
16 to which the appropriation is appurtenant, (ii) lands within such quarter
17 section of land and one or more quarter sections of land each of which is
18 contiguous to the quarter section of land to which the appropriation is
19 appurtenant, or (iii) lands within the boundaries or service area of and
20 capable of service by the same irrigation district, reclamation district,
21 public power and irrigation district, or mutual irrigation or canal
22 company; (c) after the transfer, the total number of acres irrigated
23 under the appropriation will be no greater than the number of acres that
24 could legally be irrigated under the appropriation prior to the transfer;
25 (d) all the land involved in the transfer is under the same ownership or
26 is within the same irrigation district, reclamation district, public
27 power and irrigation district, or mutual irrigation or canal company; (e)
28 the transfer will not result in a change in the point of diversion or the
29 point of diversion will be changed but the change meets the following
30 requirements: (i) The new point of diversion is on the same named stream,
31 the same tributary, or the same river or creek as the approved point of

1 diversion; (ii) the proposed point of diversion will not move above or
2 below an existing diversion point owned by another appropriator; and
3 (iii) the proposed point of diversion will not move above or below a
4 tributary stream or a constructed river return or a constructed drain;
5 and (f) the transfer will not diminish the water supply available for or
6 otherwise adversely affect any other surface water appropriator. If
7 transfer of an appropriation with associated incidental underground water
8 storage is approved in accordance with this subsection, the associated
9 incidental underground water storage also may be transferred pursuant to
10 this subsection as long as such transfer would continue to be consistent
11 with the requirements of this subsection. If necessary, the boundaries of
12 the incidental underground water storage area may be modified to reflect
13 any change in the location of that storage consistent with such a
14 transfer. Transfers shall not be approved pursuant to this subsection
15 until the department has adopted and promulgated rules and regulations
16 establishing the criteria it will use to determine whether proposed
17 transfers are consistent with subdivision (1)(f) of this section.

18 (2) If after reviewing an application filed under section 46-290 the
19 Chief Water Officer ~~director~~ determines that it cannot be approved
20 pursuant to subsection (1) of this section, he or she shall cause a
21 notice of such application to be posted on the department's website, to
22 be sent by certified mail to each holder of a mortgage, trust deed, or
23 other equivalent consensual security interest that is identified by the
24 applicant pursuant to subdivision (1)(b)(v) of section 46-290 and to any
25 entity owning facilities currently used or proposed to be used for
26 purposes of diversion or delivery of water under the appropriation, and
27 to be published at the applicant's expense at least once each week for
28 three consecutive weeks in at least one newspaper of general circulation
29 in each county containing lands to which the appropriation is appurtenant
30 and, if applicable, in at least one newspaper of general circulation in
31 each county containing lands to which the appropriation is proposed to be

1 transferred.

2 (3) The notice shall contain: (a) A description of the
3 appropriation; (b) the number assigned to such appropriation in the
4 records of the department; (c) the date of priority; (d) if applicable, a
5 description of the land or stream reach to which such water appropriation
6 is proposed to be transferred; (e) if applicable, the type of
7 appropriation to which the appropriation is proposed to be changed; (f)
8 if applicable, the proposed change in the purpose of use; (g) whether the
9 proposed transfer or change is to be permanent or temporary and, if
10 temporary, the duration of the proposed transfer or change; and (h) any
11 other information the Chief Water Officer ~~director~~ deems relevant and
12 essential to provide the interested public with adequate notice of the
13 proposed transfer or change.

14 (4) The notice shall state (a) that any interested person may object
15 to and request a hearing on the application by filing such objections in
16 writing specifically stating the grounds for each objection and (b) that
17 any such objection and request shall be filed in the office of the
18 department within two weeks after the date of final publication of the
19 notice.

20 (5) Within the time period allowed by this section for the filing of
21 objections and requests for hearings, the county board of any county
22 containing land to which the appropriation is appurtenant and, if
23 applicable, the county board of any county containing land to which the
24 appropriation is proposed to be transferred may provide the department
25 with comments about the potential economic impacts of the proposed
26 transfer or change in such county. The filing of any such comments by a
27 county board shall not make the county a party in the application
28 process, but such comments shall be considered by the Chief Water Officer
29 ~~director~~ in determining pursuant to section 46-294 whether the proposed
30 transfer or change is in the public interest.

31 **Sec. 94.** Section 46-292, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-292 The Department of Water, Energy, and Environment ~~Natural~~
3 ~~Resources~~ may hold a hearing on an application filed under section 46-290
4 on its own motion and shall hold a hearing if a timely request therefor
5 is filed by any interested person in accordance with section 46-291. Any
6 such hearing shall be subject to section 61-206.

7 **Sec. 95.** Section 46-293, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-293 (1) The Chief Water Officer of the Department of Water,
10 Energy, and Environment ~~Director of Natural Resources~~ shall independently
11 review each application subject to subsection (2) of section 46-291 to
12 determine whether the requirements of section 46-294 will be met if the
13 transfer or change is approved. The requirement of this subsection is not
14 altered when there are objectors who have become parties to the proposed
15 transfer or change, but if a hearing is called by the Department of
16 Water, Energy, and Environment ~~Natural Resources~~ on its own motion or as
17 the result of a request therefor filed in accordance with subsection (4)
18 of section 46-291, any evidence considered by the Chief Water Officer
19 ~~director~~ in making such determinations shall be made a part of the record
20 of the hearing as provided in section 84-914.

21 (2) Either on his or her own motion or in response to objections or
22 comments received pursuant to subsection (4) or (5) of section 46-291,
23 the Chief Water Officer ~~director~~ may require the applicant to provide
24 additional information before a hearing will be scheduled or, if no
25 hearing is to be held, before the application will receive further
26 consideration. The information requested may include economic, social, or
27 environmental impact analyses of the proposed transfer or change,
28 information about the amount of water historically consumed under the
29 appropriation, copies of any plans for mitigation of any anticipated
30 adverse impacts that would result from the proposed transfer or change,
31 and such other information as the Chief Water Officer ~~director~~ deems

1 necessary in order to determine whether the proposed transfer or change
2 is consistent with section 46-294.

3 **Sec. 96.** Section 46-294, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-294 (1) Except for applications approved in accordance with
6 subsection (1) of section 46-291, the Chief Water Officer of the
7 Department of Water, Energy, and Environment ~~Director of Natural~~
8 ~~Resources~~ shall approve an application filed pursuant to section 46-290
9 only if the application and the proposed transfer or change meet the
10 following requirements:

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

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

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

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

28 (e) The quantity of water that is transferred for diversion or other
29 use at the new location will not exceed the historic consumptive use
30 under the appropriation or portion thereof being transferred, except that
31 this subdivision does not apply to (i) a transfer in the location of use

1 if both the current use and the proposed use are for irrigation, the
2 number of acres to be irrigated will not increase after the transfer, and
3 the location of the diversion from the stream will not change or (ii) a
4 transfer or change in the purpose of use of a surface water irrigation
5 appropriation as provided for in subsection (3), (5), or (6) of section
6 46-290 if the transfer or change in purpose will not diminish the supply
7 of water available or otherwise adversely affect any other water
8 appropriator, adversely affect Nebraska's ability to meet its obligations
9 under a multistate agreement, or result in administration of the prior
10 appropriation system by the Department of Water, Energy, and Environment
11 ~~Natural Resources~~, which would not have otherwise occurred;

12 (f) The appropriation, prior to the transfer or change, is not
13 subject to termination or cancellation pursuant to sections 46-229 to
14 46-229.04;

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

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

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

1 are established by section 46-204;

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

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

10 (1) The proposed transfer or change is in the public interest. The
11 Chief Water Officer's ~~director's~~ considerations relative to the public
12 interest shall include, but not be limited to, (i) the economic, social,
13 and environmental impacts of the proposed transfer or change and (ii)
14 whether and under what conditions other sources of water are available
15 for the uses to be made of the appropriation after the proposed transfer
16 or change. The Department of Water, Energy, and Environment ~~Natural~~
17 ~~Resources~~ shall adopt and promulgate rules and regulations to govern the
18 Chief Water Officer's ~~director's~~ determination of whether a proposed
19 transfer or change is in the public interest.

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

30 (3) In approving an application, the Chief Water Officer ~~director~~
31 may impose any reasonable conditions deemed necessary to protect the

1 public interest, to ensure consistency with any of the other criteria in
2 subsection (1) of this section, or to provide the department with
3 information needed to properly and efficiently administer the
4 appropriation while the transfer or change remains in effect. If
5 necessary to prevent diminution of supply for any other appropriator, the
6 conditions imposed by the Chief Water Officer ~~director~~ shall require that
7 historic return flows be maintained or replaced in quantity, timing, and
8 location. After approval of any such transfer or change, the
9 appropriation shall be subject to all water use restrictions and
10 requirements in effect at any new location of use and, if applicable, at
11 any new diversion location. An appropriation for which a transfer or
12 change has been approved shall retain the same priority date as that of
13 the original appropriation. If an approved transfer or change is
14 temporary, the location of use, purpose of use, or type of appropriation
15 shall revert to the location of use, purpose of use, or type of
16 appropriation prior to the transfer or change.

17 (4) In approving an application for a transfer, the Chief Water
18 Officer ~~director~~ may also authorize the overlying of water appropriations
19 on the same lands, except that if any such overlying of appropriations
20 would result in either the authorized diversion rate or the authorized
21 aggregate annual quantity that could be diverted to be greater than is
22 otherwise permitted by section 46-231, the Chief Water Officer ~~director~~
23 shall limit the total diversion rate or aggregate annual quantity for the
24 appropriations overlain to the rate or quantity that he or she determines
25 is necessary, in the exercise of good husbandry, for the production of
26 crops on the land involved. The Chief Water Officer ~~director~~ may also
27 authorize a greater number of acres to be irrigated if the amount and
28 rate of water approved under the original appropriation is not increased
29 by the change of location. An increase in the number of acres to be
30 irrigated shall be approved only if (a) such an increase will not
31 diminish the supply of water available to or otherwise adversely affect

1 another water appropriator or (b) the transfer would not adversely affect
2 the water supply for any river basin, subbasin, or reach that has been
3 designated as overappropriated pursuant to section 46-713 or determined
4 to be fully appropriated pursuant to section 46-714 and (i) the number of
5 acres authorized under the appropriation when originally approved has not
6 been increased previously, (ii) the increase in the number of acres
7 irrigated will not exceed five percent of the number of acres being
8 irrigated under the permit before the proposed transfer or a total of ten
9 acres, whichever acreage is less, and (iii) all the use will be either on
10 the quarter section to which the appropriation was appurtenant before the
11 transfer or on an adjacent quarter section.

12 **Sec. 97.** Section 46-294.01, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-294.01 Whenever a temporary transfer is approved in accordance
15 with sections 46-290 to 46-294, the applicant shall, within sixty days
16 after the order of approval of the Department of Water, Energy, and
17 Environment ~~Natural Resources~~, cause copies of the following to be filed
18 with the county clerk or register of deeds of the county in which the
19 land subject to the appropriation prior to the transfer is located: (1)
20 The permit by which the appropriation was established; (2) the agreement
21 by which the temporary transfer is to be effected; and (3) the order of
22 the Chief Water Officer of the Department of Water, Energy, and
23 Environment ~~Director of Natural Resources~~ approving the temporary
24 transfer. Whenever renewal of a temporary transfer is approved pursuant
25 to section 46-294.02, the applicant shall, within sixty days after such
26 approval, cause a copy of the order of the Chief Water Officer ~~director~~
27 approving such renewal to be filed with the county clerk or register of
28 deeds of such county. Such documents shall be indexed to the land subject
29 to the appropriation prior to the transfer. The applicant shall file with
30 the department, within ninety days after the department's order of
31 approval, proof of filing with the county clerk or register of deeds.

1 Failure to file such proof of filing within such ninety-day time period
2 shall be grounds for the Chief Water Officer ~~director~~ to negate any prior
3 approval of the transfer or renewal.

4 **Sec. 98.** Section 46-294.02, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-294.02 A temporary transfer or a change in the type or purpose of
7 use of an appropriation may be renewed or otherwise extended by the
8 parties thereto at any time following the midpoint of the transfer or
9 change term, but any such renewal or extension is subject to review and
10 approval pursuant to sections 46-290 to 46-294. No renewal or extension
11 shall cause the term of any such temporary transfer or change to exceed
12 thirty years in duration from the date the renewal or extension is
13 approved by the Chief Water Officer of the Department of Water, Energy,
14 and Environment ~~Director of Natural Resources~~.

15 **Sec. 99.** Section 46-294.05, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 46-294.05 The Chief Water Officer of the Department of Water,
18 Energy, and Environment ~~Director of Natural Resources~~ may adopt and
19 promulgate rules and regulations to carry out sections 46-290 to
20 46-294.04.

21 **Sec. 100.** Section 46-296, Revised Statutes Cumulative Supplement,
22 2024, is amended to read:

23 46-296 For purposes of sections 46-202 and 46-295 to 46-2,106,
24 unless the context otherwise requires:

25 (1) Department means the Department of Water, Energy, and
26 Environment ~~Natural Resources~~;

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

30 (3) Person means a natural person, partnership, limited liability
31 company, association, corporation, municipality, or agency or political

1 subdivision of the state or of the federal government;

2 (4) Underground water storage means the act of storing or recharging
3 water in underground strata. Such water shall be known as water stored
4 underground but does not include ground water as defined in section
5 46-706 which occurs naturally;

6 (5) Intentional underground water storage means underground water
7 storage which is an intended purpose or result of a water project or use.
8 Such storage may be accomplished by any lawful means such as injection
9 wells, infiltration basins, canals, reservoirs, and other reasonable
10 methods; and

11 (6) Incidental underground water storage means underground water
12 storage which occurs as an indirect result, rather than an intended or
13 planned purpose, of a water project or use and includes, but is not
14 limited to, seepage from reservoirs, canals, and laterals, and deep
15 percolation from irrigated lands.

16 **Sec. 101.** Section 46-2,104, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-2,104 If an action is commenced pursuant to section 46-2,102 or
19 46-2,103, an order of the Chief Water Officer ~~director~~ identifying water
20 stored or to be stored underground, or approving fees or assessments, may
21 not be collaterally attacked.

22 **Sec. 102.** Section 46-2,105, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-2,105 Any person aggrieved by a decision made or an order issued
25 by the Chief Water Officer ~~director~~ pursuant to section 46-226.02,
26 46-233, 46-240, 46-241, 46-242, 46-297, or 46-2,101 may appeal as
27 provided in section 61-207.

28 **Sec. 103.** Section 46-2,108, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 46-2,108 (1) For purposes of sections 46-2,107 to 46-2,119, unless
31 the context otherwise requires:

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

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

6 (c) Instream appropriation means the undiverted application of the
7 waters of a natural stream within or bordering upon the state for
8 recreation or fish and wildlife purposes.

9 (2) An instream appropriation may be obtained only by the Game and
10 Parks Commission or a natural resources district and only for that amount
11 of water necessary for recreation or fish and wildlife. The instream use
12 of water for recreation or fish and wildlife shall be considered a
13 beneficial use of water.

14 **Sec. 104.** Section 46-2,109, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-2,109 Each natural resources district and the Game and Parks
17 Commission shall conduct studies to identify specific stream segments
18 which the district or commission considers to have a critical need for
19 instream flows. Such studies shall quantify the instream flow needs in
20 the identified stream segments. Any district or the Game and Parks
21 Commission may request the assistance of the Conservation and Survey
22 Division of the University of Nebraska, the Game and Parks Commission,
23 the Department of Water, Energy, and Environment ~~Environment and Energy,~~
24 ~~the Department of Natural Resources~~, or any other state agency in order
25 to comply with this section.

26 **Sec. 105.** Section 46-2,110, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-2,110 Following notice and a public hearing, any natural
29 resources district or the Game and Parks Commission may file with the
30 Chief Water Officer ~~director~~ an application for a permit to appropriate
31 water for instream flows in each stream segment identified pursuant to

1 section 46-2,109. The application shall include the locations on the
2 stream at which the need for instream flows begins and ends and the time
3 of year when instream flows are most critical. The application shall also
4 provide a detailed description of the amount of water necessary to
5 provide adequate instream flows.

6 **Sec. 106.** Section 46-2,111, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-2,111 (1) The Legislature finds that instream appropriations for
9 recreation, fish, and wildlife should consider preferences among
10 different uses and that all appropriations should consider the possible
11 legal relationship between surface water and ground water. ~~Thus the~~
12 ~~Legislature finds that, since such issues have not been fully considered,~~
13 ~~the director shall not grant any permit to appropriate water, except as~~
14 ~~specified in subsection (2) of this section, before January 1, 1997, for~~
15 ~~any application pending on or filed after June 2, 1995.~~

16 (2) The Chief Water Officer ~~director~~ may grant applications for (a)
17 appropriations for flood control or sediment control structures which
18 will not make or cause to be made any consumptive use of the impounded
19 water, (b) applications for temporary appropriations for public
20 construction that are five cubic feet per second or less, or (c)
21 applications by public water suppliers for induced ground water recharge
22 appropriations pursuant to sections 46-233 to 46-238.

23 **Sec. 107.** Section 46-2,112, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-2,112 A permit to appropriate water for instream flows shall be
26 subject to review every fifteen years after it is granted. Notice of a
27 pending review shall be published in a newspaper published or of general
28 circulation in the area involved at least once each week for three
29 consecutive weeks, the last publication to be not later than fourteen
30 years and ten months after the permit was granted or after the date of
31 the Chief Water Officer's ~~director's~~ action following the last such

1 review, whichever is later, and such notice shall be mailed to the
2 appropriator of record and posted on the department's website. The notice
3 shall state that any interested person may file comments relating to the
4 review of the instream appropriation or may request a hearing to present
5 evidence relevant to such review. Any such comments or request for
6 hearing shall be filed in the headquarters office of the department
7 within six weeks after the date of final publication of the notice. The
8 appropriator of record shall, within the six-week period, file written
9 documentation of the continued use of the appropriation. If no requests
10 for hearing are received and if the Chief Water Officer ~~director~~ is
11 satisfied with the information provided by the appropriator of record
12 that the appropriation continues to be beneficially used and is in the
13 public interest, the Chief Water Officer ~~director~~ shall issue an order
14 stating such findings. If requested by any interested person, or on his
15 or her own motion based on the comments and information filed, the Chief
16 Water Officer ~~director~~ shall schedule a hearing. If a hearing is held,
17 the purpose of the hearing shall be to receive evidence regarding whether
18 the water appropriated under the permit still provides the beneficial
19 uses for which the permit was granted and whether the permit is still in
20 the public interest. The hearing shall proceed under the rebuttable
21 presumption that the appropriation continues to provide the beneficial
22 uses for which the permit was granted and that the appropriation is in
23 the public interest. After the hearing, the Chief Water Officer ~~director~~
24 may by order modify or cancel, in whole or in part, the instream
25 appropriation.

26 **Sec. 108.** Section 46-2,113, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-2,113 It is in the state's and the public interest that the
29 filing of the following classes of applications before the department
30 demand that the Chief Water Officer ~~director~~ shall appropriately modify
31 any existing or pending instream appropriation or application to not

1 interfere with such application or the granting of such appropriation:

2 (1) Applications for induced recharge to public water supply wells;

3 (2) Applications for storage rights necessary for flood and sediment

4 control projects which are dry or will not result in a net consumption of

5 water exceeding two hundred acre-feet on an average annual basis;

6 (3) Applications for transfer permits associated with natural flow,

7 storage use, power generation, or hydropower;

8 (4) Applications for de minimis uses; or

9 (5) Applications for industrial or manufacturing de minimis
10 consumptive uses.

11 **Sec. 109.** Section 46-2,114, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-2,114 Prior to taking action on an application for an instream
14 appropriation, the Chief Water Officer ~~director~~ shall conduct any studies
15 he or she deems necessary to evaluate the application and shall publish
16 notice of such application at the applicant's expense at least once a
17 week for three consecutive weeks in a newspaper of general circulation in
18 the area of the stream segment and also in a newspaper of statewide
19 circulation. The notice shall state that any person having an interest
20 may in writing object to and request a hearing on the application. Any
21 such objection and request for hearing shall be filed with the department
22 within two weeks of final publication of the notice.

23 **Sec. 110.** Section 46-2,115, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-2,115 An application for an instream appropriation ~~which is~~
26 ~~pending on or filed after January 1, 1997,~~ shall be approved by the Chief
27 Water Officer ~~director~~ if he or she finds that:

28 (1) In order to allow for future beneficial uses, there is
29 unappropriated water available to provide the approved instream flow rate
30 at least twenty percent of the time during the period requested;

31 (2) The appropriation is necessary to maintain the existing

1 recreational uses or needs of existing fish and wildlife species;

2 (3) The appropriation will not interfere with any senior surface
3 water appropriation;

4 (4) The rate and timing of the flow is the minimum necessary to
5 maintain the existing recreational uses or needs of existing fish and
6 wildlife species; and

7 (5) The application is in the public interest.

8 The application may be granted for a rate of flow that is less than
9 that requested by the applicant or for a shorter period of time than
10 requested by the applicant.

11 **Sec. 111.** Section 46-2,116, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-2,116 In determining whether an application for an instream
14 appropriation is in the public interest, the Chief Water Officer ~~director~~
15 shall consider the following factors:

16 (1) The economic, social, and environmental value of the instream
17 use or uses including, but not limited to, recreation, fish and wildlife,
18 induced recharge for municipal water systems, and water quality
19 maintenance; and

20 (2) The economic, social, and environmental value of reasonably
21 foreseeable alternative out-of-stream uses of water that will be foregone
22 or accorded junior status if the appropriation is granted.

23 **Sec. 112.** Section 46-2,116.01, Reissue Revised Statutes of Nebraska,
24 is amended to read:

25 46-2,116.01 If the Chief Water Officer ~~director~~ determines that
26 there is insufficient unappropriated natural flow available for an
27 application for an instream appropriation and if the applicant consents,
28 the department may conduct a study to determine whether the instream flow
29 needs can be met through the use of stored water in new storage
30 facilities. The study shall address the availability of storage sites,
31 the estimated cost of providing any required storage, and such other

1 findings and conclusions as the department deems appropriate.

2 **Sec. 113.** Section 46-2,117, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-2,117 The Chief Water Officer ~~director~~ shall not conduct a
5 contested case hearing on an instream appropriation application filed
6 after January 1, 1997, other than a hearing to address procedural
7 matters, until such time as the parties have completed mediation or
8 nonbinding arbitration. Mediation or nonbinding arbitration shall be
9 deemed completed when the person retained to conduct the mediation or
10 nonbinding arbitration has concluded further efforts would probably not
11 result in resolution of major issues. The costs of mediation or
12 nonbinding arbitration shall be shared by the parties.

13 **Sec. 114.** Section 46-2,118, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-2,118 (1) All water used to provide instream flows shall be
16 applied only to that segment of the stream for which the appropriation is
17 granted. The stream segment and the determination of a reasonable and
18 necessary amount of water required for instream flow purposes shall be
19 defined specifically by the Chief Water Officer ~~director~~ in the permit.

20 (2) After the water allowed for instream flows has passed through
21 the defined stream segment, all rights to such water shall be deemed
22 relinquished and the water shall be available for appropriation.

23 **Sec. 115.** Section 46-2,119, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-2,119 Instream appropriations shall be administered in the same
26 manner as prescribed by Chapter 46, article 2, for other appropriations.
27 Reservoirs shall not be required by the Chief Water Officer ~~director~~ to
28 release, for the benefit of an instream appropriation, water previously
29 impounded in accordance with section 46-241 or 46-243. Reservoirs with
30 storage rights senior to an instream appropriation shall not be required
31 to pass, for the benefit of that instream appropriation, inflows that

1 could be stored by such reservoir if the instream appropriation were not
2 in effect. Notwithstanding subsection (5) of section 46-241, a reservoir
3 with storage rights senior to an instream appropriation also shall not be
4 required to pass inflows for downstream direct irrigation if the
5 appropriation for direct irrigation is junior to and would be denied
6 water because of that instream appropriation. Instream appropriations may
7 be canceled as provided in sections 46-229.02 to 46-229.05.

8 **Sec. 116.** Section 46-2,120, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-2,120 (1) Any irrigation district, reclamation district, public
11 power and irrigation district, rural water district, or mutual irrigation
12 or canal company using the procedure described in sections 46-2,121 to
13 46-2,129 and which is exempt from the Open Meetings Act shall provide
14 notice by mail to each owner of land in the district or served by the
15 company not less than seven days before any meeting or hearing under
16 sections 46-2,121 to 46-2,129.

17 (2) For purposes of sections 46-2,120 to 46-2,130:

18 (a) Department means the Department of Water, Energy, and
19 Environment Natural Resources; and

20 (b) Chief Water Officer means the Chief Water Officer of the
21 Department of Water, Energy, and Environment ~~Director means the Director~~
22 ~~of Natural Resources.~~

23 **Sec. 117.** Section 46-2,122, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-2,122 (1) Any irrigation district, reclamation district, public
26 power and irrigation district, rural water district, or mutual irrigation
27 or canal company may file an application for transfer and a map with the
28 department identifying all tracts of lands that have received water
29 delivered by the district or company and beneficially applied to the
30 tract in at least one of the preceding ten consecutive years. The
31 application for transfer and map shall be prepared and filed in

1 accordance with the rules and regulations of the department.

2 (2) Any tract of land within the boundaries of the district or
3 served by the company may receive a water appropriation, or portion
4 thereof, transferred from a tract or tracts of land currently under the
5 appropriation on file with the department. The Chief Water Officer
6 ~~director~~ shall grant the transfer if:

7 (a) The owner of the land to which the water appropriation is
8 attached and the owner of the ditch, canal, or other diverting works
9 subject to transfer consent in writing to the department to the transfer
10 of the appropriation from the tract of land;

11 (b) The water allotment on the receiving tract of land will not
12 exceed the amount that can be beneficially used for the purposes for
13 which the appropriation was made and will not exceed the least amount of
14 water that experience may indicate is necessary, in the exercise of good
15 husbandry, for the production of crops;

16 (c) The water will be applied on the receiving tract to a use in the
17 same preference category as the use on the transferring tract; and

18 (d) The aggregate water use within the district or company after
19 transfer will not exceed the aggregate water appropriation held by the
20 district or company for the benefit of the owners of land to which the
21 water appropriations are attached.

22 **Sec. 118.** Section 46-2,125, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-2,125 After an investigation and hearing, if applicable, the
25 Chief Water Officer ~~director~~ shall issue an order granting or denying the
26 application for transfer and map under section 46-2,122. The Chief Water
27 Officer ~~director~~ shall deny the application if the conditions in
28 subsection (2) of such section are not met. An order granting or denying
29 an application for transfer and map shall be in writing and shall specify
30 the following:

31 (1) The tracts of land retaining an appropriation;

- 1 (2) The tracts of land receiving an appropriation; and
- 2 (3) The tracts of land transferring an appropriation.

3 An appeal may be taken from the decision of the department on the
4 application for transfer and map as provided in section 61-207.

5 **Sec. 119.** Section 46-2,139, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-2,139 The Storm Water Management Plan Program is created. The
8 purpose of the program is to facilitate and fund the duties of cities and
9 counties under the federal Clean Water Act, 33 U.S.C. 1251 et seq., as
10 such act existed on January 1, 2006, regarding storm water runoff under
11 the National Pollutant Discharge Elimination System requirements. The
12 Storm Water Management Plan Program shall function as a grant program
13 administered by the Department of Water, Energy, and Environment
14 ~~Environment and Energy~~, using funds appropriated for the program. The
15 department shall deduct from funds appropriated amounts sufficient to
16 reimburse itself for its costs of administration of the grant program.
17 Any city or county when applying for a grant under the program shall have
18 a storm water management plan approved by the department which meets the
19 requirements of the National Pollutant Discharge Elimination System.
20 Grant applications shall be made to the department on forms prescribed by
21 the department. Grant funds shall be distributed by the department as
22 follows:

23 (1) Not less than eighty percent of the funds available for grants
24 under this section shall be provided to cities and counties in urbanized
25 areas, as identified in 77 Federal Register 18652-18669, that apply for
26 grants and meet the requirements of this section. Grants made pursuant to
27 this subdivision shall be distributed proportionately based on the
28 population of applicants within such category, as determined by the most
29 recent federal census update or recount certified by the United States
30 Department of Commerce, Bureau of the Census. For the purpose of
31 distributing grant funds to a county pursuant to this subdivision, the

1 proportion shall be based on the county population, less the population
2 of city applicants within that county. Any funds available for grants
3 under this subdivision and not awarded by the end of a calendar year
4 shall be available for grants in the following year; and

5 (2) Not more than twenty percent of the funds available for grants
6 under this section shall be provided to cities and counties outside of
7 urbanized areas, as identified in 77 Federal Register 18652-18669, with
8 populations greater than ten thousand inhabitants as determined by the
9 most recent federal census update or recount certified by the United
10 States Department of Commerce, Bureau of the Census, that apply for
11 grants and meet the requirements of this section. Grants under this
12 subdivision shall be distributed proportionately based on the population
13 of applicants within this category as determined by the most recent
14 federal census update or recount certified by the United States
15 Department of Commerce, Bureau of the Census. For the purpose of
16 distributing grant funds to a county pursuant to this subdivision, the
17 proportion shall be based on the county population, less the population
18 of city applicants within that county. Any funds available for grants
19 pursuant to this subdivision which have not been awarded at the end of
20 each calendar year shall be available for awarding grants pursuant to
21 subdivision (1) of this section.

22 Any city or county receiving a grant under subdivision (1) or (2) of
23 this section shall contribute matching funds equal to twenty percent of
24 the grant amount.

25 **Sec. 120.** Section 46-302, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-302 Whenever the board of directors of any irrigation district
28 shall, by resolution, determine that it is to the interest, convenience,
29 and welfare of the district that the district, under sections 46-301 to
30 46-315, purchase, construct, or otherwise acquire, operate, and maintain
31 any electric light and power plant, lines, or systems, whether as an

1 addition, extension, enlargement, alteration, or reconstruction of any
2 site, irrigation works, or other property owned or controlled by the
3 district, or as a plant, lines, or system independent of works or
4 property already owned or controlled by the district, the board of
5 directors shall thereupon prepare comprehensive written plans,
6 statements, and reports setting out the nature, location, and description
7 of the proposed plant, lines, and system, including method or methods of
8 generation or acquisition, the location of transmission lines, the use of
9 other sites, properties, and works already owned or controlled by the
10 district, estimated costs of acquisition and construction, the method or
11 means of financing the proposed plan and project, the amount of bonds, if
12 any, proposed to be issued in connection therewith, and such other data
13 as the Department of Water, Energy, and Environment ~~Natural Resources~~
14 shall prescribe. The expense thereof may be authorized by any special
15 meeting or at the annual meeting of such district. Such plans,
16 statements, and reports, including a copy of such resolution, shall be
17 duly certified by the board of directors and shall be thereupon submitted
18 to the department for its examination as set forth in section 46-304.

19 **Sec. 121.** Section 46-303, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-303 In lieu of the resolution of the board of directors and the
22 preparation and submission by the board of plans, reports, and statements
23 as provided in section 46-302, a petition containing and setting forth
24 the data and information required in such section concerning the proposed
25 electric light and power plant, lines, and systems may be presented to
26 the Department of Water, Energy, and Environment ~~Natural Resources~~,
27 signed by not less than twenty percent of all the qualified electors of
28 the district. Such petition shall declare that, in the opinion of the
29 petitioners, it is to the interest, convenience, and welfare of the
30 district that the district, under sections 46-301 to 46-315, adopt
31 substantially the plan or method set out in the petition for the

1 establishment, acquisition, and operation by the district of electric
2 light and power plant, lines, and systems. The petition shall contain the
3 affidavit of the person or persons who circulated the same, certifying
4 that each name signed thereto is the true signature of the person whose
5 name it purports to be and that the person is a qualified elector of the
6 district.

7 **Sec. 122.** Section 46-304, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-304 Upon receipt by the Department of Water, Energy, and
10 Environment ~~Natural Resources~~ of the plans, reports, and statements
11 provided for in section 46-302 or of the petition provided for in section
12 46-303, the department shall examine the proposed plan and project, make
13 an estimate of the probable cost thereof, and make such further
14 examination and investigation concerning the same as the department shall
15 deem necessary or advisable. If the department deems the proposed plan
16 and project feasible and practicable, either as originally submitted or
17 as changed and amended by the department, the department shall then file
18 with the board of directors of the irrigation district concerned its
19 report in the matter, which report shall include a complete explanation
20 of the proposed project, the plans and maps showing location of the
21 project, the estimated cost of the project, and the probable receipts
22 from the sale of electric energy, and the certificate of the department
23 that the project has been examined and deemed feasible and practicable by
24 the department.

25 **Sec. 123.** Section 46-305, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-305 Upon the filing of the data and certificates with the board
28 of directors of the district, the board of directors and the other proper
29 officers of the district shall submit the proposed plan and project to
30 the qualified electors of the district for their approval or rejection,
31 at a general election or at a special election called for that purpose,

1 the submission of proposition and all matters pertaining to such election
2 to conform, including notice of election, as nearly as may be, and except
3 as otherwise expressly provided in sections 46-301 to 46-315, to the
4 provisions of law governing elections upon propositions for the issuance
5 of bonds of the district. The report of the Department of Water, Energy,
6 and Environment ~~Natural Resources~~ and all other data and information on
7 file with the board of directors or the officers of the district shall be
8 subject to inspection at all reasonable business hours by any elector of
9 the district, or other interested persons, for the entire period during
10 which notice of the election shall be published. Such question and
11 proposition shall be thus submitted by ballots upon which shall appear,
12 in a clear, fair, and concise manner, a statement of the nature and
13 description of the proposed project, and, if such proposition includes
14 the issuance of bonds of the district, there shall also appear upon the
15 ballots a general description of such bonds, including principal amount,
16 rate of interest and when payable, date of issuance, and date of
17 maturity. At the bottom of the ballots substantially the following form
18 shall appear:

19 FOR the adoption of the foregoing plan and project (and issuance of
20 bonds of the district).

21 AGAINST the adoption of the foregoing plan and project (and the
22 issuance of bonds of the district).

23 If a majority of the ballots cast on such proposition are in favor
24 thereof, the board of directors shall declare the same adopted, and the
25 board of directors of the district shall proceed forthwith to put such
26 plan and project into effect, including the issuance of bonds of the
27 district if included in the proposition submitted at the election, the
28 levy and collection of taxes and assessments to pay such bonds and
29 interest thereon, and the execution of all contracts proper or incident
30 to the consummation of such plan and project.

31 **Sec. 124.** Section 46-312, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-312 If at any time after the initial acquisition or establishment
3 by any irrigation district of an electric light and power plant, lines,
4 or systems the Department of Water, Energy, and Environment ~~Natural~~
5 ~~Resources~~ deems it to be practicable and expedient that additional
6 plants, lines, or systems, or extensions or improvements of the existing
7 electric light and power plant, lines, or systems, should be made by the
8 district, and if the cost of such additions and extensions cannot be made
9 or provided for by the application of unused funds derived from the
10 operation of the existing electric light and power plant, lines, or
11 systems or by the pledge or assignment of future net revenue as in
12 sections 46-301 to 46-315, then the board of directors may, and on the
13 petition of not less than twenty-five percent of the qualified electors
14 of the district shall, submit to the electors of the district at any
15 general election or at any special election called for the purpose, the
16 question and proposition of making such improvements, additions, or
17 extensions and the issuance of bonds of the district to pay the cost
18 thereof. A statement of the department with reference to the expediency
19 and feasibility of such proposed extension and addition shall be made by
20 such department to the irrigation district whenever requested by the
21 board of directors of such district. Such election shall be held and the
22 result thereof determined and declared in conformity with the provisions
23 of law governing elections upon the proposition of the issuance of bonds
24 of the district. Complete plans and a description of the proposed
25 additions, improvements, changes, or extensions shall be prepared and
26 kept on file in the main office of the district or of the board of the
27 district, subject to inspection by any elector or other interested
28 person, at all reasonable business hours during the period of publication
29 of notice of such election. The ballots at such election shall conform,
30 as nearly as practicable, with the requirements of section 46-305.

31 **Sec. 125.** Section 46-315, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-315 Every irrigation district in this state shall have the
3 exclusive right to make application to the Department of Water, Energy,
4 and Environment ~~Natural Resources~~ for the use of all water used for
5 irrigation purposes and all return flow and seepage water from irrigated
6 land in its district for the purpose of operating hydroelectric plants
7 under sections 46-301 to 46-315.

8 **Sec. 126.** Section 46-514, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-514 For purposes of the Reclamation Act, department means the
11 Department of Water, Energy, and Environment ~~Natural Resources~~.

12 **Sec. 127.** Section 46-583, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-583 At the hearing, if the board of directors of such district
15 deems it not for the best interest of such district that a change of its
16 boundaries be so made as to include therein the lands mentioned in the
17 petition, the board of directors of such district shall order that the
18 petition be rejected. But if the board of directors of such district
19 deems it for the best interest of such district that the boundaries of
20 such district be changed and if it appears that the petition for the
21 annexation and incorporation of the tract or tracts of land has been
22 signed and presented as provided in section 46-574, that the allegations
23 of the petition are true, and that no protesting petition has been filed,
24 or if filed has been dismissed as provided by sections 46-574 to 46-584,
25 the board of directors of such district may enter a tentative order
26 annexing and including all lands described in the petition, or some part
27 thereof. The order shall not become final until the proposition of
28 levying taxes as provided for in section 46-543 has been complied with
29 and until the proposition of levying taxes has been submitted by a
30 resolution of the board of directors of such district to the qualified
31 electors residing within the tract or tracts of land described in the

1 tentative order at an election held for that purpose in the same manner
2 as provided for submission of incurring bonded indebtedness in sections
3 46-564 to 46-566, and when the proposition has been approved by a
4 majority of the qualified electors residing within the tract or tracts of
5 land voting on the proposition at such election, then the board of
6 directors shall enter a final order annexing and including all lands
7 described in the tentative order. If at such election a majority of the
8 qualified electors vote against the proposition, then the board of
9 directors of such district shall set aside the tentative order, shall
10 order that the petition be denied, and shall proceed no further in that
11 matter. If the proposition is approved by a majority of the qualified
12 electors of the tract or tracts voting on the proposition at such
13 election in the manner provided for in section 46-543, the board of
14 directors of such district shall certify to the county board of the
15 county in which the tract or tracts of land are situated the rate of tax
16 to be levied. The final order entered by the board of directors of such
17 district shall describe the entire boundaries of the district, and for
18 that purpose the board of directors may cause a survey of such portions
19 thereof to be made as the board of directors deems necessary. A copy of
20 the final order of the board of directors ordering such annexation,
21 certified by the president and secretary of the board of directors of
22 such district, shall be filed with the Department of Water, Energy, and
23 Environment ~~Natural Resources~~, and thereupon the district shall be and
24 remain a reclamation district as fully and to every intent and purpose as
25 if the lands which are included in the district by the annexation thereof
26 and the change of boundaries had been included therein at the original
27 organization of the district. Such tract or tracts of land so annexed to
28 such district shall enjoy all the rights and privileges, of whatever kind
29 and nature, and be subject to all the contract, obligation, lien, or
30 charge for or upon which the original district was or might become liable
31 or chargeable.

1 **Sec. 128.** Section 46-601.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 46-601.01 For purposes of Chapter 46, article 6:

4 (1)(a) Water well means any excavation that is drilled, cored,
5 bored, washed, driven, dug, jetted, or otherwise constructed for the
6 purpose of exploring for ground water, monitoring ground water, utilizing
7 the geothermal properties of the ground, obtaining hydrogeologic
8 information, or extracting water from or injecting fluid as defined in
9 section 81-1502 into the underground water reservoir.

10 (b) Water well includes any excavation made for any purpose if
11 ground water flows into the excavation under natural pressure and a pump
12 or other device is placed in the excavation for the purpose of
13 withdrawing water from the excavation for irrigation. For such
14 excavations, construction means placing a pump or other device into the
15 excavation for the purpose of withdrawing water for irrigation.

16 (c) Water well does not include (i) any excavation made for
17 obtaining or prospecting for oil or natural gas or for inserting media to
18 repressure oil or natural gas bearing formations regulated by the
19 Nebraska Oil and Gas Conservation Commission or (ii) any structure
20 requiring a permit by the Department of Water, Energy, and Environment
21 ~~Natural Resources~~ used to exercise surface water appropriation; ~~and~~

22 (2) Common carrier means any carrier of water including a pipe,
23 canal, ditch, or other means of piping or adjoining water for irrigation
24 purposes; -

25 (3) Department means the Department of Water, Energy, and
26 Environment;

27 (4) Director means the Director of Water, Energy, and Environment;
28 and

29 (5) Chief Water Officer means the Chief Water Officer of the
30 Department of Water, Energy, and Environment.

31 **Sec. 129.** Section 46-602, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-602 (1) Each water well completed in this state on or after July
3 1, 2001, excluding test holes and dewatering wells to be used for less
4 than ninety days, shall be registered with the ~~department~~ Department of
5 ~~Natural Resources~~ as provided in this section within sixty days after
6 completion of construction of the water well. The licensed water well
7 contractor as defined in section 46-1213 constructing the water well, or
8 the owner of the water well if the owner constructed the water well,
9 shall file the registration on a form made available by the department
10 and shall also file with the department the information from the well log
11 required pursuant to section 46-1241. The department shall, by January 1,
12 2002, provide licensed water well contractors with the option of filing
13 such registration forms electronically. No signature shall be required on
14 forms filed electronically. The fee required by subsection (3) of section
15 46-1224 shall be the source of funds for any required fee to a contractor
16 which provides the online services for such registration. Any discount in
17 the amount paid the state by a credit card, charge card, or debit card
18 company or a third-party merchant bank for such registration fees shall
19 be deducted from the portion of the registration fee collected pursuant
20 to section 46-1224.

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

30 (b) For purposes of this section, replacement water well means a
31 water well which is constructed to provide water for the same purpose as

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

20 (c) No water well shall be registered as a replacement water well
21 until the department ~~Department of Natural Resources~~ has received a
22 properly completed notice of decommissioning for the water well being
23 replaced on a form made available by the department, or properly
24 completed notice, prepared in accordance with subsection (7) of this
25 section, of the modification and equipping of the original water well to
26 pump fifty gallons per minute or less for use only for livestock,
27 monitoring, observation, or any other nonconsumptive or de minimis use
28 approved by the applicable natural resources district. Such notices, as
29 required, shall be completed by (i) the licensed water well contractor as
30 defined in section 46-1213 who decommissions the water well or modifies
31 and equips the water well, (ii) the licensed pump installation contractor

1 as defined in section 46-1209 who decommissions the water well or
2 modifies and equips the water well, or (iii) the owner if the owner
3 decommissions a driven sandpoint well which is on land owned by him or
4 her for farming, ranching, or agricultural purposes or as his or her
5 place of abode. The department ~~Department of Environment and Energy~~
6 shall, by rule and regulation, determine which contractor or owner shall
7 be responsible for such notice in situations in which more than one
8 contractor or owner may be required to provide notice under this
9 subsection.

10 (3) For a series of two or more water wells completed and pumped
11 into a common carrier as part of a single site plan for irrigation
12 purposes, a registration form and a detailed site plan shall be filed for
13 each water well. The registration form shall include the registration
14 numbers of other water wells included in the series if such water wells
15 are already registered.

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

21 (5) One registration form shall be required along with a detailed
22 site plan which shows the location of each such water well in the site
23 and a log from each such water well for water wells constructed as part
24 of a single site plan for (a) monitoring ground water, obtaining
25 hydrogeologic information, or extracting contaminants from the ground,
26 (b) water wells constructed as part of remedial action approved by the
27 department ~~Department of Environment and Energy~~ pursuant to section
28 66-1525, 66-1529.02, or 81-15,124, and (c) water well owners who have a
29 permit issued pursuant to the Industrial Ground Water Regulatory Act and
30 also have an underground injection control permit issued by the
31 department ~~Department of Environment and Energy~~.

1 (6) The ~~department~~ ~~Department of Natural Resources~~ shall be notified
2 by the owner of any change in the ownership of a water well required to
3 be registered under this section. Notification shall be in such form and
4 include such evidence of ownership as the ~~department~~ ~~Director of Natural~~
5 ~~Resources~~ by rule and regulation directs. The department shall use such
6 notice to update the registration on file. The department shall not
7 collect a fee for the filing of the notice.

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

23 (8) Whenever a water well becomes an illegal water well as defined
24 in section 46-706, the owner of the water well shall either correct the
25 deficiency that causes the well to be an illegal water well or shall
26 cause the proper decommissioning of the water well in accordance with
27 rules and regulations adopted pursuant to the Water Well Standards and
28 Contractors' Practice Act. The licensed water well contractor who
29 decommissions the water well, the licensed pump installation contractor
30 who decommissions the water well, or the owner if the owner decommissions
31 a driven sandpoint well which is on land owned by him or her for farming,

1 ranching, or agricultural purposes or as his or her place of abode, shall
2 provide a properly completed notice of decommissioning to the department
3 ~~Department of Natural Resources~~ within sixty days. The department
4 ~~Department of Environment and Energy~~ shall, by rule and regulation,
5 determine which contractor or owner shall be responsible for such notice
6 in situations in which more than one contractor or owner may be required
7 to provide notice under this subsection. The department ~~Department of~~
8 ~~Natural Resources~~ shall not collect a fee for the filing of the notice.

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

20 (10) Water wells which are or were used solely for injecting any
21 fluid other than water into the underground water reservoir, which were
22 constructed before July 16, 2004, and which have not been properly
23 decommissioned on or before July 16, 2004, shall be registered on or
24 before July 1, 2005.

25 (11) Water wells described in subdivision (1)(b) of section
26 46-601.01 shall be registered with the department ~~Department of Natural~~
27 ~~Resources~~ as provided in subsection (1) of this section within sixty days
28 after the water well is constructed. Water wells described in subdivision
29 (1)(b) of section 46-601.01 which were constructed prior to May 2, 2007,
30 shall be registered within one hundred eighty days after such date.

31 **Sec. 130.** Section 46-604, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-604 The director ~~Director of Natural Resources~~ shall retain the
3 registration form required by section 46-602 and shall make a copy
4 available to the natural resources district within which the water well
5 is located, to the owner of the water well, and to the licensed water
6 well contractor as defined in section 46-1213.

7 **Sec. 131.** Section 46-606, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-606 (1) The director ~~Director of Natural Resources~~ shall collect
10 in advance a registration fee of forty dollars and the fee required by
11 subsection (3) of section 46-1224 for each water well registered under
12 section 46-602 except as provided in subsections (2) through (5) of this
13 section.

14 (2) For water wells permitted pursuant to the Industrial Ground
15 Water Regulatory Act, the director shall collect in advance a
16 registration fee of forty dollars and the fee required by subsection (3)
17 of section 46-1224 for each of the first ten such water wells registered
18 under section 46-602, and for each group of ten or fewer such water wells
19 registered thereafter, the director shall collect in advance a
20 registration fee of forty dollars and the fee required by subsection (3)
21 of section 46-1224.

22 (3) For a series of water wells completed for purposes of
23 installation of a ground heat exchanger for a structure for utilizing the
24 geothermal properties of the ground, the director shall collect in
25 advance a fee of forty dollars for each such series and the fee required
26 by subsection (3) of section 46-1224.

27 (4) For water wells constructed as part of a single site plan for
28 monitoring ground water, obtaining hydrogeologic information, or
29 extracting contaminants from the ground, the director shall collect in
30 advance a registration fee of forty dollars and the fee required by
31 subsection (3) of section 46-1224 for each of the first five such water

1 wells registered under section 46-602, and for each group of five or
2 fewer such water wells registered thereafter, the director shall collect
3 in advance a registration fee of forty dollars and the fee required by
4 subsection (3) of section 46-1224. However, if such water wells are a
5 part of remedial action approved by the department ~~Department~~ of
6 ~~Environment and Energy~~ pursuant to section 66-1525, 66-1529.02, or
7 81-15,124, the fee set pursuant to this subsection shall be collected as
8 if only one water well was being registered and the fee required by
9 subsection (3) of section 46-1224 shall be collected.

10 (5)(a) For a series of two or more water wells completed and pumped
11 into a common carrier as part of a single site plan for irrigation
12 purposes, the director shall collect in advance a registration fee of
13 forty dollars and the fee required by subsection (3) of section 46-1224
14 for each of the first two such wells registered under section 46-602.

15 (b) Any additional water wells which are part of a series registered
16 under this subsection shall not be subject to a new well registration
17 fee.

18 (6) The director shall remit the fees collected to the State
19 Treasurer for credit to the appropriate fund. From the registration fees
20 required by subsections (1) through (5) of this section, the State
21 Treasurer shall credit to the department ~~Department of Natural Resources~~
22 Cash Fund the amount determined by the department ~~Department of Natural~~
23 ~~Resources~~ to be necessary to pay for the costs of processing notices
24 filed pursuant to section 46-230, the costs of water resources update
25 notices required by section 76-2,124, and the costs for making
26 corrections to water well registration data authorized by subsections (6)
27 and (7) of section 46-602 and shall credit the remainder of the
28 registration fees required by subsections (1) through (5) of this section
29 to the Water Well Decommissioning Fund. The State Treasurer shall credit
30 the fees required by subsection (3) of section 46-1224 to the Water Well
31 Standards and Contractors' Licensing Fund.

1 **Sec. 132.** Section 46-609, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 46-609 (1) Except as otherwise provided by this section or section
4 46-610, no irrigation water well shall be constructed upon any land in
5 this state within six hundred feet of any registered irrigation water
6 well and no existing nonirrigation water well within six hundred feet of
7 any registered irrigation water well shall be used for irrigation
8 purposes. Such spacing requirement shall not apply to (a) any water well
9 used to irrigate two acres or less or (b) any replacement irrigation
10 water well if it is constructed within fifty feet of the irrigation water
11 well being replaced and if the water well being replaced was constructed
12 prior to September 20, 1957, and is less than six hundred feet from a
13 registered irrigation water well.

14 (2) The spacing protection of subsection (1) of this section shall
15 apply to an unregistered water well for a period of sixty days after
16 completion of such water well.

17 (3) No person shall use a water well for purposes other than its
18 registered purpose until the water well registration has been changed to
19 the intended new use, except that a person may use a water well
20 registered for purposes other than its intended purpose for use for
21 livestock, monitoring, observation, or any other nonconsumptive or de
22 minimis use approved by the applicable natural resources district. The
23 change to a new use shall be made by filing a water well registration
24 modification with the department ~~Department of Natural Resources~~ and
25 shall be approved only if the water well is in conformity with subsection
26 (1) of this section and with section 46-651.

27 **Sec. 133.** Section 46-610, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-610 (1) Any person may apply to the director ~~Director of Natural~~
30 ~~Resources~~ for a special permit to drill an irrigation water well without
31 regard to the spacing requirements of section 46-609 and shall pay a fee

1 to the department ~~Department of Natural Resources~~ of twelve dollars and
2 fifty cents, which fee shall be remitted to the State Treasurer for
3 credit to the General Fund. Such application shall be in such form as the
4 director directs and shall contain a statement of the proposed location
5 of the irrigation water well, the reason for seeking such special permit,
6 the legal description of the land to be irrigated by the irrigation water
7 well, the number of acres to be irrigated, the proposed size of the
8 irrigation water well, the estimated capacity of the irrigation water
9 well, expressed in gallons per minute, to the extent that capacity is
10 susceptible of advance determination, and the name of the person who is
11 actually going to construct the irrigation water well.

12 (2) A separate application, like that provided for in subsection (1)
13 of this section, shall be submitted for each irrigation water well for
14 which a special permit is sought. When considering the approval or
15 rejection of any application, the director shall consider the size,
16 shape, and irrigation needs of the property for which such special permit
17 is sought, the known ground water supply, the effect on the ground water
18 supply and the surrounding land of the irrigation water well for which
19 such special permit is sought, any waiver or agreement allowing the new
20 irrigation water well by the owner of any registered irrigation water
21 well less than six hundred feet from the location of the proposed new
22 irrigation water well, and such other information as may be available.
23 Such application may be approved or disapproved in whole or in part or
24 may be approved with conditions, and the special permit shall be issued
25 or refused accordingly.

26 **Sec. 134.** Section 46-613.01, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 46-613.01 The Legislature recognizes and declares that the
29 maintenance of an adequate source of ground water within this state is
30 essential to the social stability of the state and the health, safety,
31 and welfare of its citizens and that reasonable restrictions on the

1 transportation of ground water from this state are a proper exercise of
2 the police powers of the state. The need for such restrictions, which
3 protect the health, safety, and general welfare of the citizens of this
4 state, is hereby declared a matter of legislative determination.

5 Any person, firm, city, village, municipal corporation, or other
6 entity intending to withdraw ground water from any water well located in
7 the State of Nebraska and transport it for use in another state shall
8 apply to the department ~~Department of Natural Resources~~ for a permit to
9 do so. In determining whether to grant or deny such permit, the Chief
10 Water Officer ~~Director of Natural Resources~~ shall consider:

11 (1) The nature of the proposed use and whether it is a beneficial
12 use of ground water;

13 (2) The availability to the applicant of alternative sources of
14 surface or ground water;

15 (3) Any negative effect of the proposed withdrawal on ground water
16 supplies needed to meet present or reasonable future demands for water in
17 the area of the proposed withdrawal, to comply with any interstate
18 compact or decree, or to fulfill the provisions of any other formal state
19 contract or agreement;

20 (4) Any negative effect of the proposed withdrawal on surface water
21 supplies needed to meet present or reasonable future demands within the
22 state, to comply with any interstate compact or decree, or to fulfill the
23 provisions of any other formal state contract or agreement;

24 (5) Any adverse environmental effect of the proposed withdrawal or
25 transportation of ground water;

26 (6) The cumulative effect of the proposed withdrawal and transfer
27 relative to the matters listed in subdivisions (3) through (7) ~~(6)~~ of
28 this section when considered in conjunction with all other transfers
29 subject to this section; and

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

1 health, safety, and welfare of the state and its citizens.

2 Issuance of a permit shall be conditioned on the applicant's
3 compliance with the rules and regulations of the natural resources
4 district from which the water is to be withdrawn. The applicant shall be
5 required to provide access to his or her property at reasonable times for
6 purposes of inspection by officials of the district or the department.

7 The Chief Water Officer ~~director~~ may include such reasonable
8 conditions on the proposed use as he or she deems necessary to carry out
9 the purposes of this section.

10 **Sec. 135.** Section 46-613.02, Reissue Revised Statutes of Nebraska,
11 is amended to read:

12 46-613.02 Any person violating any provision of sections 46-601 to
13 46-613.01 or furnishing false information under such sections shall be
14 guilty of a Class IV misdemeanor. Each day of a violation may be
15 considered a separate offense. The Attorney General and the county
16 attorneys may pursue appropriate proceedings pursuant to this section
17 when notified by the department ~~Director of Natural Resources~~ that such a
18 violation has occurred.

19 **Sec. 136.** Section 46-637, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-637 The use of water described in section 46-636 may only be made
22 after securing a permit from the department ~~Department of Natural~~
23 ~~Resources~~ for such use. In approving or disapproving applications for
24 such permits, the Chief Water Officer ~~Director of Natural Resources~~ shall
25 take into account the effect that such pumping may have on the amount of
26 water in the stream and its ability to meet the requirements of
27 appropriators from the stream. This section does not apply to (1) water
28 wells located within fifty feet of the bank of a channel of any natural
29 stream which were in existence on July 1, 2000, and (2) replacement water
30 wells as defined in section 46-602 that are located within fifty feet of
31 the banks of a channel of a stream if the water wells being replaced were

1 originally constructed prior to July 1, 2000, and were located within
2 fifty feet of the bank of a channel of any natural stream.

3 **Sec. 137.** Section 46-638, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-638 (1) The Chief Water Officer ~~Director of Natural Resources~~ may
6 grant and administer permits to public water suppliers: (a) To locate,
7 develop, and maintain ground water supplies through water wells or other
8 means and to transport water into the area to be served; and (b) to
9 continue existing use of ground water and the transportation of ground
10 water into the area served.

11 (2) For purposes of the Municipal and Rural Domestic Ground Water
12 Transfers Permit Act and sections 46-651 to 46-655, (a) public water
13 supplier shall mean a city, village, municipal corporation, metropolitan
14 utilities district, rural water district, natural resources district,
15 irrigation district, reclamation district, or sanitary and improvement
16 district which supplies or intends to supply water to inhabitants of
17 cities, villages, or rural areas for domestic or municipal purposes and
18 (b) water well shall have the same meaning as in section 46-601.01.

19 **Sec. 138.** Section 46-639, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-639 An applicant which desires to avail itself of the Municipal
22 and Rural Domestic Ground Water Transfers Permit Act shall make
23 application in writing to the Chief Water Officer ~~Director of Natural~~
24 ~~Resources~~ for a permit. The application shall include (1) a statement of
25 the amount of water for which a permit is desired together with an
26 exhibit of maps showing the location of all water wells and (2) such
27 other information as the Chief Water Officer ~~director~~ deems necessary or
28 desirable. The application shall be accompanied by a fee in the amount of
29 fifty dollars for the first five million gallons per day and an
30 additional twenty dollars for each additional increment of five million
31 gallons per day requested. The fee shall be based on the amounts of water

1 requested on a daily average basis.

2 **Sec. 139.** Section 46-640, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-640 Upon receipt of an application filed under section 46-639,
5 the Chief Water Officer ~~Director of Natural Resources~~ shall cause a
6 notice of such application to be published at the applicant's expense at
7 least once a week for three consecutive weeks in a legal newspaper
8 published or of general circulation in each county containing lands on
9 which the water well field or any part of such water well field is or is
10 proposed to be located. The notice shall contain a description of the
11 lands upon which such water well field is or is proposed to be located,
12 the amount of water requested, the number of water wells constructed or
13 proposed, and any other relevant information. The notice shall state that
14 any interested person may object to and request a hearing on the
15 application by filing written objections specifically stating the grounds
16 for each objection within two weeks after the date of final publication
17 in the office of the department ~~director~~.

18 **Sec. 140.** Section 46-641, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 46-641 The department ~~Department of Natural Resources~~ may hold a
21 hearing on an application filed under section 46-639 on its own motion
22 and shall hold a hearing on such an application if requested by any
23 person pursuant to section 46-640.

24 **Sec. 141.** Section 46-642, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-642 (1) If the Chief Water Officer ~~Director of Natural Resources~~
27 finds that the withdrawal and transportation of ground water requested by
28 the applicant are reasonable, are not contrary to the conservation and
29 beneficial use of ground water, and are not otherwise detrimental to the
30 public welfare, he or she shall grant a permit to the applicant to
31 withdraw and transport water in the amount applied for or in a lesser

1 amount. The permit so granted shall have a priority date as of the time
2 when the application is filed with the department ~~director~~.

3 (2) In determining whether to grant or deny a permit under
4 subsection (1) of this section, the Chief Water Officer ~~director~~ shall
5 consider the factors set forth in subdivisions (1) through (7) of section
6 46-613.01.

7 **Sec. 142.** Section 46-644, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-644 Permits granted by the Chief Water Officer ~~Director~~ of
10 ~~Natural Resources~~ shall be valid for a period of five years after the
11 granting of a permit and as long thereafter as the water for which the
12 permit is granted is used. For the purposes of the Municipal and Rural
13 Domestic Ground Water Transfers Permit Act, the commencement of
14 construction of facilities to provide water for beneficial use shall be
15 deemed the date of the commencement of beneficial use. If it appears that
16 the holder of a permit granted under the act has not used water for a
17 beneficial purpose and in accordance with the terms of the permit for
18 more than five years, such permit may be revoked or modified by the Chief
19 Water Officer ~~director~~. The procedure for such revocation or modification
20 shall be the same as that provided for in sections 46-229.02 to
21 46-229.05.

22 **Sec. 143.** Section 46-645, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-645 The Chief Water Officer ~~Director~~ of ~~Natural Resources~~ may
25 grant to any public water supplier permits to store excess, unused, and
26 unappropriated water for recharging ground water reservoirs. The
27 procedure to be followed in granting permits to utilize excess, unused,
28 and unappropriated water for recharging ground water reservoirs shall, so
29 far as applicable, be the same as that required for granting permits for
30 the use of ground water as provided in the Municipal and Rural Domestic
31 Ground Water Transfers Permit Act.

1 **Sec. 144.** Section 46-648, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 46-648 The use of ground water pursuant to a permit granted by the
4 Chief Water Officer ~~Director of Natural Resources~~ under the Municipal and
5 Rural Domestic Ground Water Transfers Permit Act shall be subject to and
6 governed by section 46-613.

7 **Sec. 145.** Section 46-649, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 46-649 The Chief Water Officer ~~Director of Natural Resources~~ may
10 adopt and promulgate all rules and regulations necessary or desirable to
11 secure compliance with the Municipal and Rural Domestic Ground Water
12 Transfers Permit Act.

13 **Sec. 146.** Section 46-653, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-653 Any person may apply to the Chief Water Officer ~~Director of~~
16 ~~Natural Resources~~ for a special permit to drill or to change the intended
17 use of a water well without regard to the spacing requirements of section
18 46-651. Such application shall be on a form prescribed and furnished by
19 the Chief Water Officer ~~director~~ and shall contain a statement of the
20 precise location of the water well or proposed water well, facts
21 justifying the request for such special permit, the size or proposed size
22 of such water well, expressed in gallons per minute, to the extent that
23 capacity is susceptible of advance determination, and, if applicable, the
24 name of the person who is actually going to drill the water well. A
25 separate application shall be submitted for each water well for which a
26 special permit is sought, and each application shall be accompanied by a
27 fee of twelve dollars and fifty cents which shall be remitted to the
28 State Treasurer for credit to the General Fund. When considering the
29 approval or rejection of any such application, the Chief Water Officer
30 ~~director~~ shall consider the facts offered as justification of the need
31 for the special permit, the known ground water supply, and such other

1 pertinent information as may be available. Such application may be
2 approved or disapproved in whole or in part and the special permit issued
3 or refused accordingly.

4 **Sec. 147.** Section 46-654, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-654 (1) Any public water supplier having a permit under the
7 Municipal and Rural Domestic Ground Water Transfers Permit Act is hereby
8 granted the protection of sections 46-651 to 46-655 for all water wells
9 for which a permit has been or in the future is granted by the department
10 ~~Department of Natural Resources~~ under such act.

11 (2) If in its application for a permit pursuant to such act a public
12 water supplier requests the protection of the spacing requirements of
13 section 46-651 for test holes and water wells under construction and if
14 the permit is granted, the Chief Water Officer ~~Director of Natural~~
15 ~~Resources~~ shall identify in the permit the area to which the spacing
16 protection will apply and the spacing protection of section 46-651 shall
17 then apply to such area for a period of one year from the date the permit
18 is granted. The Chief Water Officer ~~director~~ shall notify, by certified
19 or registered mail, owners and occupiers of land affected by the granting
20 of such spacing protection, according to information supplied by the
21 applicant. Costs of providing such notice shall be borne by the
22 applicant. Owners or occupiers of land not receiving the notice required
23 by this subsection shall not be bound by the spacing requirements until
24 the applicant's water wells are completed. Such protection may be
25 extended by the Chief Water Officer ~~director~~, by a similar procedure,
26 upon application by the public water supplier and good cause shown, for
27 additional one-year periods.

28 **Sec. 148.** Section 46-655.01, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 46-655.01 (1) A public water supplier as defined in section 46-638
31 may obtain protection for a public water supply wellfield from

1 encroachment from other water wells by filing with the department
2 ~~Department of Natural Resources~~ a notice of intent to consider a
3 wellfield. The notice of intent shall include:

4 (a) The legal description of the land being considered as a public
5 water supply wellfield; and

6 (b) Written consent of the owner of the land considered for a public
7 water supply wellfield, allowing the public water supplier to conduct an
8 evaluation as to whether such land is suitable for a public water supply
9 wellfield.

10 (2) A notice of intent filed under this section shall be limited to
11 a contiguous tract of land. No public water supplier shall have more than
12 three notices of intent under this section on file with the department at
13 any one time.

14 (3) A notice of intent filed under this section shall expire one
15 year after the date of filing and may be renewed for one additional year
16 by filing with the department a notice of renewal of the original notice
17 of intent filed under this section before expiration of the original
18 notice of intent.

19 (4) At the time a notice of intent or a notice of renewal is filed
20 with the department, the public water supplier shall:

21 (a) Provide a copy of the notice of intent or notice of renewal to
22 the owners of land falling within the spacing protection provided by
23 subdivision (5)(a) of this section pursuant to the notice;

24 (b) Provide a copy of the notice to the natural resources district
25 or districts within which the land being considered for a wellfield is
26 located; and

27 (c) Publish a copy of the notice in a newspaper of general
28 circulation in the area in which the wellfield is being considered.

29 (5)(a) Except as provided in subdivisions (b) and (c) of this
30 subsection, during the time that a notice of intent under this section is
31 in effect, no person may drill or construct a water well, as defined in

1 section 46-601.01, within the following number of feet of the boundaries
2 of the land described in the notice of intent, whichever is greater:

3 (i) One thousand feet; or

4 (ii) The maximum number of feet specified in any applicable
5 regulations of a natural resources district that a well of a public water
6 supplier must be spaced from another well.

7 (b) Any person who, at least one hundred eighty days prior to filing
8 a notice of intent, obtained a valid permit from a natural resources
9 district to drill or construct a water well within the area subject to
10 the protection provided by this section is not prohibited from drilling
11 or constructing a water well.

12 (c) The public water supplier may waive the protection provided by
13 this section and allow a person to drill or construct a new or
14 replacement water well within the area subject to the protection provided
15 by this section.

16 (6) Within thirty days after the public water supplier reaches a
17 determination that the land described in a particular notice of intent is
18 not suitable for a public water supply wellfield, the public water
19 supplier shall notify the department ~~Department of Natural Resources~~, all
20 affected natural resources districts, the owner of the land described in
21 the notice of intent, and the owners of all land falling within the
22 spacing protection provided by subdivision (5)(a) of this section
23 pursuant to the notice of intent of such determination. Upon receipt by
24 the department of the notice of such determination, the notice of intent
25 that contains the description of such tract of land shall terminate
26 immediately, notwithstanding any other provision of this section.

27 **Sec. 149.** Section 46-676, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-676 For purposes of the Industrial Ground Water Regulatory Act:

30 (1) The definitions found in section 46-706 are used; and

31 (2) Chief Water Officer means the Chief Water Officer of the

1 ~~Department of Water, Energy, and Environment. Department means the~~
2 ~~Department of Natural Resources; and~~

3 ~~(3) Director means the Director of Natural Resources.~~

4 **Sec. 150.** Section 46-677, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-677 (1) Except as provided in sections 46-676.01 and 46-678.01:

7 (a) Any person who desires to withdraw and transfer ground water
8 from aquifers located within the State of Nebraska for industrial
9 purposes shall, prior to commencing construction of any water wells,
10 obtain from the Chief Water Officer ~~director~~ a permit to authorize such
11 withdrawal and transfer of such ground water; and

12 (b) Any person who prior to April 23, 1993, has withdrawn ground
13 water from aquifers located in the State of Nebraska for industrial
14 purposes may file an application for a permit to authorize the transfer
15 of such ground water at any time.

16 (2) For purposes of this section, industrial purposes includes
17 manufacturing, commercial, and power generation uses of water and
18 commercial use includes, but is not limited to, maintenance of the turf
19 of a golf course.

20 **Sec. 151.** Section 46-678, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-678 (1) Applications for permits required by section 46-677 shall
23 be on forms provided by the department ~~director~~ and shall contain:

24 (a) A statement of the amount of ground water which the applicant
25 proposes to use;

26 (b) A statement of the proposed use and whether the ground water
27 will be transferred for use at a location other than the well site;

28 (c) A hydrologic evaluation of the impact of the proposed use on the
29 surrounding area and on existing users;

30 (d) The date when the applicant expects to first use the ground
31 water; and

1 (e) Such other relevant information as the Chief Water Officer
2 ~~director~~ may deem necessary or desirable.

3 (2) Such applications shall be accompanied by an exhibit of maps
4 showing the location, depth, and capacity of the proposed water wells.

5 **Sec. 152.** Section 46-679, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-679 Within thirty days of the receipt of an application made
8 under section 46-677, the Chief Water Officer ~~director~~ shall accept the
9 application as a completed application or return the application to the
10 applicant as an incomplete application. If the application is deemed to
11 be incomplete, the Chief Water Officer ~~director~~ shall inform the
12 applicant as to the deficiencies in the application.

13 **Sec. 153.** Section 46-680, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-680 (1) After the Chief Water Officer ~~director~~ has accepted the
16 application made under section 46-677 as a completed application, the
17 Chief Water Officer ~~director~~ shall cause a notice of such application to
18 be published at the applicant's expense at least once a week for three
19 consecutive weeks in a legal newspaper published or of general
20 circulation in each county containing land on which one or more water
21 wells are proposed to be located. The notice shall include (a) the amount
22 of ground water the applicant proposes to use, (b) a description of the
23 proposed use and location of that use, (c) the number of water wells
24 proposed at each location of withdrawal, and (d) any other information
25 deemed necessary by the Chief Water Officer ~~director~~ to provide adequate
26 notice of the application to interested persons. The notice shall state
27 that any interested person may object to and request a hearing on the
28 application by filing written objections stating the grounds for each
29 objection within two weeks after the date of final publication of the
30 notice. Such objections shall be filed in the headquarters office of the
31 department.

1 (2) The Chief Water Officer ~~director~~ may hold a hearing on an
2 application made under section 46-677 at his or her discretion and shall
3 hold a hearing on such an application if requested by any interested
4 person pursuant to subsection (1) of this section.

5 **Sec. 154.** Section 46-682, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-682 The applicant may negotiate with any user of water in order
8 to obtain an agreement whereby the user waives any cause of action
9 against the applicant for damages or injunctive or other relief for
10 interference with such water use, in exchange for financial payment,
11 substitute water, or other compensation. The applicant shall file copies
12 of any such agreements with the Chief Water Officer ~~director~~ who shall
13 consider the agreements in determining whether to grant or deny a permit.
14 Nothing in this section shall be construed to limit any power of eminent
15 domain possessed by an applicant.

16 **Sec. 155.** Section 46-683, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 46-683 (1) The Chief Water Officer ~~director~~ shall issue a written
19 order containing specific findings of fact either granting or denying a
20 permit. The Chief Water Officer ~~director~~ shall grant a permit only if he
21 or she finds that the applicant's withdrawal and any transfer of ground
22 water are in the public interest. In determining whether the withdrawal
23 and transfer, if any, are in the public interest, the Chief Water
24 Officer's ~~director's~~ considerations shall include, but not be limited to:

25 (a) Possible adverse effects on existing surface or ground water
26 users;

27 (b) The effect of the withdrawal and any transfer of ground water on
28 surface or ground water supplies needed to meet reasonably anticipated
29 domestic and agricultural demands in the area of the proposed ground
30 water withdrawal;

31 (c) The availability of alternative sources of surface or ground

1 water reasonably accessible to the applicant in or near the region of the
2 proposed withdrawal or use;

3 (d) The economic benefit of the applicant's proposed use;

4 (e) The social and economic benefits of existing uses of surface or
5 ground water in the area of the applicant's proposed use and any
6 transfer;

7 (f) Any waivers of liability from existing users filed with the
8 Chief Water Officer ~~director~~;

9 (g) The effects on interstate compacts or decrees and the
10 fulfillment of the provisions of any other state contract or agreement;
11 and

12 (h) Other factors reasonably affecting the equity of granting the
13 permit.

14 (2) The Chief Water Officer ~~director~~ may grant a permit for less
15 water than requested by the applicant. The Chief Water Officer ~~director~~
16 may also impose reasonable conditions on the manner and timing of the
17 ground water withdrawals and on the manner of any transfer of ground
18 water which the Chief Water Officer ~~director~~ deems necessary to protect
19 existing users of water. If a hearing is held, the Chief Water Officer
20 ~~director~~ shall issue such written order within ninety days of the
21 hearing.

22 **Sec. 156.** Section 46-683.01, Reissue Revised Statutes of Nebraska,
23 is amended to read:

24 46-683.01 If during construction or operation a permitholder
25 determines (1) that an additional amount of water is or will be required
26 for the proposed use set forth in a permit issued pursuant to section
27 46-683 or (2) that there is a need to amend any condition set forth in
28 the permit, the permitholder may file an application to amend the permit.
29 Following a hearing conducted in the manner prescribed by section 46-680,
30 the Chief Water Officer ~~director~~ shall issue a written order containing
31 specific findings of fact either granting or denying the proposed

1 amendment in accordance with the public interest considerations
2 enumerated in section 46-683. An application to amend a permit shall not
3 be approved if the amendment would increase the daily peak withdrawal or
4 the annual volume by more than twenty-five percent from the amounts
5 approved in the original permit, except for an amendment to increase the
6 maximum daily volumetric flow rate or annual volume to levels authorized
7 under a permit issued by the department ~~Department of Environment and~~
8 ~~Energy~~ pursuant to section 81-1504 and subsection (9) of section 81-1505.

9 **Sec. 157.** Section 46-684, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-684 (1) A permit granted pursuant to section 46-683 shall be
12 revoked, following a hearing conducted in the same manner as hearings
13 conducted pursuant to section 46-680, if the Chief Water Officer ~~director~~
14 determines that the permitholder has failed to exercise the right to
15 withdraw ground water within three years of the date specified in the
16 permit or for a period of three consecutive years thereafter.

17 (2) If it appears to the Chief Water Officer ~~director~~ that a
18 permitholder has withdrawn more ground water than the amount specified in
19 the permit or has violated any of the conditions specified in the permit,
20 the Chief Water Officer ~~director~~ shall give written notice to the
21 permitholder of the alleged violation.

22 Within thirty days following receipt of such notice, the
23 permitholder may:

24 (a) File an application to amend the permit as provided in section
25 46-683.01;

26 (b) Request a hearing before the Chief Water Officer ~~director~~; or

27 (c) Take appropriate measures to comply with the permit.

28 If the permitholder fails to take action pursuant to subdivision (2)
29 (a), (2)(b), or (2)(c) of this section, the Chief Water Officer ~~director~~
30 may issue an order requiring compliance with the permit and seek, if
31 appropriate, a court injunction prohibiting further violations of the

1 permit.

2 If the permitholder requests a hearing, the Chief Water Officer
3 ~~director~~ shall within thirty days schedule a hearing within or in
4 reasonable proximity to the area where the water wells are located.
5 Within forty-five days following the hearing, the Chief Water Officer
6 ~~director~~ shall issue an order containing specific findings of fact with
7 reference to the alleged violation and directing the permitholder, if
8 necessary, to cease and desist from further violations of the permit.

9 (3) Nothing in this section shall limit the penalty provisions of
10 section 46-687.

11 **Sec. 158.** Section 46-685, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-685 Any affected person aggrieved by any order issued or final
14 decision made by the Chief Water Officer ~~director~~ pursuant to the
15 Industrial Ground Water Regulatory Act may appeal the order to the Court
16 of Appeals. For purposes of this section, affected person means the
17 applicant for a permit which is the subject of the Chief Water Officer's
18 ~~director's~~ order or final decision and any owner of an estate or interest
19 in or concerning land or water whose interest is or may be impacted in a
20 direct and significant manner by the Chief Water Officer's ~~director's~~
21 order or final decision.

22 **Sec. 159.** Section 46-686, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-686 Any owner of an estate or interest in or concerning land or
25 water, except a person who has signed an agreement filed with the Chief
26 Water Officer ~~director~~ pursuant to section 46-682, may bring an action
27 for damages or injunctive or other relief for any injury done to his or
28 her land or water rights by the holder of a permit issued pursuant to
29 section 46-683. Nothing in the Industrial Ground Water Regulatory Act
30 shall be construed as limiting the right to resort to other means of
31 review, redress, or relief provided by law.

1 **Sec. 160.** Section 46-686.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 46-686.01 The Chief Water Officer ~~director~~ shall have jurisdiction
4 over any ground water withdrawal and transfer made under section
5 46-678.01. Any person using ground water at the time a notice to transfer
6 is filed under such section whose wells thereafter suffer an
7 unanticipated decline in ground water levels may petition the Chief Water
8 Officer ~~director~~ for a hearing. Such petition shall specifically set
9 forth the cause and extent of the ground water decline as well as the
10 nature and extent of any injury resulting from that decline. If at such
11 hearing the injured party presents evidence showing that the ground water
12 levels declined as a result of such transfer and shows the nature and
13 extent of any resulting injury, the Chief Water Officer ~~director~~ may
14 issue an order terminating or conditioning the transfer to eliminate any
15 further injury. If the injured party prevails and an order is issued
16 pursuant to this section, the order shall provide that the person filing
17 the notice of transfer shall pay the costs of the department and of the
18 injured party, including reasonable attorney's fees. The injured party
19 may maintain a civil action against the person filing the notice of
20 transfer to recover the costs of a hydrologic evaluation. The order of
21 the Chief Water Officer ~~director~~ may be appealed to the Court of Appeals.

22 **Sec. 161.** Section 46-688, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-688 The department ~~director~~ may adopt and promulgate all rules
25 and regulations necessary or desirable to secure compliance with the
26 Industrial Ground Water Regulatory Act. The department ~~director~~ shall by
27 regulation specify the contents and scope of the hydrologic evaluation
28 required by section 46-678, taking into account the current state of
29 hydrologic knowledge and techniques, and the factors for permit approval
30 listed in section 46-683.

31 **Sec. 162.** Section 46-691, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-691 (1) Any person who withdraws ground water for agricultural
3 purposes, or for any purpose pursuant to a ground water remediation plan
4 as required under the Environmental Protection Act, including the
5 providing of water for domestic purposes, from aquifers located within
6 the State of Nebraska may transfer the use of the ground water off the
7 overlying land if the ground water is put to a reasonable and beneficial
8 use within the State of Nebraska and is used for an agricultural purpose,
9 or for any purpose pursuant to a ground water remediation plan as
10 required under the Environmental Protection Act, including the providing
11 of water for domestic purposes, after transfer, and if such withdrawal,
12 transfer, and use (a) will not significantly adversely affect any other
13 water user, (b) is consistent with all applicable statutes and rules and
14 regulations, and (c) is in the public interest. The determination made by
15 a natural resources district under subsection (2) of this section or the
16 Chief Water Officer ~~Director of Natural Resources~~ under subsection (3) of
17 this section shall include consideration of the factors set forth in
18 subdivisions (1) through (7) of section 46-613.01. For purposes of this
19 section, domestic has the same meaning as in section 46-613.

20 (2) Any affected party may object to the transfer of ground water by
21 filing written objections, specifically stating the grounds for such
22 objection, in the office of the natural resources district containing the
23 land from which the ground water is withdrawn. Upon the filing of such
24 objections or on its own initiative, the natural resources district shall
25 conduct a preliminary investigation to determine if the withdrawal,
26 transfer, and use of ground water is consistent with the requirements of
27 subsection (1) of this section. Following the preliminary investigation,
28 if the district has reason to believe that the withdrawal, transfer, or
29 use may not comply with any rule or regulation of the district, it may
30 utilize its authority under the Nebraska Ground Water Management and
31 Protection Act to prohibit such withdrawal, transfer, or use. If the

1 district has reason to believe that the withdrawal, transfer, and use is
2 consistent with all rules and regulations of the district but may not
3 comply with one or more other requirements of subsection (1) of this
4 section, the district shall request that the department ~~Department of~~
5 ~~Natural Resources~~ hold a hearing on such transfer.

6 (3) At the hearing, all interested persons may appear and present
7 testimony. Agencies or political subdivisions of this state and the
8 appropriate natural resources districts shall offer as evidence any
9 information in their possession which they deem relevant to the purposes
10 of the hearing. After the hearing, if the Chief Water Officer ~~Director of~~
11 ~~Natural Resources~~ finds that the withdrawal, transfer, or use of ground
12 water is contrary to the requirements of subsection (1) of this section,
13 he or she shall issue a cease and desist order prohibiting the withdrawal
14 and transfer.

15 (4) The department ~~director~~ may adopt and promulgate rules and
16 regulations to carry out this section.

17 **Sec. 163.** Section 46-703, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-703 The Legislature further finds:

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

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

28 (3) Natural resources districts already have significant legal
29 authority to regulate activities which contribute to declines in ground
30 water levels and to nonpoint source contamination of ground water and are
31 the preferred entities to regulate, through ground water management

1 areas, ground water related activities which are contributing to or are,
2 in the reasonably foreseeable future, likely to contribute to conflicts
3 between ground water users and surface water appropriators or to water
4 supply shortages in fully appropriated or overappropriated river basins,
5 subbasins, or reaches;

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

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

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

29 (7) An Interrelated Water Review Board is needed to resolve any
30 conflicts between the department and the involved natural resources
31 districts concerning the content, implementation, or enforcement of

1 integrated management plans for fully appropriated and overappropriated
2 river basins, subbasins, and reaches.

3 **Sec. 164.** Section 46-704, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-704 The Legislature also finds that:

6 (1) The levels of nitrate nitrogen and other contaminants in ground
7 water in certain areas of the state are increasing;

8 (2) Long-term solutions should be implemented and efforts should be
9 made to prevent the levels of ground water contaminants from becoming too
10 high and to reduce high levels sufficiently to eliminate health hazards;

11 (3) Agriculture has been very productive and should continue to be
12 an important industry to the State of Nebraska;

13 (4) Natural resources districts have the legal authority to regulate
14 certain activities and, as local entities, are the preferred regulators
15 of activities which may contribute to ground water contamination in both
16 urban and rural areas;

17 (5) The department is authorized ~~Department of Environment and~~
18 ~~Energy should be given authority~~ to regulate sources of contamination
19 when necessary to prevent serious deterioration of ground water quality;

20 (6) The powers given to districts and the department ~~Department of~~
21 ~~Environment and Energy~~ should be used to stabilize, reduce, and prevent
22 the increase or spread of ground water contamination; and

23 (7) There is a need to provide for the orderly management of ground
24 water quality in areas where available data, evidence, and other
25 information indicate that present or potential ground water conditions
26 require the designation of such areas as management areas.

27 **Sec. 165.** Section 46-705, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-705 Nothing in the Nebraska Ground Water Management and
30 Protection Act shall be construed to limit the powers of the department
31 ~~Department of Environment and Energy~~ provided in the Nebraska Safe

1 Drinking Water Act.

2 Nothing in the Nebraska Ground Water Management and Protection Act
3 relating to the contamination of ground water is intended to limit the
4 powers of the department ~~Department of Environment and Energy~~ provided in
5 Chapter 81, article 15.

6 **Sec. 166.** Section 46-706, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-706 For purposes of the Municipal and Rural Domestic Ground Water
9 Transfers Permit Act, the Nebraska Ground Water Management and Protection
10 Act, and sections 46-601 to 46-613.02, 46-636, 46-637, and 46-651 to
11 46-655, unless the context otherwise requires:

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

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

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

23 (4) Department means the Department of Water, Energy, and
24 Environment;

25 (5) Director means the Director of Water, Energy, and Environment;

26 (6) (4) District means a natural resources district operating
27 pursuant to Chapter 2, article 32;

28 (7) (5) Illegal water well means (a) any water well operated or
29 constructed without or in violation of a permit required by the Nebraska
30 Ground Water Management and Protection Act, (b) any water well not in
31 compliance with rules and regulations adopted and promulgated pursuant to

1 the act, (c) any water well not properly registered in accordance with
2 sections 46-602 to 46-604, or (d) any water well not in compliance with
3 any other applicable laws of the State of Nebraska or with rules and
4 regulations adopted and promulgated pursuant to such laws;

5 (8) ~~(6)~~ To commence construction of a water well means the beginning
6 of the boring, drilling, jetting, digging, or excavating of the actual
7 water well from which ground water is to be withdrawn;

8 (9) ~~(7)~~ Management area means any area so designated by a district
9 pursuant to section 46-712 or 46-718, by the director ~~Director~~ of
10 ~~Environment and Energy~~ pursuant to section 46-725, or by the Interrelated
11 Water Review Board pursuant to section 46-719. Management area includes a
12 control area or a special ground water quality protection area designated
13 prior to July 19, 1996;

14 (10) ~~(8)~~ Management plan means a ground water management plan
15 developed by a district and submitted to the director ~~Director of Natural~~
16 ~~Resources~~ for review pursuant to section 46-711;

17 (11) ~~(9)~~ Ground water reservoir life goal means the finite or
18 infinite period of time which a district establishes as its goal for
19 maintenance of the supply and quality of water in a ground water
20 reservoir at the time a ground water management plan is adopted;

21 (12) ~~(10)~~ Board means the board of directors of a district;

22 (13) ~~(11)~~ Acre-inch means the amount of water necessary to cover an
23 acre of land one inch deep;

24 (14) ~~(12)~~ Subirrigation or subirrigated land means the natural
25 occurrence of a ground water table within the root zone of agricultural
26 vegetation, not exceeding ten feet below the surface of the ground;

27 (15) ~~(13)~~ Best management practices means schedules of activities,
28 maintenance procedures, and other management practices utilized for
29 purposes of irrigation efficiency, to conserve or effect a savings of
30 ground water, or to prevent or reduce present and future contamination of
31 ground water. Best management practices relating to contamination of

1 ground water may include, but not be limited to, irrigation scheduling,
2 proper rate and timing of fertilizer application, and other fertilizer
3 and pesticide management programs. In determining the rate of fertilizer
4 application, the district shall consult with the University of Nebraska
5 or a certified crop advisor certified by the American Society of
6 Agronomy;

7 (16) ~~(14)~~ Point source means any discernible, confined, and discrete
8 conveyance, including, but not limited to, any pipe, channel, tunnel,
9 conduit, well, discrete fissure, container, rolling stock, vessel, other
10 floating craft, or other conveyance, over which the department ~~Department~~
11 ~~of Environment and Energy~~ has regulatory authority and from which a
12 substance which can cause or contribute to contamination of ground water
13 is or may be discharged;

14 (17) ~~(15)~~ Allocation, as it relates to water use for irrigation
15 purposes, means the allotment of a specified total number of acre-inches
16 of irrigation water per irrigated acre per year or an average number of
17 acre-inches of irrigation water per irrigated acre over any reasonable
18 period of time;

19 (18) ~~(16)~~ Rotation means a recurring series of use and nonuse of
20 irrigation wells on an hourly, daily, weekly, monthly, or yearly basis;

21 (19) ~~(17)~~ Water well has the same meaning as in section 46-601.01;

22 (20) ~~(18)~~ Surface water project sponsor means an irrigation district
23 created pursuant to Chapter 46, article 1, a reclamation district created
24 pursuant to Chapter 46, article 5, or a public power and irrigation
25 district created pursuant to Chapter 70, article 6;

26 (21) ~~(19)~~ Beneficial use means that use by which water may be put to
27 use to the benefit of humans or other species;

28 (22) ~~(20)~~ Consumptive use means the amount of water that is consumed
29 under appropriate and reasonably efficient practices to accomplish
30 without waste the purposes for which the appropriation or other legally
31 permitted use is lawfully made;

1 ~~(23)~~ ~~(21)~~ Dewatering well means a well constructed and used solely
2 for the purpose of lowering the ground water table elevation;

3 ~~(24)~~ ~~(22)~~ Emergency situation means any set of circumstances that
4 requires the use of water from any source that might otherwise be
5 regulated or prohibited and the agency, district, or organization
6 responsible for regulating water use from such source reasonably and in
7 good faith believes that such use is necessary to protect the public
8 health, safety, and welfare, including, if applicable, compliance with
9 federal or state water quality standards;

10 ~~(25)~~ ~~(23)~~ Good cause shown means a reasonable justification for
11 granting a variance for a consumptive use of water that would otherwise
12 be prohibited by rule or regulation and which the granting agency,
13 district, or organization reasonably and in good faith believes will
14 provide an economic, environmental, social, or public health and safety
15 benefit that is equal to or greater than the benefit resulting from the
16 rule or regulation from which a variance is sought;

17 ~~(26)~~ ~~(24)~~ Historic consumptive use means the amount of water that
18 has previously been consumed under appropriate and reasonably efficient
19 practices to accomplish without waste the purposes for which the
20 appropriation or other legally permitted use was lawfully made;

21 ~~(27)~~ ~~(25)~~ Monitoring well means a water well that is designed and
22 constructed to provide ongoing hydrologic or water quality information
23 and is not intended for consumptive use;

24 ~~(28)~~ ~~(26)~~ Order, except as otherwise specifically provided, includes
25 any order required by the Nebraska Ground Water Management and Protection
26 Act, by rule or regulation, or by a decision adopted by a district by
27 vote of the board of directors of the district taken at any regularly
28 scheduled or specially scheduled meeting of the board;

29 ~~(29)~~ ~~(27)~~ Overall difference between the current and fully
30 appropriated levels of development means the extent to which existing
31 uses of hydrologically connected surface water and ground water and

1 conservation activities result in the water supply available for purposes
2 identified in subsection (3) of section 46-713 to be less than the water
3 supply available if the river basin, subbasin, or reach had been
4 determined to be fully appropriated in accordance with section 46-714;

5 ~~(30)~~ ~~(28)~~ Test hole means a hole designed solely for the purposes of
6 obtaining information on hydrologic or geologic conditions;

7 ~~(31)~~ ~~(29)~~ Variance means (a) an approval to deviate from a
8 restriction imposed under subsection (1), (2), (8), or (9) of section
9 46-714 or (b) the approval to act in a manner contrary to existing rules
10 or regulations from a governing body whose rule or regulation is
11 otherwise applicable;

12 ~~(32)~~ ~~(30)~~ Certified irrigated acres means the number of acres or
13 portion of an acre that a natural resources district has approved for
14 irrigation from ground water in accordance with law and with rules
15 adopted by the district; and

16 ~~(33)~~ ~~(31)~~ Certified water uses means beneficial uses of ground water
17 for purposes other than irrigation identified by a district pursuant to
18 rules adopted by the district.

19 **Sec. 167.** Section 46-707, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-707 (1) Regardless of whether or not any portion of a district
22 has been designated as a management area, in order to administer and
23 enforce the Nebraska Ground Water Management and Protection Act and to
24 effectuate the policy of the state to conserve ground water resources, a
25 district may:

26 (a) Adopt and promulgate rules and regulations necessary to
27 discharge the administrative duties assigned in the act;

28 (b) Require such reports from ground water users as may be
29 necessary;

30 (c) Require the reporting of water uses and irrigated acres by
31 landowners and others with control over the water uses and irrigated

1 acres for the purpose of certification by the district;

2 (d) Require meters to be placed on any water wells for the purpose
3 of acquiring water use data;

4 (e) Require decommissioning of water wells that are not properly
5 classified as active status water wells as defined in section 46-1204.02
6 or inactive status water wells as defined in section 46-1207.02;

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

11 (g) Report to and consult with the department ~~Department~~ of
12 ~~Environment and Energy~~ on all matters concerning the entry of
13 contamination or contaminating materials into ground water supplies; and

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

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

25 (2) In addition to the powers enumerated in subsection (1) of this
26 section, a district may impose an immediate temporary stay for a period
27 of one hundred eighty days on the construction of any new water well and
28 on any increase in the number of acres historically irrigated, without
29 prior notice or hearing, upon adoption of a resolution by the board
30 finding that such temporary immediate stay is necessary. The district
31 shall hold at least one public hearing on the matter within the district

1 during such one hundred eighty days, with the notice of the hearing given
2 as provided in section 46-743, prior to making a determination as to
3 imposing a permanent stay or conditions in accordance with subsections
4 (1) and (6) of section 46-739. Within forty-five days after a hearing
5 pursuant to this subsection, the district shall decide whether to exempt
6 from the immediate temporary stay the construction of water wells for
7 which permits were issued prior to the date of the resolution commencing
8 the stay but for which construction had not begun prior to such date. If
9 construction of such water wells is allowed, all permits that were valid
10 when the stay went into effect shall be extended by a time period equal
11 to the length of the stay and such water wells shall otherwise be
12 completed in accordance with section 46-738. Water wells listed in
13 subsection (3) of section 46-714 and water wells of public water
14 suppliers are exempt from this subsection.

15 (3) In addition to the powers enumerated in subsections (1) and (2)
16 of this section, a district may assess a fee against a person requesting
17 a variance to cover the administrative cost of consideration of the
18 variance, including, but not limited to, costs of copying records and the
19 cost of publishing a notice in a legal newspaper of general circulation
20 in the county or counties of the district, radio announcements, or other
21 means of communication deemed necessary in the area where the property is
22 located.

23 **Sec. 168.** Section 46-709, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-709 Each district shall maintain a ground water management plan
26 based upon the best available information and shall submit amendments to
27 such plan to the director ~~Director of Natural Resources~~ for review and
28 approval.

29 The plan shall include, but not be limited to, the identification to
30 the extent possible of:

31 (1) Ground water supplies within the district including

1 transmissivity, saturated thickness maps, and other ground water
2 reservoir information, if available;

3 (2) Local recharge characteristics and rates from any sources, if
4 available;

5 (3) Average annual precipitation and the variations within the
6 district;

7 (4) Crop water needs within the district;

8 (5) Current ground water data-collection programs;

9 (6) Past, present, and potential ground water use within the
10 district;

11 (7) Ground water quality concerns within the district;

12 (8) Proposed water conservation and supply augmentation programs for
13 the district;

14 (9) The availability of supplemental water supplies, including the
15 opportunity for ground water recharge;

16 (10) The opportunity to integrate and coordinate the use of water
17 from different sources of supply;

18 (11) Ground water management objectives, including a proposed ground
19 water reservoir life goal for the district. For management plans adopted
20 or revised after July 19, 1996, the ground water management objectives
21 may include any proposed integrated management objectives for
22 hydrologically connected ground water and surface water supplies but a
23 management plan does not have to be revised prior to the adoption or
24 implementation of an integrated management plan pursuant to section
25 46-718 or 46-719;

26 (12) Existing subirrigation uses within the district;

27 (13) The relative economic value of different uses of ground water
28 proposed or existing within the district; and

29 (14) The geographic and stratigraphic boundaries of any proposed
30 management area.

31 If the expenses incurred by a district preparing or amending a

1 ground water management plan exceed twenty-five percent of the district's
2 current budget, the district may make application to the Nebraska
3 Resources Development Fund for assistance.

4 Each district's ground water management plan shall also identify, to
5 the extent possible, the levels and sources of ground water contamination
6 within the district, ground water quality goals, long-term solutions
7 necessary to prevent the levels of ground water contaminants from
8 becoming too high and to reduce high levels sufficiently to eliminate
9 health hazards, and practices recommended to stabilize, reduce, and
10 prevent the occurrence, increase, or spread of ground water
11 contamination.

12 **Sec. 169.** Section 46-711, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-711 (1) The director ~~Director of Natural Resources~~ shall review
15 any ground water management plan or plan modification submitted by a
16 district to ensure that the best available studies, data, and
17 information, whether previously existing or newly initiated, were
18 utilized and considered and that such plan is supported by and is a
19 reasonable application of such information. ~~If a management area is~~
20 ~~proposed and the primary purpose of the proposed management area is~~
21 ~~protection of water quality, the director shall consult with the~~
22 ~~Department of Environment and Energy regarding approval or denial of the~~
23 ~~management plan.~~ The director shall consult with the Conservation and
24 Survey Division of the University of Nebraska and such other state or
25 federal agencies the director shall deem necessary when reviewing plans.
26 Within ninety days after receipt of a plan, the director shall transmit
27 his or her specific findings, conclusions, and reasons for approval or
28 disapproval to the district submitting the plan.

29 (2) If the director ~~Director of Natural Resources~~ disapproves a
30 ground water management plan, the district which submitted the plan
31 shall, in order to establish a management area, submit to the director

1 either the original or a revised plan with an explanation of how the
2 original or revised plan addresses the issues raised by the director in
3 his or her reasons for disapproval. Once a district has submitted an
4 explanation pursuant to this section, such district may proceed to
5 schedule a hearing pursuant to section 46-712.

6 **Sec. 170.** Section 46-712, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-712 (1) A natural resources district may establish a ground water
9 management area in accordance with this section to accomplish any one or
10 more of the following objectives: (a) Protection of ground water
11 quantity; (b) protection of ground water quality; or (c) prevention or
12 resolution of conflicts between users of ground water and appropriators
13 of surface water, which ground water and surface water are hydrologically
14 connected.

15 (2) Prior to establishment by a district of a management area other
16 than a management area being established in accordance with section
17 46-718, the district's management plan shall have been approved by the
18 director ~~Director of Natural Resources~~ or the district shall have
19 completed the requirements of subsection (2) of section 46-711. If
20 necessary to determine whether a management area should be designated,
21 the district may initiate new studies and data-collection efforts and
22 develop computer models. In order to establish a management area, the
23 district shall fix a time and place for a public hearing to consider the
24 management plan information supplied by the director and to hear any
25 other evidence. The hearing shall be located within or in reasonable
26 proximity to the area proposed for designation as a management area.
27 Notice of the hearing shall be published as provided in section 46-743,
28 and the hearing shall be conducted in accordance with such section.

29 (3)(a) Within ninety days after the hearing, the district shall
30 determine whether a management area shall be designated. If the district
31 determines that no management area shall be established, the district

1 shall issue an order to that effect.

2 (b) If the district determines that a management area shall be
3 established, the district shall by order designate the area as a
4 management area and shall adopt one or more controls authorized by
5 section 46-739 to be utilized within the area in order to achieve the
6 ground water management objectives specified in the plan. Such an order
7 shall include a geographic and stratigraphic definition of the area. The
8 boundaries and controls shall take into account any considerations
9 brought forth at the hearing and administrative factors directly
10 affecting the ability of the district to implement and carry out local
11 ground water management.

12 (c) The controls adopted shall not include controls substantially
13 different from those set forth in the notice of the hearing. The area
14 designated by the order shall not include any area not included in the
15 notice of the hearing.

16 (4) Modification of the boundaries of a district-designated
17 management area or dissolution of such an area shall be in accordance
18 with the procedures established in this section. Hearings for such
19 modifications or for dissolution may not be initiated more often than
20 once a year. Hearings for modification of controls may be initiated as
21 often as deemed necessary by the district, and such modifications may be
22 accomplished using the procedure in this section.

23 (5) A district shall, prior to adopting or amending any rules or
24 regulations for a management area, consult with any holders of permits
25 for intentional or incidental underground water storage and recovery
26 issued pursuant to section 46-226.02, 46-233, 46-240, 46-241, 46-242, or
27 46-297.

28 (6) If a ground water management area has been adopted by a district
29 under this section that includes one or more controls authorized by
30 subdivision (1)(f) or (1)(m) of section 46-739, the district may request
31 that the department ~~Department of Natural Resources~~ to conduct an

1 evaluation to determine if an immediate stay should be placed on the
2 issuance of new surface water natural-flow appropriations in the area,
3 river basin, subbasin, or reach of the management area, and the
4 department may determine that the stay is in the public interest. The
5 stay may include provisions for exceptions to be granted for beneficial
6 uses as described in subsection (3) of section 46-714 or for a project
7 that provides hydrological benefit to the area of the stay and may
8 include provisions that the stay may be rescinded based on new or
9 additional information that may become available.

10 **Sec. 171.** Section 46-713, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-713 (1)(a) By January 1 of each year beginning in 2006 and except
13 as otherwise provided in this section and section 46-720, the department
14 ~~Department of Natural Resources~~ shall complete an evaluation of the
15 expected long-term availability of hydrologically connected water
16 supplies for both existing and new surface water uses and existing and
17 new ground water uses in each of the state's river basins and shall issue
18 a report that describes the results of the evaluation. For purposes of
19 the evaluation and the report, a river basin may be divided into two or
20 more subbasins or reaches. A river basin, subbasin, or reach for which an
21 integrated management plan has been or is being developed pursuant to
22 sections 46-715 to 46-717 or pursuant to section 46-719 shall not be
23 evaluated unless it is being reevaluated as provided in subsection (2) of
24 this section. For each river basin, subbasin, or reach evaluated, the
25 report shall describe (i) the nature and extent of use of both surface
26 water and ground water in each river basin, subbasin, or reach, (ii) the
27 geographic area within which the department preliminarily considers
28 surface water and ground water to be hydrologically connected and the
29 criteria used for that determination, and (iii) the extent to which the
30 then-current uses affect available near-term and long-term water
31 supplies. River basins, subbasins, and reaches designated as

1 overappropriated in accordance with subsection (4) of this section shall
2 not be evaluated by the department. The department is not required to
3 perform an annual evaluation for a river basin, subbasin, or reach during
4 the four years following a status change in such river basin, subbasin,
5 or reach under subsection (12) of section 46-714.

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

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

24 (d) In preparing the report, the department shall rely on the best
25 scientific data, information, and methodologies readily available to
26 ensure that the conclusions and results contained in the report are
27 reliable. In its report, the department shall provide sufficient
28 documentation to allow these data, information, methodologies, and
29 conclusions to be independently replicated and assessed. Upon request by
30 the department, state agencies, natural resources districts, irrigation
31 districts, reclamation districts, public power and irrigation districts,

1 mutual irrigation companies, canal companies, municipalities, and other
2 water users and stakeholders shall provide relevant data and information
3 in their possession. The department ~~Department of Natural Resources~~ shall
4 specify by rule and regulation the types of scientific data and other
5 information that will be considered for making the preliminary
6 determinations required by this section.

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

31 (b) If the reevaluation results in a different determination by the

1 department, then (i) the department shall notify, by certified mail, the
2 affected natural resources districts and any irrigation district, public
3 power and irrigation district, mutual irrigation company, canal company,
4 or municipality that relies on water from the affected river basin,
5 subbasin, or reach of the preliminary change in the determination and
6 (ii) the department shall hold one or more public hearings not more than
7 ninety days after the publication of the notice required in subdivision
8 (b)(i) of this subsection. Notice of the hearings shall be provided in
9 the same manner as the notice required in subsection (1) of section
10 46-714. Any interested person may appear at the hearing and present
11 written or oral testimony and evidence concerning the appropriation
12 status of the river basin, subbasin, or reach.

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

17 (3) A river basin, subbasin, or reach shall be deemed fully
18 appropriated if the department determines based upon its evaluation
19 conducted pursuant to subsection (1) of this section and information
20 presented at the hearing pursuant to subsection (4) of section 46-714
21 that then-current uses of hydrologically connected surface water and
22 ground water in the river basin, subbasin, or reach cause or will in the
23 reasonably foreseeable future cause (a) the surface water supply to be
24 insufficient to sustain over the long term the beneficial or useful
25 purposes for which existing natural-flow or storage appropriations were
26 granted and the beneficial or useful purposes for which, at the time of
27 approval, any existing instream appropriation was granted, (b) the
28 streamflow to be insufficient to sustain over the long term the
29 beneficial uses from wells constructed in aquifers dependent on recharge
30 from the river or stream involved, or (c) reduction in the flow of a
31 river or stream sufficient to cause noncompliance by Nebraska with an

1 interstate compact or decree, other formal state contract or agreement,
2 or applicable state or federal laws.

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

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

25 **Sec. 172.** Section 46-714, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-714 (1) Whenever the department ~~Department of Natural Resources~~
28 makes a preliminary determination that a river basin, subbasin, or reach
29 not previously designated as overappropriated and not previously
30 determined to be fully appropriated has become fully appropriated, the
31 department shall place an immediate stay on the issuance of any new

1 natural-flow, storage, or storage-use appropriations in such river basin,
2 subbasin, or reach. The department shall also provide prompt notice of
3 such preliminary determination to all licensed water well contractors in
4 the state and to each natural resources district that encompasses any of
5 the geographic area involved. Such notice to natural resources districts
6 shall be by certified mail. The notice shall be addressed to the manager
7 of the natural resources district or his or her designee and shall
8 include the signature of the director ~~Director of Natural Resources~~.
9 Immediately upon receipt of such notice by the natural resources
10 district, there shall be a stay on issuance of water well construction
11 permits in the geographic area preliminarily determined by the department
12 to include hydrologically connected surface water and ground water in
13 such river basin, subbasin, or reach. The department shall also notify
14 the public of the preliminary determination that the river basin,
15 subbasin, or reach is fully appropriated and of the affected geographic
16 area. Such notice shall be provided by publication once each week for
17 three consecutive weeks in at least one newspaper of statewide
18 circulation and in such other newspaper or newspapers as are deemed
19 appropriate by the department to provide general circulation in the river
20 basin, subbasin, or reach.

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

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

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

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

8 (3) Exceptions to the stays imposed pursuant to subsection (1), (2),
9 (8), or (9) of this section shall exist for (a) test holes, (b)
10 dewatering wells with an intended use of one year or less, (c) monitoring
11 wells, (d) wells constructed pursuant to a ground water remediation plan
12 under the Environmental Protection Act, (e) water wells designed and
13 constructed to pump fifty gallons per minute or less, except that no two
14 or more water wells that each pump fifty gallons per minute or less may
15 be connected or otherwise combined to serve a single project such that
16 the collective pumping would exceed fifty gallons per minute, (f) water
17 wells for range livestock, (g) new surface water uses or water wells that
18 are necessary to alleviate an emergency situation involving the provision
19 of water for human consumption or public health and safety, (h) water
20 wells defined by the applicable natural resources district as replacement
21 water wells, but the consumptive use of any such replacement water well
22 can be no greater than the historic consumptive use of the water well it
23 is to replace or, if applicable, the historic consumptive use of the
24 surface water use it is to replace, (i) new surface water uses and water
25 wells to which a right or permit is transferred in accordance with state
26 law, but the consumptive use of any such new use can be no greater than
27 the historic consumptive use of the surface water use or water well from
28 which the right or permit is being transferred, (j) water wells and
29 increases in ground water irrigated acres for which a variance is granted
30 by the applicable natural resources district for good cause shown, (k)
31 subject to any conditions imposed by the applicable natural resources

1 district, to the extent permitted by the applicable natural resources
2 district, increases in ground water irrigated acres that result from the
3 use of water wells that were permitted prior to the effective date of the
4 determination made in subsection (1) of this section and completed in
5 accordance with section 46-738 but were not used for irrigation prior to
6 that effective date, (l) to the extent permitted by the applicable
7 natural resources district, increases in ground water irrigated acres
8 that result from the use of water wells that are constructed after the
9 effective date of the stay in accordance with a permit granted by that
10 natural resources district prior to the effective date of the stay, (m)
11 surface water uses for which temporary public-use construction permits
12 are issued pursuant to subsection (8) of section 46-233, (n) surface
13 water uses and increases in surface water irrigated acres for which a
14 variance is granted by the department for good cause shown, and (o) water
15 wells for which permits have been approved by the department ~~Department~~
16 ~~of Natural Resources~~ pursuant to the Municipal and Rural Domestic Ground
17 Water Transfers Permit Act prior to the effective date of the stay.

18 (4) Except as otherwise provided in this section, any stay imposed
19 pursuant to subsections (1) and (2) of this section shall remain in
20 effect for the affected river basin, subbasin, or reach until the
21 department has made a final determination regarding whether the river
22 basin, subbasin, or reach is fully appropriated and, if the department's
23 final determination is that the river basin, subbasin, or reach is fully
24 appropriated, shall remain in effect as provided in subsection (11) of
25 this section. Within the time period between the dates of the preliminary
26 and final determinations, the department and the affected natural
27 resources districts shall consult with any irrigation district,
28 reclamation district, public power and irrigation district, mutual
29 irrigation company, canal company, or municipality that relies on water
30 from the affected river basin, subbasin, or reach and with other water
31 users and stakeholders as deemed appropriate by the department or the

1 natural resources districts. The department shall also hold one or more
2 public hearings not more than ninety days after the first publication of
3 the notice required by subsection (1) of this section. Notice of the
4 hearings shall be provided in the same manner as the notice required by
5 such subsection. Any interested person may appear at such hearing and
6 present written or oral testimony and evidence concerning the
7 appropriation status of the river basin, subbasin, or reach, the
8 department's preliminary conclusions about the extent of the area within
9 which the surface water and ground water supplies for the river basin,
10 subbasin, or reach are determined to be hydrologically connected, and
11 whether the stays on new uses should be terminated.

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

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

1 published as provided in section 46-743.

2 (7) Within forty-five days after a natural resources district's
3 final hearing pursuant to subsection (6) of this section, the natural
4 resources district shall decide (a) whether to terminate the stay on new
5 water wells in all or part of the natural resources district subject to
6 the stay and (b) whether to terminate the stay on increases in ground
7 water irrigated acres. If the natural resources district decides not to
8 terminate the stay on new water wells in any geographic area, it shall
9 also decide whether to exempt from such stay the construction of water
10 wells for which permits were issued prior to the issuance of the stay but
11 for which construction had not begun prior to issuance of the stay. If
12 construction of water wells for which permits were issued prior to the
13 stay is allowed, all permits that were valid when the stay went into
14 effect shall be extended by a time period equal to the length of the
15 stay.

16 (8) Whenever the department designates a river basin, subbasin, or
17 reach as overappropriated, each previously declared moratorium on the
18 issuance of new surface water appropriations in the river basin,
19 subbasin, or reach shall continue in effect. The department shall also
20 provide prompt notice of such designation to all licensed water well
21 contractors in the state and to each natural resources district that
22 encompasses any of the geographic area involved. Immediately upon receipt
23 of such notice by a natural resources district, there shall be a stay on
24 the issuance of new water well construction permits in any portion of
25 such natural resources district that is within the hydrologically
26 connected area designated by the department. The department shall also
27 notify the public of its designation of such river basin, subbasin, or
28 reach as overappropriated and of the geographic area involved in such
29 designation. Such notice shall be published once each week for three
30 consecutive weeks in at least one newspaper of statewide circulation and
31 in such other newspapers as are deemed appropriate by the department to

1 provide general notice in the river basin, subbasin, or reach.

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

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

30 (11) Any stay issued pursuant to this section shall remain in effect
31 until (a) the stay has been terminated pursuant to subsection (5), (7),

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

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

27 (b) If a status change occurs, any stays previously in force by the
28 department or affected natural resources districts shall remain in force
29 until the stays imposed under this subsection are in place and the
30 department shall place an immediate stay on the issuance of any new
31 natural-flow, storage, or storage-use appropriations in the river basin,

1 subbasin, or reach. The department shall also provide prompt notice of
2 the status change in accordance with subsection (1) of this section.
3 Immediately upon receipt of the notice by the affected natural resources
4 district, there shall be stays imposed as set forth in subsections (1)
5 and (2) of this section, subject to the exceptions set forth in
6 subsection (3) of this section. The stays imposed pursuant to this
7 subsection shall remain in effect within each affected natural resources
8 district until such district adopts rules and regulations in accordance
9 with subdivision (c), (d), or (e) of this subsection.

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

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

30 (e) If the proposed new number of acres is not approved by the
31 department within the applicable time period as provided in subdivision

1 (d) of this subsection, the affected natural resources districts shall
2 adopt rules and regulations that allow water well permits to be issued
3 that will result in no more than two thousand five hundred irrigated
4 acres or that will result in an increase of not more than twenty percent
5 of all historically irrigated acres within the hydrologically connected
6 area of each natural resources district within the affected river basin,
7 subbasin, or reach, whichever is less, for each calendar year of the
8 four-year period following the date of the determination described in
9 this subsection. Each affected natural resources district may, after the
10 initial four-year period has expired, annually determine whether water
11 well permit limitations should continue and may enforce such limitations.

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

22 **Sec. 173.** Section 46-715, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-715 (1)(a) Whenever the department ~~Department of Natural~~
25 ~~Resources~~ has designated a river basin, subbasin, or reach as
26 overappropriated or has made a final determination that a river basin,
27 subbasin, or reach is fully appropriated, the natural resources districts
28 encompassing such river basin, subbasin, or reach and the department
29 shall jointly develop an integrated management plan for such river basin,
30 subbasin, or reach. The plan shall be completed, adopted, and take effect
31 within three years after such designation or final determination unless

1 the department and the natural resources districts jointly agree to an
2 extension of not more than two additional years.

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

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

1 evaluate data, information, and methodologies that could be used to
2 implement sections 46-715 to 46-717, increase understanding of the
3 surface water and hydrologically connected ground water system, and test
4 the validity of the conclusions and information upon which the integrated
5 management plan is based. The plan may also provide for utilization of
6 any applicable incentive programs authorized by law. Nothing in the
7 integrated management plan for a fully appropriated river basin,
8 subbasin, or reach shall require a natural resources district to regulate
9 ground water uses in place at the time of the department's preliminary
10 determination that the river basin, subbasin, or reach is fully
11 appropriated, unless such regulation is necessary to carry out the goals
12 and objectives of a basin-wide plan pursuant to section 46-755, but a
13 natural resources district may voluntarily adopt such regulations. The
14 applicable natural resources district may decide to include all water
15 users within the district boundary in an integrated management plan.

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

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

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

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

31 (d) Identify procedures the natural resources district and the

1 department will use to report, consult, and otherwise share information
2 on new uses, changes in uses, or other activities affecting water use in
3 the river basin, subbasin, or reach;

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

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

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

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

19 (4) The ground water and surface water controls proposed for
20 adoption in the integrated management plan pursuant to subsection (1) of
21 this section shall, when considered together and with any applicable
22 incentive programs, (a) be consistent with the goals and objectives of
23 the plan, (b) be sufficient to ensure that the state will remain in
24 compliance with applicable state and federal laws and with any applicable
25 interstate water compact or decree or other formal state contract or
26 agreement pertaining to surface water or ground water use or supplies,
27 and (c) protect the ground water users whose water wells are dependent on
28 recharge from the river or stream involved and the surface water
29 appropriators on such river or stream from streamflow depletion caused by
30 surface water uses and ground water uses begun, in the case of a river
31 basin, subbasin, or reach designated as overappropriated or preliminarily

1 determined to be fully appropriated in accordance with section 46-713,
2 after the date of such designation or preliminary determination.

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

16 (b) In any river basin, subbasin, or reach designated as
17 overappropriated and subject to this subsection, the department and each
18 natural resources district encompassing such river basin, subbasin, or
19 reach shall jointly develop an integrated management plan for such river
20 basin, subbasin, or reach pursuant to subsections (1) through (4) of this
21 section. Each integrated management plan for a river basin, subbasin, or
22 reach subject to this subsection shall be consistent with any basin-wide
23 plan developed pursuant to subdivision (a) of this subsection. Such
24 integrated management plan shall be developed after consultation and
25 collaboration with irrigation districts, reclamation districts, public
26 power and irrigation districts, mutual irrigation companies, canal
27 companies, and municipalities that rely on water from within the affected
28 area and that, after being notified of the commencement of the plan
29 development process, indicate in writing their desire to participate in
30 such process. In addition, the department or the affected natural
31 resources districts may include designated representatives of other

1 stakeholders. If agreement is reached by all parties involved in such
2 consultation and collaboration process, the department and each natural
3 resources district shall adopt the agreed-upon integrated management
4 plan. If agreement cannot be reached by all parties involved, the
5 integrated management plan shall be developed and adopted by the
6 department and the affected natural resources district pursuant to
7 sections 46-715 to 46-718 or by the Interrelated Water Review Board
8 pursuant to section 46-719.

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

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

22 (i) The first incremental goals shall be to address the impact of
23 streamflow depletions to (A) surface water appropriations and (B) water
24 wells constructed in aquifers dependent upon recharge from streamflow, to
25 the extent those depletions are due to water use initiated after July 1,
26 1997, and, unless an interstate cooperative agreement for such river
27 basin, subbasin, or reach is no longer in effect, to prevent streamflow
28 depletions that would cause noncompliance by Nebraska with such
29 interstate cooperative agreement. During the first increment, the
30 department and the affected natural resources districts shall also pursue
31 voluntary efforts, subject to the availability of funds, to offset any

1 increase in streamflow depletive effects that occur after July 1, 1997,
2 but are caused by ground water uses initiated prior to such date. The
3 department and the affected natural resources districts may also use
4 other appropriate and authorized measures for such purpose;

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

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

27 (iv) Based on the determination made in subdivision (d)(iii) of this
28 subsection, the department and the affected natural resources districts,
29 utilizing the consultative and collaborative process described in
30 subdivision (b) of this subsection, shall if necessary identify goals for
31 a subsequent increment of the integrated management plan. Subsequent

1 increments shall be completed, adopted, and take effect not more than ten
2 years after adoption of the previous increment; and

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

11 (6) In any river basin, subbasin, or reach that is designated as
12 fully appropriated or overappropriated and whenever necessary to ensure
13 that the state is in compliance with an interstate compact or decree or a
14 formal state contract or agreement, the department, in consultation with
15 the affected districts, shall forecast on an annual basis the maximum
16 amount of water that may be available from streamflow for beneficial use
17 in the short term and long term in order to comply with the requirement
18 of subdivision (4)(b) of this section. This forecast shall be made by
19 January 1, 2008, and each January 1 thereafter.

20 **Sec. 174.** Section 46-716, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-716 (1) The surface water controls that may be included in an
23 integrated management plan and may be adopted by the department
24 ~~Department of Natural Resources~~ are: (a) Increased monitoring and
25 enforcement of surface water diversion rates and amounts diverted
26 annually; (b) the prohibition or limitation of additional surface water
27 appropriations; (c) requirements for surface water appropriators to apply
28 or utilize reasonable conservation measures consistent with good
29 husbandry and other requirements of section 46-231 and consistent with
30 reasonable reliance by other surface water or ground water users on
31 return flows or on seepage to the aquifer; and (d) other reasonable

1 restrictions on surface water use which are consistent with the intent of
2 section 46-715 and the requirements of section 46-231.

3 (2) If during the development of the integrated management plan the
4 department determines that surface water appropriators should be required
5 to apply or utilize conservation measures or that other reasonable
6 restrictions on surface water use need to be imposed, the department's
7 portion of the integrated management plan shall allow the affected
8 surface water appropriators and surface water project sponsors a
9 reasonable amount of time, not to exceed one hundred eighty days unless
10 extended by the department, to identify the conservation measures to be
11 applied or utilized, to develop a schedule for such application and
12 utilization, and to comment on any other proposed restrictions.

13 **Sec. 175.** Section 46-717, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-717 (1) In developing an integrated management plan, the
16 department ~~Department of Natural Resources~~ and the affected natural
17 resources districts shall utilize the best scientific data and other
18 information available and shall review and consider any rules and
19 regulations in effect in any existing ground water management area that
20 encompasses all or part of the geographic area to be encompassed by the
21 plan. Consideration shall be given to the applicable scientific data and
22 other information relied upon by the department in preparing the annual
23 report required by section 46-713 and to other types of data and
24 information that may be deemed appropriate by the department. The
25 department, after seeking input from the affected natural resources
26 districts, shall specify by rule and regulation the types of scientific
27 data and other information that will be considered in developing an
28 integrated management plan. The natural resources districts shall adopt
29 similar rules and regulations specifying the types of scientific data and
30 other information necessary for purposes of this section. Existing
31 research, data, studies, or any other relevant information which has been

1 compiled by or is in possession of other state or federal agencies, other
2 natural resources districts, and other political subdivisions within the
3 State of Nebraska shall be utilized. State agencies and political
4 subdivisions shall furnish information or data upon request of the
5 department or any affected natural resources district. Neither the
6 department nor the natural resources districts shall be required to
7 conduct new research or to develop new computer models to prepare an
8 integrated management plan, but such new research may be conducted or new
9 computer models developed within the limits of available funding if the
10 additional information is desired by the department or the affected
11 natural resources districts.

12 (2) During preparation of an integrated management plan for a fully
13 appropriated river basin, subbasin, or reach or of an integrated
14 management plan under subdivision (1)(b) of section 46-715, the
15 department and the affected natural resources districts shall consult
16 with any irrigation district, reclamation district, public power and
17 irrigation district, mutual irrigation company, canal company, or
18 municipality that relies on water from the affected river basin,
19 subbasin, or reach and with other water users and stakeholders as deemed
20 appropriate by the department or by the affected natural resources
21 districts. They shall also actively solicit public comments and opinions
22 through public meetings and other means.

23 **Sec. 176.** Section 46-718, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 46-718 (1) If the department ~~Department of Natural Resources~~ and the
26 affected natural resources districts preparing an integrated management
27 plan reach agreement on (a) the proposed goals and objectives of the plan
28 for the affected river basin, subbasin, or reach, (b) the proposed
29 geographic area to be subject to controls, and (c) the surface water and
30 ground water controls and any incentive programs that are proposed for
31 adoption and implementation in the river basin, subbasin, or reach, they

1 shall schedule one or more public hearings to take testimony on the
2 proposed integrated management plan and the proposed controls. Such
3 hearings shall be held within forty-five days after reaching agreement
4 and within or in reasonable proximity to the area to be affected by
5 implementation of the integrated management plan. Notice of such hearings
6 shall be published as provided in section 46-743. The costs of publishing
7 the notice shall be shared between the department and the affected
8 natural resources districts. All interested persons may appear at the
9 hearings and present testimony or provide other evidence relevant to the
10 issues being considered.

11 (2) Within sixty days after the final hearing under this section,
12 the department and the affected natural resources districts shall jointly
13 decide whether to implement the plan proposed, with or without
14 modifications, and whether to adopt and implement the surface water and
15 ground water controls and incentive programs proposed in the plan. If the
16 department and the natural resources districts agree to implement the
17 plan and to adopt and implement the proposed controls, the natural
18 resources districts shall by order designate a ground water management
19 area for integrated management or, if the geographic area subject to the
20 integrated management plan is already in a ground water management area,
21 the order shall designate an integrated management subarea for that area.
22 The order shall include a geographic and stratigraphic definition of the
23 ground water management area or integrated management subarea and shall
24 adopt the controls in the integrated management plan that are authorized
25 for adoption by the natural resources district pursuant to section
26 46-739. The department shall by order adopt the controls in the
27 integrated management plan that are authorized for adoption by the
28 department pursuant to section 46-716. Neither the controls adopted by
29 the district nor those adopted by the department shall include controls
30 substantially different from those set forth in the notice of hearing.
31 The area designated as a ground water management area or an integrated

1 management subarea by the natural resources district shall not include
2 any area that was not identified in the notice of the hearing as within
3 the area proposed to be subject to the controls in the plan. The
4 department and the natural resources district shall each cause a copy of
5 its order to be published in the manner provided in section 46-744.

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

17 **Sec. 177.** Section 46-719, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-719 (1)(a) The Interrelated Water Review Board is created for the
20 purposes stated in subsections (2) through (5) of this section. The board
21 shall consist of five members. The board, when appointed and convened,
22 shall continue in existence only until it has resolved a dispute referred
23 to it pursuant to such subsections. The Governor shall appoint and
24 convene the board within forty-five days of being notified of the need to
25 resolve a dispute. The board shall be chaired by the Governor or his or
26 her designee, which designee shall be knowledgeable concerning surface
27 water and ground water issues. The Governor shall appoint one additional
28 member of his or her choosing and shall appoint the other three members
29 of the board from a list of no fewer than six nominees provided by the
30 Nebraska Natural Resources Commission within twenty days after request by
31 the Governor for a list of nominees.

1 (b) Not more than two members of the board shall reside in the
2 geographic area involved in the dispute. A person is not eligible for
3 membership on the board if the decisions to be made by the board would or
4 could cause financial benefit or detriment to the person, a member of his
5 or her immediate family, or a business with which the person is
6 associated, unless such benefit or detriment is indistinguishable from
7 the effects of such action on the public generally or a broad segment of
8 the public. The board shall be subject to the Open Meetings Act.

9 (c) For purposes of subsections (2) and (3) of this section, action
10 may be taken by a vote of three of the board's five members. For purposes
11 of subsections (4) and (5) of this section, action may be taken only by a
12 vote of at least four of the board's five members.

13 (2)(a) If the department ~~Department of Natural Resources~~ and the
14 affected natural resources districts cannot resolve disputes over the
15 content of a basin-wide plan or an integrated management plan by
16 utilizing the process described in sections 46-715 to 46-718, the
17 Governor shall be notified and the dispute submitted to the Interrelated
18 Water Review Board. When the board has been appointed and convened to
19 resolve disputes over a basin-wide plan, the department and each affected
20 district shall present their proposed basin-wide plans to the board. When
21 the board has been convened to resolve disputes over an integrated
22 management plan, the department and each affected natural resources
23 district shall present their (i) proposed goals and objectives for the
24 integrated management plan, (ii) proposed geographic area to be subject
25 to controls, and (iii) proposed surface water and ground water controls
26 and any proposed incentive program for adoption and implementation in the
27 river basin, subbasin, or reach involved. The department and each
28 affected natural resources district shall also be given adequate
29 opportunity to comment on the proposals made by the other parties to the
30 dispute.

31 (b) When the Interrelated Water Review Board concludes that the

1 issues in dispute have been fully presented and commented upon by the
2 parties to the dispute, which conclusion shall be made not more than
3 forty-five days after the board is convened, the board shall select the
4 proposals or portions of proposals that the board will consider for
5 adoption and shall schedule one or more public hearings to take testimony
6 on the selected proposals. The hearings shall be held within forty-five
7 days after the board's selection of proposals to consider for adoption
8 and shall be within or in reasonable proximity to the area that would be
9 affected by implementation of any of the proposals to be considered at
10 the hearings. Notice of the hearings shall be published as provided in
11 section 46-743. The cost of publishing the notice shall be shared by the
12 department and the affected natural resources districts. All interested
13 persons may appear at the hearings and present testimony or provide other
14 evidence relevant to the issues being considered.

15 (c) Within forty-five days after the final hearing pursuant to
16 subdivision (b) of this subsection, the Interrelated Water Review Board
17 shall by order, as applicable, adopt a basin-wide plan or an integrated
18 management plan for the affected river basin, subbasin, or reach and, in
19 the case of an integrated management plan, shall designate a ground water
20 management area for integrated management or an integrated management
21 subarea for such river basin, subbasin, or reach. An integrated
22 management plan shall be consistent with subsection (2) of section
23 46-715, and the surface water and ground water controls and any
24 applicable incentive programs adopted as part of that plan shall be
25 consistent with subsection (4) of section 46-715. The controls adopted by
26 the board shall not be substantially different from those described in
27 the notice of hearing. The area designated as a ground water management
28 area or an integrated management subarea shall not include any area that
29 was not identified in the notice of the hearing as within the area
30 proposed to be subject to the controls in the plan.

31 (d) The order adopted under this subsection shall be published in

1 the manner prescribed in section 46-744.

2 (e) Surface water controls adopted by the Interrelated Water Review
3 Board shall be implemented and enforced by the department. Ground water
4 controls adopted by the Interrelated Water Review Board shall be
5 implemented and enforced by the affected natural resources districts.

6 (3) Whether an integrated management plan is adopted pursuant to
7 section 46-718 or by the Interrelated Water Review Board pursuant to
8 subsection (2) of this section, the department or a natural resources
9 district responsible in part for implementation and enforcement of an
10 integrated management plan may propose modification of the goals or
11 objectives of that plan, of the area subject to the plan, or of the
12 surface water controls, ground water controls, or incentive programs
13 adopted to implement the plan. The department and the affected natural
14 resources districts shall utilize the procedures in sections 46-715 to
15 46-718 in an attempt to reach agreement on and to adopt and implement
16 proposed modifications. If agreement on such modifications cannot be
17 achieved utilizing those procedures, either the department or an affected
18 natural resources district may notify the Governor of the dispute. The
19 Interrelated Water Review Board shall be appointed and convened in
20 accordance with subsection (1) of this section to resolve the dispute
21 and, if applicable, to adopt any modifications utilizing the procedures
22 in subsection (2) of this section.

23 (4) The department and the affected natural resources districts may
24 also raise objections concerning the implementation or enforcement of
25 previously adopted surface water or ground water controls. The department
26 and the affected natural resources districts shall utilize the procedures
27 in sections 46-715 to 46-718 in an attempt to reach agreement on such
28 implementation or enforcement issues. If agreement on such issues cannot
29 be achieved utilizing such procedures, either the department or an
30 affected natural resources district may notify the Governor of the
31 dispute. The Interrelated Water Review Board shall be appointed and

1 convened in accordance with subsection (1) of this section. After
2 permitting each party to fully express its reasons for its position on
3 the disputed issues, the board may either take no action or conclude (a)
4 that one or more parties needs to modify its approach to implementation
5 or enforcement and direct that such modifications take place or (b) that
6 one or more parties either has not made a good faith effort to implement
7 or enforce the portion of the plan or controls for which it is
8 responsible or is unable to fully implement and enforce such portion and
9 that such party's jurisdiction with respect to implementation and
10 enforcement of the plan and controls shall be terminated and reassigned
11 to one or more of the other parties responsible for implementation and
12 enforcement. A decision by the Interrelated Water Review Board to
13 terminate and reassign jurisdiction of any portion of the plan or
14 controls shall take effect immediately upon that decision. Notice of such
15 reassignment shall be published at least once in one or more newspapers
16 as necessary to provide general circulation in the area affected by such
17 reassignment.

18 (5) The board may be reconvened in accordance with subsection (1) of
19 this section at a later date upon request to the Governor by the party
20 for which jurisdiction for implementation and enforcement was terminated
21 if such party desires to have its jurisdiction reinstated, but no such
22 request shall be honored until at least one year after the termination
23 and not more than once per year thereafter. The board may reinstate
24 jurisdiction to that party only upon a clear showing by such party that
25 it is willing and able to fully implement and enforce the plan and any
26 applicable controls. Notice that a party's jurisdiction has been
27 reinstated shall be provided in the same manner that notice of the
28 earlier termination was given.

29 **Sec. 178.** Section 46-720, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-720 (1) The Legislature finds that, prior to July 16, 2004,

1 actions were taken by the Department of Natural Resources as it existed
2 prior to July 1, 2025, and by one or more natural resources districts
3 pursuant to section 46-656.28, as such section existed immediately prior
4 to July 16, 2004 ~~such date~~, for the purpose of addressing circumstances
5 that are, after July 16, 2004 ~~such date~~, to be addressed in accordance
6 with sections 46-713 to 46-719. It is the intent of the Legislature that
7 actions taken pursuant to section 46-656.28, as such section existed
8 immediately prior to July 16, 2004, should not be negated and that
9 transition from the authorities and responsibilities granted by such
10 section to those granted by sections 46-713 to 46-719 should occur in as
11 efficient a manner as possible. Such transition shall be therefor
12 governed by subsections (2) through (5) of this section, and all
13 references in such subsections to section 46-656.28 shall be construed to
14 mean section 46-656.28 as such section existed immediately prior to July
15 16, 2004.

16 (2) If, prior to July 16, 2004, (a) a natural resources district
17 requested pursuant to subsection (1) of section 46-656.28 that affected
18 appropriators, affected surface water project sponsors, and the
19 department consult and that studies and a hearing be held but (b) the
20 Director of Natural Resources, as such position existed, ~~had~~ ~~has~~ not made
21 a preliminary determination relative to that request pursuant to
22 subsection (2) of section 46-656.28, no further action on the district's
23 request shall be required of the department. If under the same
24 circumstances a temporary suspension in the drilling of certain water
25 wells has been imposed by the district pursuant to subsection (16) of
26 section 46-656.28 and remains in effect immediately prior to July 16,
27 2004, such temporary suspension shall remain in effect for thirty days
28 after the department issues its first annual report under section 46-713,
29 except that (i) such temporary suspension shall not apply to water wells
30 for which a permit has been obtained pursuant to the Municipal and Rural
31 Domestic Ground Water Transfers Permit Act and (ii) to the extent any

1 such temporary suspension is in effect for all or part of a
2 hydrologically connected area for a river basin, subbasin, or reach
3 designated as overappropriated by the department, such temporary
4 suspension shall remain in effect only until it is superseded by the
5 stays imposed pursuant to subsections (8) and (9) of section 46-714. To
6 the extent that any such temporary suspension applies to a geographic
7 area preliminarily considered by the department to have ground water
8 hydrologically connected to the surface water of a fully appropriated
9 river basin, subbasin, or reach, such temporary suspension shall be
10 superseded by the stays imposed pursuant to subsections (1) and (2) of
11 section 46-714.

12 (3)(a) If prior to July 16, 2004, (i) the director has made a
13 preliminary determination pursuant to subsection (2) of section 46-656.28
14 that there is reason to believe that the use of hydrologically connected
15 ground water and surface water in a specific geographic area is
16 contributing to or is in the reasonably foreseeable future likely to
17 contribute to any conflict, dispute, or difficulty listed in such
18 subsection, (ii) the director has not made a determination pursuant to
19 subsection (4) of section 46-656.28 that a joint action plan should not
20 be prepared, and (iii) preparation of a joint action plan pursuant to
21 subsections (5) through (9) of such section has not been completed, the
22 geographic area involved shall become subject to sections 46-713 to
23 46-719 on July 16, 2004, and the department need not evaluate such
24 geographic area in its first annual report issued pursuant to section
25 46-713.

26 (b) For purposes of this subsection and section 46-714 and except as
27 otherwise provided in this section, (i) July 16, 2004, shall result in
28 the imposition in any geographic area subject to this subsection of the
29 stays required by subsections (1) and (2) of section 46-714, (ii) such
30 stays shall be imposed in the manner required by such section, and (iii)
31 July 16, 2004, shall be treated as if it were the date of a departmental

1 preliminary determination pursuant to section 46-713 that such area is a
2 geographic area within which ground water and surface water of a fully
3 appropriated river basin, subbasin, or reach are hydrologically
4 connected. Notwithstanding the other provisions of this subsection, if a
5 temporary suspension in the drilling of certain new water wells has
6 previously been imposed by the affected natural resources district, (A)
7 the stays on construction of new water wells and on the increase in
8 ground water irrigated acres shall be limited in geographic extent to
9 only that part of the affected area within which the temporary suspension
10 was in effect unless the director determines that inclusion of additional
11 area is necessary because ground water and surface water are
12 hydrologically connected in such additional area and (B) the stays on
13 construction of certain new water wells shall not apply to a water well
14 constructed in accordance with the terms of a water well construction
15 permit approved by the district prior to July 16, 2004, unless such well
16 was subject to the district's temporary suspension. If, prior to July 16,
17 2004, the director has held a hearing on a report issued pursuant to
18 subsection (3) of section 46-656.28 but has not yet determined whether a
19 joint action plan should be prepared, no departmental hearing shall be
20 required pursuant to subsection (4) of section 46-714 before a final
21 determination is made about whether the river basin, subbasin, or reach
22 involved is fully appropriated. If, prior to July 16, 2004, the director
23 has determined pursuant to subsection (4) of section 46-656.28 that a
24 joint action plan should be prepared, such determination shall have the
25 same effect as a final departmental determination pursuant to subsection
26 (5) of section 46-714 that the affected river basin, subbasin, or reach
27 is fully appropriated and no separate determination to that effect shall
28 be required. If, after July 16, 2004, the department determines that all
29 or part of the area subject to this subsection is in an overappropriated
30 river basin, subbasin, or reach, that portion of the area shall
31 thereafter be subject to the provisions of the Nebraska Ground Water

1 Management and Protection Act applicable to an overappropriated river
2 basin, subbasin, or reach and stays that have previously taken effect in
3 accordance with this subsection shall continue in effect as stays for an
4 overappropriated river basin, subbasin, or reach without additional
5 action or publication of notice by the department. Any temporary
6 suspension in the drilling of certain water wells that has been imposed
7 in the geographic area involved by a natural resources district pursuant
8 to subsection (16) of section 46-656.28 prior to July 16, 2004, shall
9 remain in effect until superseded by the stays imposed pursuant to
10 subsections (1) and (2) of section 46-714.

11 (4) If, prior to July 16, 2004, preparation of a joint action plan
12 has been completed pursuant to subsections (5) through (9) of section
13 46-656.28 but the plan has not yet been adopted pursuant to subsection
14 (11) of such section, the department need not evaluate the affected
15 geographic area in its first annual report issued pursuant to section
16 46-713. The department and the affected natural resources district shall
17 review the completed joint action plan for its compliance with sections
18 46-715 to 46-717. If the joint action plan is determined to be in
19 compliance with sections 46-715 to 46-717 or if agreement is reached on
20 the revisions necessary to bring it into such compliance, the department
21 and the district shall adopt the plan and implement the controls as
22 provided in section 46-718. If the joint action plan is determined not to
23 be in compliance with sections 46-715 to 46-717 and agreement on the
24 proposed plan or the proposed controls cannot be reached pursuant to
25 section 46-718, section 46-719 shall apply. Except to the extent that any
26 portion of the affected area is designated as all or part of an
27 overappropriated river basin, subbasin, or reach, any temporary
28 suspension in the drilling of certain water wells imposed in the affected
29 geographic area by a natural resources district pursuant to subsection
30 (16) of section 46-656.28 shall remain in effect until (a) the department
31 and the affected district have jointly decided to implement the plan,

1 with or without modifications, and controls have been adopted and taken
2 effect or (b) the Interrelated Water Review Board, pursuant to section
3 46-719, has adopted an integrated management plan for the affected river
4 basin, subbasin, or reach and the controls adopted by the board have
5 taken effect. To the extent that any portion of the affected area is
6 designated as all or part of an overappropriated river basin, subbasin,
7 or reach, any temporary suspension in the drilling of water wells shall
8 be superseded by the stays imposed pursuant to subsections (8) and (9) of
9 section 46-714.

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

22 **Sec. 179.** Section 46-721, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-721 Each state agency and political subdivision shall promptly
25 report to the department ~~Department of Environment and Energy~~ any
26 information which indicates that contamination is occurring.

27 **Sec. 180.** Section 46-722, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-722 If, as a result of information provided pursuant to section
30 46-721 or studies conducted by or otherwise available to the department
31 ~~Department of Environment and Energy~~ and following preliminary

1 investigation, the director ~~Director of Environment and Energy~~ makes a
2 preliminary determination (1) that there is reason to believe that
3 contamination of ground water is occurring or likely to occur in an area
4 of the state in the reasonably foreseeable future and (2) that the
5 natural resources district or districts in which the area is located have
6 not designated a management area or have not implemented adequate
7 controls to prevent such contamination from occurring, the department
8 shall, in cooperation with any appropriate state agency and district,
9 conduct a study to determine the source or sources of the contamination
10 and the area affected by such contamination and shall issue a written
11 report within one year of the initiation of the study. During the study,
12 the department shall consider the relevant water quality portions of the
13 management plan developed by each district pursuant to sections 46-709 to
14 46-711, whether the district has designated a management area
15 encompassing the area studied, and whether the district has adopted any
16 controls for the area.

17 **Sec. 181.** Section 46-723, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-723 If the director ~~Director of Environment and Energy~~ determines
20 from the study conducted pursuant to section 46-722 that one or more
21 sources of contamination are point sources, he or she shall expeditiously
22 use the procedures authorized in the Environmental Protection Act to
23 stabilize or reduce the level and prevent the increase or spread of such
24 contamination.

25 **Sec. 182.** Section 46-724, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-724 If the director ~~Director of Environment and Energy~~ determines
28 from the study conducted pursuant to section 46-722 that one or more
29 sources of contamination are not point sources and if a management area,
30 a purpose of which is protection of water quality, has been established
31 which includes the affected area, the director ~~Director of Environment~~

1 ~~and Energy~~ shall consider whether to require the district which
2 established the management area to adopt an action plan as provided in
3 sections 46-725 to 46-729.

4 If the director ~~Director of Environment and Energy~~ determines that
5 one or more of the sources are not point sources and if such a management
6 area has not been established or does not include all the affected area,
7 he or she shall, within thirty days after completion of the report
8 required by section 46-722, consult with the district within whose
9 boundaries the area affected by such contamination is located and fix a
10 time and place for a public hearing to consider the report, hear any
11 other evidence, and secure testimony on whether a management area should
12 be designated or whether an existing area should be modified. The hearing
13 shall be held within one hundred twenty days after completion of the
14 report. Notice of the hearing shall be given as provided in section
15 46-743, and the hearing shall be conducted in accordance with such
16 section.

17 At the hearing, all interested persons shall be allowed to appear
18 and present testimony. The Conservation and Survey Division of the
19 University of Nebraska, the Department of Health and Human Services, ~~the~~
20 ~~Department of Natural Resources,~~ and the appropriate district may offer
21 as evidence any information in their possession which they deem relevant
22 to the purpose of the hearing. After the hearing and after any studies or
23 investigations conducted by or on behalf of the director ~~Director of~~
24 ~~Environment and Energy~~ as he or she deems necessary, the director shall
25 determine whether a management area shall be designated.

26 **Sec. 183.** Section 46-725, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 46-725 (1) When determining whether to designate or modify the
29 boundaries of a management area or to require a district which has
30 established a management area, a purpose of which is protection of water
31 quality, to adopt an action plan for the affected area, the director

1 ~~Director of Environment and Energy~~ shall consider:

2 (a) Whether contamination of ground water has occurred or is likely
3 to occur in the reasonably foreseeable future;

4 (b) Whether ground water users, including, but not limited to,
5 domestic, municipal, industrial, and agricultural users, are experiencing
6 or will experience within the foreseeable future substantial economic
7 hardships as a direct result of current or reasonably anticipated
8 activities which cause or contribute to contamination of ground water;

9 (c) Whether methods are available to stabilize or reduce the level
10 of contamination;

11 (d) Whether, if a management area has been established which
12 includes the affected area, the controls adopted by the district pursuant
13 to section 46-739 as administered and enforced by the district are
14 sufficient to address the ground water quality issues in the management
15 area; and

16 (e) Administrative factors directly affecting the ability to
17 implement and carry out regulatory activities.

18 (2) If the director ~~Director of Environment and Energy~~ determines
19 that no such area should be established, he or she shall issue an order
20 declaring that no management area shall be designated.

21 (3) If the director ~~Director of Environment and Energy~~ determines
22 that a management area shall be established, that the boundaries of an
23 existing management area shall be modified, or that the district shall be
24 required to adopt an action plan, he or she shall consult with relevant
25 state agencies and with the district or districts affected and determine
26 the boundaries of the area, taking into account the effect on political
27 subdivisions and the socioeconomic and administrative factors directly
28 affecting the ability to implement and carry out local ground water
29 management, control, and protection. The report by the director ~~Director
30 of Environment and Energy~~ shall include the specific reasons for the
31 creation of the management area or the requirement of such an action plan

1 and a full disclosure of the possible causes.

2 (4) When the boundaries of an area have been determined or modified,
3 the director ~~Director of Environment and Energy~~ shall issue an order
4 designating the area as a management area, specifying the modified
5 boundaries of the management area, or requiring such an action plan. Such
6 an order shall include a geographic and stratigraphic definition of the
7 area. Such order shall be published in the manner provided in section
8 46-744.

9 **Sec. 184.** Section 46-726, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-726 (1) Within one hundred eighty days after the designation of a
12 management area or the requiring of an action plan for a management area,
13 a purpose of which is protection of water quality, the district or
14 districts within whose boundaries the area is located shall prepare an
15 action plan designed to stabilize or reduce the level and prevent the
16 increase or spread of ground water contamination. Whenever a management
17 area or the affected area of such a management area encompasses portions
18 of two or more districts, the responsibilities and authorities delegated
19 in this section shall be exercised jointly and uniformly by agreement of
20 the respective boards of all districts so affected.

21 (2) Within thirty days after an action plan has been prepared, a
22 public hearing on such plan shall be held by the district. Notice of the
23 hearing shall be given as provided in section 46-743, and the hearing
24 shall be conducted in accordance with such section.

25 (3) Within thirty days after the hearing, the district shall adopt
26 and submit an action plan to the department ~~Department of Environment and~~
27 ~~Energy~~. Notice of the district's order adopting an action plan shall be
28 published as required by section 46-744.

29 **Sec. 185.** Section 46-728, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-728 (1) In adopting or amending an action plan authorized by

1 subsection (2) of this section, the district's considerations shall
2 include, but not be limited to, whether it reasonably appears that such
3 action will mitigate or eliminate the condition which led to designation
4 of the management area or the requirement of an action plan for a
5 management area or will improve the administration of the area.

6 (2) The director ~~Director of Environment and Energy~~ shall approve or
7 deny the adoption or amendment of an action plan within one hundred
8 twenty days after the date the plan is submitted by the district. He or
9 she may hold a public hearing to consider testimony regarding the action
10 plan prior to the issuance of an order approving or disapproving the
11 adoption or amendment. In approving the adoption or amendment of the plan
12 in such an area, considerations shall include, but not be limited to,
13 those enumerated in subsection (1) of this section.

14 (3) If the director denies approval of an action plan by the
15 district, the order shall list the reason the action plan was not
16 approved. A district may submit a revised action plan within sixty days
17 after denial of its original action plan to the director for approval
18 subject to section 46-731.

19 **Sec. 186.** Section 46-729, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-729 Following approval of the action plan by the director
22 ~~Director of Environment and Energy~~, the district shall cause a copy of
23 the order adopted pursuant to section 46-728 to be published in the
24 manner provided in section 46-744.

25 **Sec. 187.** Section 46-730, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-730 Each district in which a management area has been designated
28 or an action plan for a management area has been required pursuant to
29 section 46-725 shall, in cooperation with the department ~~Department of~~
30 ~~Environment and Energy~~, establish a program to monitor the quality of the
31 ground water in the area and shall if appropriate provide each landowner

1 or operator of an irrigation system with current information available
2 with respect to fertilizer and chemical usage for the specific soil types
3 present and cropping patterns used.

4 **Sec. 188.** Section 46-731, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-731 (1) The power to specify controls authorized by section
7 46-739 shall vest in the director ~~Director of Environment and Energy~~ if
8 (a) at the end of one hundred eighty days following the designation of a
9 management area or the requiring of an action plan for a management area
10 pursuant to section 46-725, a district encompassed in whole or in part by
11 the management area has not completed and adopted an action plan, (b) a
12 district does not submit a revised action plan within sixty days after
13 denial of its original action plan, or (c) the district submits a revised
14 action plan which is not approved by the director.

15 (2) If the power to specify controls in such a management area is
16 vested in the director ~~Director of Environment and Energy~~, he or she
17 shall within ninety days adopt and promulgate by rule and regulation such
18 measures as he or she deems necessary for carrying out the intent of the
19 Nebraska Ground Water Management and Protection Act. He or she shall
20 conduct one or more public hearings prior to the adoption of controls.
21 Notice of any such additional hearings shall be given in the manner
22 provided in section 46-743. The enforcement of controls adopted pursuant
23 to this section shall be the responsibility of the department ~~Department~~
24 ~~of Environment and Energy~~.

25 **Sec. 189.** Section 46-732, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 46-732 The controls in the action plan approved by the director
28 ~~Director of Environment and Energy~~ pursuant to section 46-728 shall be
29 exercised by the district for the period of time necessary to stabilize
30 or reduce the level of contamination and prevent the increase or spread
31 of ground water contamination. An action plan may be amended by the same

1 method utilized in the adoption of the action plan.

2 **Sec. 190.** Section 46-733, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-733 A district may petition the director ~~Director of Environment~~
5 ~~and Energy~~ to remove the director's designation of the area as a
6 management area or the requirement of an action plan for a management
7 area or to modify the boundaries of a management area designated pursuant
8 to section 46-725. If the director determines that the level of
9 contamination in a management area has stabilized at or been reduced to a
10 level which is not detrimental to beneficial uses of ground water, he or
11 she may remove the designation or action plan requirement or modify the
12 boundaries of the management area.

13 **Sec. 191.** Section 46-736, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-736 An application for a permit or late permit for a water well
16 in a management area shall be denied only if the district in which the
17 water well is to be located finds (1) that the location or operation of
18 the proposed water well or other work would conflict with any regulations
19 or controls adopted by the district, (2) that the proposed use would not
20 be a beneficial use of water, or (3) in the case of a late permit only,
21 that the applicant did not act in good faith in failing to obtain a
22 timely permit.

23 If the district finds that the application is incomplete or
24 defective, it shall return the application for correction. If the
25 correction is not made within sixty days, the application shall be
26 canceled. All permits shall be issued with or without conditions attached
27 or denied not later than thirty days after receipt by the district of a
28 complete and properly prepared application.

29 A permit issued shall specify all regulations and controls adopted
30 by a district relevant to the construction or utilization of the proposed
31 water well. No refund of any application fees shall be made regardless of

1 whether the permit is issued, canceled, or denied. The district shall
2 transmit one copy of each permit issued to the director ~~Director~~ of
3 ~~Natural Resources~~.

4 **Sec. 192.** Section 46-737, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 46-737 The issuance by the district of a permit pursuant to section
7 46-736 or registration of a water well by the director ~~Director~~ of
8 ~~Natural Resources~~ pursuant to section 46-602 shall not vest in any person
9 the right to violate any district rule, regulation, or control in effect
10 on the date of issuance of the permit or the registration of the water
11 well or to violate any rule, regulation, or control properly adopted
12 after such date.

13 **Sec. 193.** Section 46-739, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-739 (1) A district in which a management area has been designated
16 shall by order adopt one or more of the following controls for the
17 management area:

18 (a) It may allocate the amount of ground water that may be withdrawn
19 by ground water users;

20 (b) It may adopt a system of rotation for use of ground water;

21 (c) It may adopt well-spacing requirements more restrictive than
22 those found in sections 46-609 and 46-651;

23 (d) It may require the installation of devices for measuring ground
24 water withdrawals from water wells;

25 (e) It may adopt a system which requires reduction of irrigated
26 acres pursuant to subsection (2) of section 46-740;

27 (f) It may limit or prevent the expansion of irrigated acres or
28 otherwise limit or prevent increases in the consumptive use of ground
29 water withdrawals from water wells used for irrigation or other
30 beneficial purposes;

31 (g) It may require the use of best management practices;

1 (h) It may require the analysis of water or deep soils for
2 fertilizer and chemical content;

3 (i) It may impose mandatory educational requirements designed to
4 protect water quality or to stabilize or reduce the incidence of ground
5 water depletion, conflicts between ground water users and surface water
6 appropriators, disputes over interstate compacts or decrees, or
7 difficulties fulfilling the provisions of other formal state contracts or
8 agreements;

9 (j) It may require water quality monitoring and reporting of results
10 to the district for all water wells within all or part of the management
11 area;

12 (k) It may require district approval of (i) transfers of ground
13 water off the land where the water is withdrawn, (ii) transfers of rights
14 to use ground water that result from district allocations imposed
15 pursuant to subdivision (1)(a) of this section or from other restrictions
16 on use that are imposed by the district in accordance with this section,
17 (iii) transfers of certified water uses or certified irrigated acres
18 between landowners or other persons, or (iv) transfers of certified water
19 uses or certified irrigated acres between parcels or tracts under the
20 control of a common landowner or other person. Such approval may be
21 required whether the transfer is within the management area, from inside
22 to outside the management area, or from outside to inside the management
23 area, except that transfers for which permits have been obtained from the
24 Department of Natural Resources, as it existed, prior to July 16, 2004,
25 or pursuant to the Municipal and Rural Domestic Ground Water Transfers
26 Permit Act shall not be subject to district approval pursuant to this
27 subdivision. If the district adopts rules and regulations pursuant to
28 this subdivision, such regulations shall require that the district deny
29 or condition the approval of any such transfer when and to the extent
30 such action is necessary to (A) ensure the consistency of the transfer
31 with the purpose or purposes for which the management area was

1 designated, (B) prevent adverse effects on other ground water users or on
2 surface water appropriators, (C) prevent adverse effects on the state's
3 ability to comply with an interstate compact or decree or to fulfill the
4 provisions of any other formal state contract or agreement, and (D)
5 otherwise protect the public interest and prevent detriment to the public
6 welfare. Approval of any transfer of certified water uses or certified
7 irrigated acres under subdivision (1)(k)(iii) or (iv) of this section
8 shall further be subject to the district having complied with the
9 requirements of section 46-739.01;

10 (l) It may require, when conditions so permit, that new or
11 replacement water wells to be used for domestic or other purposes shall
12 be constructed to such a depth that they are less likely to be affected
13 by seasonal water level declines caused by other water wells in the same
14 area;

15 (m) It may close all or a portion of the management area to the
16 issuance of additional permits or may condition the issuance of
17 additional permits on compliance with other rules and regulations adopted
18 and promulgated by the district to achieve the purpose or purposes for
19 which the management area was designated; and

20 (n) It may adopt and promulgate such other reasonable rules and
21 regulations as are necessary to carry out the purpose for which a
22 management area was designated.

23 (2) In adopting, amending, or repealing any control authorized by
24 subsection (1) of this section or sections 46-740 and 46-741, the
25 district's considerations shall include, but not be limited to, whether
26 it reasonably appears that such action will mitigate or eliminate the
27 condition which led to designation of the management area or will improve
28 the administration of the area.

29 (3) Upon request by the district or when any of the controls being
30 proposed are for the purpose of integrated management of hydrologically
31 connected ground water and surface water, the director ~~Director~~ of

1 ~~Natural Resources~~ shall review and comment on the adoption, amendment, or
2 repeal of any authorized control in a management area. The director may
3 hold a public hearing to consider testimony regarding the control prior
4 to commenting on the adoption, amendment, or repeal of the control. The
5 director shall consult with the district and fix a time, place, and date
6 for such hearing. In reviewing and commenting on an authorized control in
7 a management area, the director's considerations shall include, but not
8 be limited to, those enumerated in subsection (2) of this section.

9 (4) If because of varying ground water uses, varying surface water
10 uses, different irrigation distribution systems, or varying climatic,
11 hydrologic, geologic, or soil conditions existing within a management
12 area the uniform application throughout such area of one or more controls
13 would fail to carry out the intent of the Nebraska Ground Water
14 Management and Protection Act in a reasonably effective and equitable
15 manner, the controls adopted by the district pursuant to this section may
16 contain different provisions for different categories of ground water use
17 or portions of the management area which differ from each other because
18 of varying climatic, hydrologic, geologic, or soil conditions. Any
19 differences in such provisions shall recognize and be directed toward
20 such varying ground water uses or varying conditions. Except as otherwise
21 provided in this section, if the district adopts different controls for
22 different categories of ground water use, those controls shall be
23 consistent with section 46-613 and shall, for each such category, be
24 uniform for all portions of the area which have substantially similar
25 climatic, hydrologic, geologic, and soil conditions.

26 (5) The district may establish different water allocations for
27 different irrigation distribution systems.

28 (6)(a) The district may establish different provisions for different
29 hydrologic relationships between ground water and surface water.

30 (b) For management areas a purpose of which is the integrated
31 management of hydrologically connected ground water and surface water,

1 the district may establish different provisions for water wells either
2 permitted or constructed before the designation of a management area for
3 integrated management of hydrologically connected ground water and
4 surface water and for water wells either permitted or constructed on or
5 after the designation date or any other later date or dates established
6 by the district. Permits for construction of new wells not completed by
7 the date of the determination of fully appropriated shall be subject to
8 any conditions imposed by the applicable natural resources district.

9 (c) For a management area in a river basin or part of a river basin
10 that is or was the subject of litigation over an interstate water compact
11 or decree in which the State of Nebraska is a named defendant, the
12 district may establish different provisions for restriction of water
13 wells constructed after January 1, 2001, if such litigation was commenced
14 before or on May 22, 2001. If such litigation is commenced after May 22,
15 2001, the district may establish different provisions for restriction of
16 water wells constructed after the date on which such litigation is
17 commenced in federal court. An appeal from a decision of the district
18 under this subdivision shall be in accordance with the hearing procedures
19 established in the Nebraska Ground Water Management and Protection Act.

20 (d) Except as otherwise authorized by law, the district shall make a
21 replacement water well as defined in section 46-602, or as further
22 defined in district rules and regulations, subject to the same provisions
23 as the water well it replaces.

24 (7) If the district has included controls delineated in subdivision
25 (1)(m) of this section in its management plan, but has not implemented
26 such controls within two years after the initial public hearing on the
27 controls, the district shall hold a public hearing, as provided in
28 section 46-712, regarding the controls before implementing them.

29 (8) In addition to the controls listed in subsection (1) of this
30 section, a district in which a management area has been designated may
31 also adopt and implement one or more of the following measures if it

1 determines that any such measures would help the district and water users
2 achieve the goals and objectives of the management area: (a) It may
3 sponsor nonmandatory educational programs; and (b) it may establish and
4 implement financial or other incentive programs. As a condition for
5 participation in an incentive program, the district may require water
6 users or landowners to enter into and perform such agreements or
7 covenants concerning the use of land or water as are necessary to produce
8 the benefits for which the incentive program is established and shall
9 further condition participation upon satisfaction of the requirements of
10 section 46-739.01.

11 **Sec. 194.** Section 46-740, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 46-740 (1) If allocation is adopted for use of ground water for
14 irrigation purposes in a management area, the permissible withdrawal of
15 ground water shall be allocated equally per irrigated acre except as
16 permitted by subsections (4) through (6) of section 46-739. Such
17 allocation shall specify the total number of acre-inches that are
18 allocated per irrigated acre per year, except that the district may allow
19 a ground water user to average his or her allocation over any reasonable
20 period of time. A ground water user may use his or her allocation on all
21 or any part of the irrigated acres to which the allocation applies or in
22 any other manner approved by the district.

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

31 (3) Unless an integrated management plan, a rule, or an order is

1 established, adopted, or issued prior to November 1, 2005, no integrated
2 management plan, rule, or order shall limit the use of ground water by a
3 municipality, within an area determined by the ~~department~~ Department of
4 ~~Natural Resources~~ to be fully appropriated pursuant to section 46-714 or
5 designated as overappropriated pursuant to section 46-713, until January
6 1, 2026, except that:

7 (a) Any allocations to a municipality that have been made as of
8 November 1, 2005, shall remain in full force and effect unless changed by
9 the appropriate natural resources district;

10 (b)(i) For any municipality that has not received an allocation as
11 of November 1, 2005, the minimum annual allocation may be the greater of
12 either the amount of ground water authorized by a permit issued pursuant
13 to the Municipal and Rural Domestic Ground Water Transfers Permit Act or
14 the governmental, commercial, and industrial uses of the municipality
15 plus a per capita allowance. Water for commercial and industrial uses may
16 be limited as specified in subdivision (b)(iii) of this subsection.

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

25 (iii) Prior to January 1, 2026, any new or expanded single
26 commercial or single industrial development served by any municipality
27 within the fully appropriated or overappropriated area which, after July
28 14, 2006, commences water use resulting in the consumptive use of water
29 in amounts greater than twenty-five million gallons annually may be
30 subject to controls adopted pursuant to section 46-715;

31 (c) Prior to January 1, 2026, increases in the consumptive use of

1 water by a municipality that result in a decrease in streamflow shall be
2 addressed by the integrated management plan pursuant to controls or
3 incentive programs adopted pursuant to section 46-715 and shall not
4 affect the municipal allocations outlined in subdivisions (3)(a) and (b)
5 of this section. Any permanent reduction in consumptive use of water
6 associated with municipal growth, including governmental, industrial, and
7 commercial growth, during the period between July 14, 2006, and January
8 1, 2026, shall accrue to the benefit of the natural resources district
9 within which such municipality is located; and

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

17 (4) On and after January 1, 2026, the base amount for an annual
18 allocation to a municipality shall be determined as the greater of either
19 (a) the amount of water authorized by a permit issued pursuant to the
20 Municipal and Rural Domestic Ground Water Transfers Permit Act or (b) the
21 greatest annual use prior to January 1, 2026, for uses specified in
22 subdivision (3)(b) of this section plus the per capita allowance
23 described in subdivision (3)(b)(ii) of this section. On and after January
24 1, 2026, increases in the consumptive use of water by a municipality that
25 result in a decrease in streamflow shall be addressed by the integrated
26 management plan pursuant to controls or incentive programs adopted
27 pursuant to section 46-715. Each municipality may be subject to controls
28 adopted pursuant to such section for amounts in excess of the
29 allocations.

30 (5) Unless an integrated management plan, rule, or order is
31 established, adopted, or issued prior to November 1, 2005, no integrated

1 management plan, rule, or order shall limit the use of ground water by a
2 nonmunicipal commercial or industrial water user within an area
3 determined by the department to be fully appropriated pursuant to section
4 46-714 or designated as overappropriated pursuant to section 46-713,
5 until January 1, 2026, except that:

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

16 (b) Prior to January 1, 2026, any new or expanded single commercial
17 or industrial development served by a nonmunicipal well within an area
18 determined by the department to be fully appropriated pursuant to section
19 46-714 or designated as overappropriated pursuant to section 46-713
20 which, after July 14, 2006, commences water use resulting in the
21 consumptive use of water in amounts greater than twenty-five million
22 gallons annually may be subject to controls adopted pursuant to section
23 46-715. This subdivision does not apply to a water user described in this
24 subdivision that is regulated by the Industrial Ground Water Regulatory
25 Act and the United States Nuclear Regulatory Commission;

26 (c) On and after January 1, 2026, the base amount for an annual
27 allocation to a nonmunicipal commercial or industrial user within an area
28 determined by the department to be fully appropriated pursuant to section
29 46-714 or designated as overappropriated pursuant to section 46-713 shall
30 be the amount specified in subdivision (5)(a) or (b) of this section;

31 (d) On and after January 1, 2026, increases in the consumptive use

1 of water by a nonmunicipal commercial or industrial water user that
2 result in a decrease in streamflow shall be addressed by the integrated
3 management plan pursuant to controls or incentive programs adopted
4 pursuant to section 46-715; and

5 (e) Any reduction in consumptive use associated with new
6 nonmunicipal industrial or commercial uses of less than twenty-five
7 million gallons, during the period between July 14, 2006, and January 1,
8 2026, shall accrue to the benefit of the natural resources district
9 within which such nonmunicipal industrial or commercial user is located.

10 **Sec. 195.** Section 46-742, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-742 (1) Whenever the drilling of new wells has been stayed
13 pursuant to section 46-714, ground water withdrawn outside the affected
14 area shall not be transported for use inside such area unless (a) such
15 withdrawal and transport began before the stay took effect, (b) the water
16 is used solely for domestic purposes, or (c) such withdrawal and
17 transport is approved in advance by the district in which the stay is in
18 effect and, if the water is withdrawn in another natural resources
19 district, by the other district.

20 (2) Whenever a natural resources district pursuant to subdivision
21 (1)(m) of section 46-739 has closed all or part of the district to the
22 issuance of additional well permits, ground water withdrawn outside the
23 affected area shall not be transported for use inside such area unless
24 (a) such withdrawal and transport began before the affected area was
25 closed to the issuance of additional well permits, (b) the water is used
26 solely for domestic purposes, or (c) such withdrawal and transport is
27 approved in advance by the district that closed the affected area to
28 additional well permits and, if the water is withdrawn in another natural
29 resources district, by the other district.

30 (3) If a proposed withdrawal and transport of water under subsection
31 (1) or (2) of this section is intended for municipal purposes, the

1 natural resources district shall approve the withdrawal and transport of
2 ground water into the affected area when a public water supplier
3 providing water for municipal purposes receives a permit from the
4 ~~department Department of Natural Resources~~ pursuant to the Municipal and
5 Rural Domestic Ground Water Transfers Permit Act.

6 **Sec. 196.** Section 46-743, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-743 Any public hearing required under the Nebraska Ground Water
9 Management and Protection Act shall comply with the following
10 requirements:

11 (1) The hearing shall be located within or in reasonable proximity
12 to the area proposed for designation as a management area or affected by
13 the proposed rule or regulation;

14 (2) Notice of the hearing shall be published in a newspaper
15 published or of general circulation in the affected area at least once
16 each week for three consecutive weeks, the last publication of which
17 shall be not less than seven days prior to the hearing;

18 (3) As to the designation of a management area, adoption or
19 amendment of an action plan or integrated management plan, or adoption or
20 amendment of controls, the notice shall provide, as applicable, a general
21 description of (a) the contents of the plan, (b) the geographic area
22 which will be considered for inclusion in the management area, and (c) a
23 general description of all controls proposed for adoption or amendment
24 and shall identify all locations where a copy of the full text of the
25 proposed plan or controls may be obtained;

26 (4) For all other rules and regulations, the notice shall provide a
27 general description of the contents of the rules and regulations proposed
28 for adoption or amendment and shall identify all locations where a copy
29 of the full text of the proposed rules and regulations may be obtained;

30 (5) The full text of all controls, rules, or regulations shall be
31 available to the public upon request not later than the date of first

1 publication;

2 (6) All interested persons shall be allowed to appear and present
3 testimony; and

4 (7) The hearing shall include testimony of a representative of the
5 ~~department Department of Natural Resources and, if the primary purpose of~~
6 ~~the proposed management area is protection of water quality, testimony of~~
7 ~~a representative of the Department of Environment and Energy~~ and shall
8 include the results of any relevant water quality studies or
9 investigations conducted by the district.

10 **Sec. 197.** Section 46-745, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-745 (1) Any person who violates a cease and desist order issued
13 by a district pursuant to section 46-707 shall be subject to a civil
14 penalty of not less than one thousand dollars and not more than five
15 thousand dollars for each day an intentional violation occurs. In
16 assessing the amount of the civil penalty, the court shall consider the
17 degree and extent of the violation, the size of the operation, whether
18 the violator has been previously convicted or subjected to a civil
19 penalty under this section, and any economic benefit derived from
20 noncompliance. Any civil penalty assessed and unpaid shall constitute a
21 debt to the state which may be collected in the manner of a lien
22 foreclosure or sued for and recovered in a proper form of action in the
23 name of the state in the district court of the county in which the
24 violator resides or owns property. The court shall remit the civil
25 penalty to the State Treasurer, within thirty days after receipt, for
26 distribution in accordance with Article VII, section 5, of the
27 Constitution of Nebraska ~~The court shall, within thirty days after~~
28 ~~receipt, remit the civil penalty to the State Treasurer for credit to the~~
29 ~~permanent school fund.~~

30 (2)(a) Prior to issuing a cease and desist order against a public
31 water supplier as defined in section 46-638, the district shall consult

1 with the Attorney General. If the Attorney General determines that the
2 district does not have sufficient grounds to issue a cease and desist
3 order, the district shall abide by such determination and shall not issue
4 a cease and desist order. The Attorney General shall have exclusive
5 authority to enforce actions under this subsection.

6 (b) Any determination as to whether a water well is properly
7 registered under sections 46-602 to 46-604 or whether a water well is
8 properly permitted under the Municipal and Rural Domestic Ground Water
9 Transfers Permit Act shall be made by the department ~~Department~~ of
10 ~~Natural Resources~~.

11 (3) When the Attorney General, a county attorney, or a private
12 attorney brings an action on behalf of a district to recover a civil
13 penalty under this section, the district shall recover the costs of the
14 action if a civil penalty is awarded. Any recovered costs of the action
15 shall be: (a) Remitted to the State Treasurer for credit to the
16 Department of Justice Natural Resources Enforcement Fund if the action is
17 brought by the Attorney General; (b) credited to the applicable county
18 fund if the action is brought by the county attorney; and (c) remitted to
19 the district if the action is brought by the district's private attorney.

20 (4) The Department of Justice Natural Resources Enforcement Fund is
21 created. The fund shall consist of money credited pursuant to subsection
22 (3) of this section. Money in the fund shall be used to reimburse the
23 office of the Attorney General for the costs incurred in enforcing this
24 section. Any money in the fund available for investment shall be invested
25 by the state investment officer pursuant to the Nebraska Capital
26 Expansion Act and the Nebraska State Funds Investment Act.

27 **Sec. 198.** Section 46-746, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-746 (1) Any person who violates any cease and desist order issued
30 by a district pursuant to section 46-707 or any controls, rules, or
31 regulations adopted by a natural resources district relating to a

1 management area shall be subject to the imposition of penalties imposed
2 through the controls adopted by the district, including, but not limited
3 to, having any allocation of water granted or irrigated acres certified
4 by the district reduced in whole or in part. Before a district takes any
5 action, notice and hearing shall be provided to such person.

6 (2) Any person who violates any of the provisions of sections 46-721
7 to 46-733 for which a penalty is not otherwise provided, other than the
8 requirements imposed on a district, the Chief Water Officer of the
9 Department of Water, Energy, and Environment ~~Director of Natural~~
10 ~~Resources~~, or the ~~department~~ Department of Natural Resources, shall be
11 subject to a civil penalty of not more than five hundred dollars. Each
12 day of continued violation shall constitute a separate offense.

13 **Sec. 199.** Section 46-748, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 46-748 The director ~~Director of Natural Resources~~ shall adopt and
16 promulgate, in accordance with the Administrative Procedure Act, such
17 rules and regulations as are necessary to the discharge of duties
18 assigned to the director or the ~~department~~ Department of Natural
19 ~~Resources~~ by the Nebraska Ground Water Management and Protection Act.

20 **Sec. 200.** Section 46-749, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-749 In the administration of the Nebraska Ground Water Management
23 and Protection Act, all actions of the director, the Chief Water Officer,
24 ~~Director of Environment and Energy, the Director of Natural Resources,~~
25 and the districts shall be consistent with the provisions of section
26 46-613.

27 **Sec. 201.** Section 46-750, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 46-750 Any person aggrieved by any order of the district or ~~the~~
30 director ~~Director of Environment and Energy, or the Director of Natural~~
31 ~~Resources~~ issued pursuant to the Nebraska Ground Water Management and

1 Protection Act may appeal the order. The appeal shall be in accordance
2 with the Administrative Procedure Act.

3 **Sec. 202.** Section 46-751, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 46-751 All fees paid to the director ~~Director of Natural Resources~~
6 pursuant to the Nebraska Ground Water Management and Protection Act shall
7 be remitted to the State Treasurer for credit to the Ground Water
8 Management Fund which is hereby created and which shall be administered
9 by the director. Any money credited to the fund may be utilized by the
10 director for payments of expenses incurred in the administration of the
11 act. Any money in the fund available for investment shall be invested by
12 the state investment officer pursuant to the Nebraska Capital Expansion
13 Act and the Nebraska State Funds Investment Act.

14 **Sec. 203.** Section 46-753, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-753 (1) The Water Resources Trust Fund is created. The State
17 Treasurer shall credit to the fund such money as is specifically
18 appropriated thereto by the Legislature, transfers authorized by the
19 Legislature, and such funds, fees, donations, gifts, or bequests received
20 by the department ~~Department of Natural Resources~~ from any federal,
21 state, public, or private source for expenditure for the purposes
22 described in the Nebraska Ground Water Management and Protection Act.
23 Money in the fund shall not be subject to any fiscal-year limitation or
24 lapse provision of unexpended balance at the end of any fiscal year or
25 biennium. Any money in the fund available for investment shall be
26 invested by the state investment officer pursuant to the Nebraska Capital
27 Expansion Act and the Nebraska State Funds Investment Act.

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

31 (3) Money in the fund may be expended by the department for costs

1 incurred by the department, by natural resources districts, or by other
2 political subdivisions in (a) determining whether river basins,
3 subbasins, or reaches are fully appropriated in accordance with section
4 46-713, (b) developing or implementing integrated management plans for
5 such fully appropriated river basins, subbasins, or reaches or for river
6 basins, subbasins, or reaches designated as overappropriated in
7 accordance with section 46-713, (c) developing or implementing integrated
8 management plans in river basins, subbasins, or reaches which have not
9 yet become either fully appropriated or overappropriated, or (d)
10 attaining state compliance with an interstate water compact or decree or
11 other formal state contract or agreement.

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

22 **Sec. 204.** Section 46-754, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-754 The Interrelated Water Management Plan Program is created for
25 the purpose of facilitating and funding the duties of districts arising
26 under the Nebraska Ground Water Management and Protection Act. The
27 program shall function as a grant program administered by the Nebraska
28 Natural Resources Commission and the department ~~Department of Natural~~
29 ~~Resources~~ upon recommendations of the commission using funds appropriated
30 for the program. The commission shall develop guidelines and limitations
31 for grant requests for funding such district's duties, including studies

1 required to carry out those duties. Grant requests shall be made to the
2 commission for review in a manner and form prescribed by the commission.
3 The amounts requested and approved shall be supported by a minimum local
4 revenue match comprising twenty percent of the total project cost. The
5 director ~~Director of Natural Resources~~ shall expend funds to implement
6 the commission's recommendations for fiscal support under the program
7 only upon the commission's approval.

8 **Sec. 205.** Section 46-801, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-801 No person shall drain, lower, or in any manner reduce or
11 divert the water supply of any natural or perennial lake, if the area
12 exceeds twenty acres at low water stage or if the lake is of such depth
13 and character as to have more economic importance for aquaculture,
14 hunting, or other purpose than the bed of such lake would have for
15 agricultural purposes. Any person intending to drain, lower, divert, or
16 in any way reduce the waters or water supply of any natural or perennial
17 lake shall, before commencing the construction of any such work for
18 drainage or diversion, make application to the Department of Water,
19 Energy, and Environment ~~Natural Resources~~ for a permit to do so.

20 **Sec. 206.** Section 46-802, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 46-802 On the receipt of such application in the form prescribed by
23 the Department of Water, Energy, and Environment ~~Natural Resources~~, the
24 department shall cause the same to be recorded in its office. The
25 department shall make a careful examination to ascertain whether it sets
26 forth all the facts necessary to enable the department to determine the
27 nature and extent of the proposed work of drainage and diversion. If such
28 an examination shows the application to be in any way defective, it shall
29 return the same to the applicant for correction.

30 **Sec. 207.** Section 46-803, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-803 If the proposed work of drainage or diversion will not result
2 in injury or damage to any person and will not be otherwise detrimental
3 to the public welfare but will result in economic benefit to the state,
4 the Department of Water, Energy, and Environment ~~Natural Resources~~ shall
5 approve the same by endorsement thereon. It shall make a record of such
6 endorsement thereon in some proper manner in its office. It shall also
7 return the same so endorsed to the applicant. Such applicant shall, upon
8 receipt thereof, be authorized to proceed with the work and to take such
9 measures as may be necessary to its completion.

10 **Sec. 208.** Section 46-804, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 46-804 If it appears to the Department of Water, Energy, and
13 Environment ~~Natural Resources~~ that the proposed works of drainage or
14 diversion will result in injury or damage to any person or will be
15 detrimental to the public welfare and not result in economic benefit to
16 the state, the department shall refuse to approve the application. The
17 party making such application shall not prosecute such work so long as
18 such refusal shall continue in force.

19 **Sec. 209.** Section 46-1001, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 46-1001 As used in sections 46-1001 to 46-1020, unless the context
22 otherwise requires:

23 (1) District means a rural water district organized pursuant to
24 sections 46-1001 to 46-1020;

25 (2) Board means the governing body of a district;

26 (3) The terms county board and county clerk mean, respectively, the
27 county board and county clerk of the county in which the greatest portion
28 of the territory of any existing or proposed rural water district is
29 located;

30 (4) Participating member means an individual, firm, partnership,
31 limited liability company, association, or corporation which owns land

1 located within a district and which has subscribed to one or more benefit
2 units of such district; and

3 (5) Director means the Director of Water, Energy, and Environment
4 ~~Natural Resources~~.

5 **Sec. 210.** Section 46-1011, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-1011 Plans and specifications for any proposed improvement
8 authorized by sections 46-1001 to 46-1020 shall be filed with the
9 ~~director,~~ the Department of Water, Energy, and Environment ~~Environment~~
10 ~~and Energy,~~ and the secretary of the district. No construction of any
11 such improvement shall begin until the plans and specifications for such
12 improvement have been approved by ~~the director and the department~~
13 ~~Department of Environment and Energy,~~ except that if the improvement
14 involves a public water system as defined in section 71-5301, only the
15 department ~~Department of Environment and Energy~~ shall be required to
16 review the plans and specifications for such improvement and approve the
17 same if in compliance with the Nebraska Safe Drinking Water Act and
18 departmental regulations adopted thereunder.

19 The total benefits of any such improvement shall be divided into a
20 suitable number of benefit units. Each landowner within the district
21 shall subscribe to a number of such units in proportion to the extent he
22 or she desires to participate in the benefits of the improvements. As
23 long as the capacity of the district's facilities permits, participating
24 members of the district may subscribe to additional units upon payment of
25 a unit fee for each such unit. Owners of land located within the district
26 who are not participating members may subscribe to such units as the
27 board in its discretion may grant, and upon payment of the unit fee for
28 each such unit shall be entitled to the same rights as original
29 participating members. If the capacity of the district's facilities
30 permits, the district may sell water to persons engaged in hauling water
31 and to any political subdivision organized under the laws of the State of

1 Nebraska.

2 **Sec. 211.** Section 46-1102, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 46-1102 The Legislature finds that the use of chemigation throughout
5 the state is increasing and that, although chemigation provides a viable
6 alternative to other means of chemical application, if an irrigation
7 distribution system is not properly equipped or if a chemical is not used
8 with proper precautions, there exists a potential to contaminate the
9 water.

10 The Legislature also finds that complete information as to the
11 occurrences and use of chemigation in this state is essential to the
12 development of a sound state water management policy.

13 For these reasons, the Legislature deems it necessary to provide the
14 natural resources districts and the Department of Water, Energy, and
15 Environment ~~Environment and Energy~~ with the authority to document,
16 monitor, regulate, and enforce chemigation practices in Nebraska.

17 **Sec. 212.** Section 46-1108, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-1108 Department shall mean the Department of Water, Energy, and
20 Environment ~~Environment and Energy~~.

21 **Sec. 213.** Section 46-1109, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-1109 Director shall mean the Director of Water, Energy, and
24 Environment ~~Environment and Energy~~.

25 **Sec. 214.** Section 46-1204.01, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 46-1204.01 Abandoned water well means any water well (1) the use of
28 which has been accomplished or permanently discontinued, (2) which has
29 been decommissioned as described in the rules and regulations of the
30 department ~~Department of Environment and Energy~~, and (3) for which the
31 notice of abandonment required by subsection (2) of section 46-602 has

1 been filed with the department ~~Department of Natural Resources~~ by the
2 licensed water well contractor or licensed pump installation contractor
3 who decommissioned the water well or by the water well owner if the owner
4 decommissioned the water well.

5 **Sec. 215.** Section 46-1207, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 46-1207 Department means the Department of Water, Energy, and
8 Environment ~~Environment and Energy~~.

9 **Sec. 216.** Section 46-1217, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 46-1217 (1) There is hereby created a Water Well Standards and
12 Contractors' Licensing Board. The board shall be composed of ten members,
13 six of whom shall be appointed by the Governor as follows: (a) A licensed
14 water well contractor representing irrigation water well contractors, (b)
15 a licensed water well contractor representing domestic water well
16 contractors, (c) a licensed water well contractor representing municipal
17 and industrial water well contractors, (d) a licensed pump installation
18 contractor, (e) a manufacturer or supplier of water well or pumping
19 equipment, and (f) a holder of a license issued under the Water Well
20 Standards and Contractors' Practice Act employed by a natural resources
21 district. The chief executive officer of the Department of Health and
22 Human Services or his or her designated representative, the Director of
23 Water, Energy, and Environment ~~Environment and Energy~~ or his or her
24 designated representative, ~~the Director of Natural Resources or his or~~
25 ~~her designated representative,~~ and the director of the Conservation and
26 Survey Division of the University of Nebraska or his or her designated
27 representative shall also serve as members of the board.

28 (2) Each member shall be a resident of the state. Each industry
29 representative shall have had at least five years of experience in the
30 business of his or her category prior to appointment and shall be
31 actively engaged in such business at the time of appointment and while

1 serving on the board. Each member representing a category subject to
2 licensing under the Water Well Standards and Contractors' Practice Act
3 shall be licensed by the department pursuant to such act. In making
4 appointments, the Governor may consider recommendations made by the trade
5 associations of each category.

6 **Sec. 217.** Section 46-1222, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-1222 No board member shall take any action or make any decision
9 in the discharge of the duties of a member of the board that may
10 constitute a conflict of interest. As soon as a member is aware of a
11 potential conflict or should reasonably be aware of such potential
12 conflict, whichever is sooner, the member shall submit a written
13 statement to the Director of Water, Energy, and Environment ~~Environment~~
14 ~~and Energy~~ describing the matter requiring action or decision and the
15 nature of the potential conflict. The member shall take such action as
16 the director shall advise or prescribe to remove the member from
17 influence over the action or decision on the matter. For purposes of this
18 section, conflict of interest includes financial, professional, or
19 personal obligations that may compromise or present the appearance of
20 compromising the judgment of a member in the performance of the duties of
21 a member of the board. The director may establish a definition of
22 conflicts of interest for members of the board and may establish
23 procedures in case such a conflict arises.

24 **Sec. 218.** Section 46-1224, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-1224 (1) Except as otherwise provided in subsections (3) and (4)
27 of this section, the board shall set reasonable fees in an amount
28 calculated to recover the costs incurred by the department and the board
29 in administering and carrying out the purposes of the Water Well
30 Standards and Contractors' Practice Act. Such fees shall be paid to the
31 department and remitted to the State Treasurer for credit to the Water

1 Well Standards and Contractors' Licensing Fund, which fund is hereby
2 created. Such fund shall be used by the department and the board for the
3 purpose of administering the Water Well Standards and Contractors'
4 Practice Act. Additionally, such fund shall be used to pay any required
5 fee to a contractor which provides the online services for registration
6 of water wells. Any discount in the amount paid the state by a credit
7 card, charge card, or debit card company or a third-party merchant bank
8 for such registration fees shall be deducted from the portion of the
9 registration fee collected pursuant to this section. Any money in the
10 fund available for investment shall be invested by the state investment
11 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
12 State Funds Investment Act.

13 (2) The board shall set fees for licensing individuals under the
14 Water Well Standards and Contractors' Practice Act for application for,
15 issuance of, and renewal of licenses. The fees shall be waived for
16 initial licenses for low-income individuals, military families, and young
17 workers as those terms are defined in the Uniform Credentialing Act.

18 (3) The board shall set a fee of not less than twenty-five dollars
19 and not more than forty dollars for each water well which is required to
20 be registered and which is designed and constructed to pump fifty gallons
21 per minute or less and each monitoring and observation well and a fee of
22 not less than forty dollars and not more than eighty dollars for each
23 water well which is required to be registered and which is designed and
24 constructed to pump more than fifty gallons per minute. For water wells
25 permitted pursuant to the Industrial Ground Water Regulatory Act, the fee
26 set pursuant to this subsection shall be collected for each of the first
27 ten such water wells registered, and for each group of ten or fewer such
28 water wells registered thereafter, the fee shall be collected as if only
29 one water well was being registered. For a series of two or more water
30 wells completed and pumped into a common carrier, as defined in section
31 46-601.01, as part of a single site plan for irrigation purposes, the fee

1 set pursuant to this subsection shall be collected for each of the first
2 two such water wells registered. For a series of water wells completed
3 for purposes of installation of a ground heat exchanger for a structure
4 for utilizing the geothermal properties of the ground, the fee set
5 pursuant to this subsection shall be collected as if only one water well
6 was being registered. For water wells constructed as part of a single
7 site plan for monitoring ground water, obtaining hydrogeologic
8 information, or extracting contaminants from the ground and for water
9 wells constructed as part of remedial action approved by the department
10 ~~Department of Environment and Energy~~ pursuant to section 66-1525,
11 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall
12 be collected for each of the first five such water wells registered, and
13 for each group of five or fewer such water wells registered thereafter,
14 the fee shall be collected as if only one water well was being
15 registered. The fees shall be remitted to the Director of Water, Energy,
16 and Environment ~~Natural Resources~~ with the registration form required by
17 section 46-602 and shall be in addition to the fee in section 46-606. The
18 director shall remit the fee to the State Treasurer for credit to the
19 Water Well Standards and Contractors' Licensing Fund.

20 (4) The board shall set an application fee for a declaratory ruling
21 or variance of not less than fifty dollars and not more than one hundred
22 dollars. The fee shall be remitted to the State Treasurer for credit to
23 the Water Well Standards and Contractors' Licensing Fund.

24 **Sec. 219.** Section 46-1235, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-1235 In cases other than those relating to failure to meet the
27 requirements for an initial license, the Director of Water, Energy, and
28 Environment ~~Environment and Energy~~ may deny, refuse renewal of, suspend,
29 or revoke licenses or may take other disciplinary action following notice
30 and an opportunity for a hearing for any of the following acts or
31 offenses:

1 (1) Violation of the Water Well Standards and Contractors' Practice
2 Act or any standards, rules, or regulations adopted and promulgated
3 pursuant to such act;

4 (2) Fraud or deception by the applicant or licensee;

5 (3) Failure to exercise reasonable care in the practice of the
6 trade;

7 (4) Inability to properly perform the practice of the trade;

8 (5) Failure to comply with continuing education requirements for
9 licensure under the act;

10 (6) Conduct or practices detrimental to the health or safety of
11 persons hiring the services of the licensee or of members of the general
12 public;

13 (7) Practice of the trade while the license to do so is suspended or
14 practice of the trade in contravention of any limitation placed upon the
15 license;

16 (8) Failing to file a water well registration required by subsection
17 (1), (2), (3), (4), or (5) of section 46-602 or failing to file a notice
18 required by subsection (7) of such section; or

19 (9) Failing to file a properly completed notice of abandonment of a
20 water well required by subsection (8) of section 46-602.

21 **Sec. 220.** Section 46-1301, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 46-1301 The Legislature finds that (1) existing monitoring of ground
24 water quality performed by natural resources districts is excellent and
25 deserves recognition, (2) substantial efforts have been undertaken by the
26 Department of Water, Energy, and Environment ~~Environment and Energy~~ to
27 monitor surface water quality, and (3) it is within the state's capacity
28 to develop a comprehensive, integrated statewide water quality monitoring
29 system.

30 **Sec. 221.** Section 46-1304, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 46-1304 The Department of Water, Energy, and Environment ~~Environment~~
2 ~~and Energy~~ shall prepare a report outlining the extent of ground water
3 quality monitoring conducted by natural resources districts during the
4 preceding calendar year. The department shall analyze the data collected
5 for the purpose of determining whether or not ground water quality is
6 degrading or improving and shall present the results electronically to
7 the Natural Resources Committee of the Legislature beginning December 1,
8 2001, and each year thereafter. The districts shall submit in a timely
9 manner all ground water quality monitoring data collected to the
10 department or its designee. The department shall use the data submitted
11 by the districts in conjunction with all other readily available and
12 compatible data for the purposes of the annual ground water quality trend
13 analysis.

14 **Sec. 222.** Section 46-1403, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 46-1403 There is hereby created the Water Well Decommissioning Fund.
17 The State Treasurer shall credit to the fund for the uses and purposes of
18 sections 46-1401 to 46-1405 such money as is specifically appropriated
19 and such funds, fees, donations, gifts, services, or devises or bequests
20 of real or personal property received by the Department of Water, Energy,
21 and Environment ~~Natural Resources~~ from any source, federal, state,
22 public, or private, to be used by the department for the purpose of
23 accelerating the decommissioning of illegal water wells. The department
24 shall allocate money from the fund for purposes of sections 46-1401 to
25 46-1405. The fund shall be exempt from provisions relating to lapsing of
26 appropriations. Transfers may be made from the fund to the General Fund
27 at the direction of the Legislature. Any money in the Water Well
28 Decommissioning Fund available for investment shall be invested by the
29 state investment officer pursuant to the Nebraska Capital Expansion Act
30 and the Nebraska State Funds Investment Act.

31 **Sec. 223.** Section 46-1404, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 46-1404 The Water Well Decommissioning Fund shall be allocated by
3 contractual agreement with natural resources districts for the purpose of
4 accelerating the decommissioning of illegal water wells throughout the
5 state. The allocations each fiscal year shall be made by the Department
6 of Water, Energy, and Environment ~~Natural Resources~~ to natural resources
7 districts in a proportion based on the number of illegal water wells
8 decommissioned in each district in the previous fiscal year which were
9 part of the district's cost-share program to the total number of illegal
10 water wells decommissioned in the state in the previous fiscal year which
11 were part of a district cost-share program. Subsequent allocations for
12 any district which has had a cost-share program for three or more
13 consecutive years shall be based upon the previous three-year average.
14 The allocations may be adjusted on or after March 1 of any year if the
15 Director of Water, Energy, and Environment ~~Natural Resources~~ determines
16 that one or more districts cannot reasonably be expected to use their
17 full allocation for that fiscal year. Actual disbursement to each
18 district shall be on a reimbursement basis and shall not exceed the
19 amount expended by the district consistent with sections 46-1401 to
20 46-1405. The Nebraska Natural Resources Commission shall adopt and
21 promulgate rules and regulations to carry out such sections.

22 **Sec. 224.** Section 46-1502, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 46-1502 For purposes of the Wellhead Protection Area Act:

25 (1) Controlling entity means a city, a village, a natural resources
26 district, a rural water district, any other entity, including, but not
27 limited to, a privately owned public water supply system, or any
28 combination thereof operating under an agreement pursuant to the
29 Interlocal Cooperation Act or the Joint Public Agency Act that operates a
30 public water supply system;

31 (2) Department means the Department of Water, Energy, and

1 ~~Environment Environment and Energy;~~

2 (3) Director means the Director of Water, Energy, and Environment
3 ~~Environment and Energy;~~ and

4 (4) Wellhead protection area means the surface and subsurface area
5 surrounding a water well or well field, supplying a public water system,
6 through which contaminants are reasonably likely to move toward and reach
7 such water well or well field.

8 **Sec. 225.** Section 46-1613, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 46-1613 Department means the Department of Water, Energy, and
11 Environment Natural Resources.

12 **Sec. 226.** Section 46-1614, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 46-1614 Chief Water Officer means the Chief Water Officer of the
15 Department of Water, Energy, and Environment ~~Director means the Director~~
16 ~~of Natural Resources.~~

17 **Sec. 227.** Section 46-1641, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 46-1641 The owner of any dam subject to the Safety of Dams and
20 Reservoirs Act shall notify the department of any change in the ownership
21 of the dam. Notification shall be in such form and include such evidence
22 of ownership as the department director may by rule and regulation
23 require.

24 **Sec. 228.** Section 46-1642, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 46-1642 An applicant for a permit for a livestock waste control
27 facility which includes a dam, holding pond, or lagoon for which approval
28 by the department ~~Department of Natural Resources~~ is not otherwise
29 required but for which approval ~~by the Department of Environment and~~
30 ~~Energy~~ under section 54-2429 is required shall submit an application for
31 approval along with plans, drawings, and specifications to the department

1 ~~Department of Natural Resources~~ and obtain approval from the department
2 ~~Department of Natural Resources~~ before beginning construction. The
3 department ~~Department of Natural Resources~~ shall approve or deny the dam,
4 holding pond, or lagoon pursuant to this section within sixty days after
5 such application is submitted.

6 **Sec. 229.** Section 46-1669, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 46-1669 Any affected person aggrieved by any final order or decision
9 made by the Chief Water Officer ~~director~~ pursuant to the Safety of Dams
10 and Reservoirs Act may appeal the order as provided in section 61-207.
11 For purposes of this section, affected person means the applicant or
12 holder of any approvals under the act and any owner of an estate or
13 interest in or concerning land or water whose interest is or may be
14 impacted in a direct and significant manner by such final order or
15 decision.

16 **Sec. 230.** Section 49-506, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 49-506 After the Secretary of State has made the distribution
19 provided by section 49-503, he or she shall deliver additional copies of
20 the session laws and the journal of the Legislature pursuant to this
21 section in print or electronic format as he or she determines, upon
22 recommendation by the Clerk of the Legislature and approval of the
23 Executive Board of the Legislative Council.

24 One copy of the session laws shall be delivered to the Lieutenant
25 Governor, the State Treasurer, the Auditor of Public Accounts, the
26 Reporter of Decisions, the State Court Administrator, the State Fire
27 Marshal, the Department of Administrative Services, the Department of
28 Agriculture, the Department of Banking and Finance, the State Department
29 of Education, ~~the Department of Environment and Energy~~, the Department of
30 Insurance, the Department of Labor, the Department of Motor Vehicles, the
31 Department of Revenue, the Department of Transportation, the Department

1 of Veterans' Affairs, the Department of Water, Energy, and Environment
2 ~~Natural Resources~~, the Military Department, the Nebraska State Patrol,
3 the Nebraska Commission on Law Enforcement and Criminal Justice, each of
4 the Nebraska state colleges, the Game and Parks Commission, the Nebraska
5 Library Commission, the Nebraska Liquor Control Commission, the Nebraska
6 Accountability and Disclosure Commission, the Public Service Commission,
7 the State Real Estate Commission, the Nebraska State Historical Society,
8 the Public Employees Retirement Board, the Risk Manager, the Legislative
9 Fiscal Analyst, the Public Counsel, the materiel division of the
10 Department of Administrative Services, the State Records Administrator,
11 the budget division of the Department of Administrative Services, the Tax
12 Equalization and Review Commission, the inmate library at all state penal
13 and correctional institutions, the Commission on Public Advocacy, and the
14 Library of Congress; two copies to the Governor, the Secretary of State,
15 the Commission of Industrial Relations, and the Coordinating Commission
16 for Postsecondary Education, one of which shall be for use by the
17 community colleges; three copies to the Department of Health and Human
18 Services; four copies to the Nebraska Publications Clearinghouse; five
19 copies to the Attorney General; nine copies to the Revisor of Statutes;
20 sixteen copies to the Supreme Court and the Legislative Council; and
21 thirty-five copies to the University of Nebraska College of Law.

22 One copy of the journal of the Legislature shall be delivered to the
23 Governor, the Lieutenant Governor, the State Treasurer, the Auditor of
24 Public Accounts, the Reporter of Decisions, the State Court
25 Administrator, the Nebraska State Historical Society, the Legislative
26 Fiscal Analyst, the Tax Equalization and Review Commission, the
27 Commission on Public Advocacy, and the Library of Congress; two copies to
28 the Secretary of State and the Commission of Industrial Relations; four
29 copies to the Nebraska Publications Clearinghouse; five copies to the
30 Attorney General and the Revisor of Statutes; eight copies to the Clerk
31 of the Legislature; thirteen copies to the Supreme Court and the

1 Legislative Council; and thirty-five copies to the University of Nebraska
2 College of Law. The remaining copies shall be delivered to the State
3 Librarian who shall use the same, so far as required for exchange
4 purposes, in building up the State Library and in the manner specified in
5 sections 49-507 to 49-509.

6 **Sec. 231.** Section 49-617, Revised Statutes Cumulative Supplement,
7 2024, is amended to read:

8 49-617 The Revisor of Statutes shall cause the statutes to be
9 printed. The printer shall deliver all completed copies to the Supreme
10 Court. These copies shall be held and disposed of by the court as
11 follows: Sixty copies to the State Library to exchange for statutes of
12 other states; five copies to the State Library to keep for daily use; not
13 to exceed twenty-five copies to the Legislative Council for bill drafting
14 and related services to the Legislature and executive state officers; as
15 many copies to the Attorney General as he or she has attorneys on his or
16 her staff; as many copies to the Commission on Public Advocacy as it has
17 attorneys on its staff; up to sixteen copies to the State Court
18 Administrator; thirteen copies to the Tax Commissioner; eight copies to
19 the Nebraska Publications Clearinghouse; six copies to the Public Service
20 Commission; four copies to the Secretary of State; three copies to the
21 Tax Equalization and Review Commission; four copies to the Clerk of the
22 Legislature for use in his or her office and three copies to be
23 maintained in the legislative chamber, one copy on each side of the
24 chamber and one copy at the desk of the Clerk of the Legislature, under
25 control of the sergeant at arms; three copies to the Department of Health
26 and Human Services; two copies each to the Governor of the state, the
27 Chief Justice and each judge of the Supreme Court, each judge of the
28 Court of Appeals, the Clerk of the Supreme Court, the Reporter of
29 Decisions, the Commissioner of Labor, the Auditor of Public Accounts, and
30 the Revisor of Statutes; one copy each to the Secretary of State of the
31 United States, each Indian tribal court located in the State of Nebraska,

1 the library of the Supreme Court of the United States, the Adjutant
2 General, the Air National Guard, the Commissioner of Education, the State
3 Treasurer, the Board of Educational Lands and Funds, the Director of
4 Agriculture, the Director of Administrative Services, the Director of
5 Economic Development, the director of the Nebraska Public Employees
6 Retirement Systems, the Director-State Engineer, the Director of Banking
7 and Finance, the Director of Insurance, the Director of Motor Vehicles,
8 the Director of Veterans' Affairs, the Director of Water, Energy, and
9 Environment ~~Natural Resources~~, the Director of Correctional Services, the
10 Nebraska Emergency Operating Center, each judge of the Nebraska Workers'
11 Compensation Court, each commissioner of the Commission of Industrial
12 Relations, the Nebraska Liquor Control Commission, the State Real Estate
13 Commission, the secretary of the Game and Parks Commission, the Board of
14 Pardons, each state institution under the Department of Health and Human
15 Services, each state institution under the State Department of Education,
16 the State Surveyor, the Nebraska State Patrol, the materiel division of
17 the Department of Administrative Services, the personnel division of the
18 Department of Administrative Services, the Nebraska Motor Vehicle
19 Industry Licensing Board, the Board of Trustees of the Nebraska State
20 Colleges, each of the Nebraska state colleges, each district judge of the
21 State of Nebraska, each judge of the county court, each judge of a
22 separate juvenile court, the Lieutenant Governor, each United States
23 Senator from Nebraska, each United States Representative from Nebraska,
24 each clerk of the district court for the use of the district court, the
25 clerk of the Nebraska Workers' Compensation Court, each clerk of the
26 county court, each county attorney, each county public defender, each
27 county law library, and the inmate library at all state penal and
28 correctional institutions, and each member of the Legislature shall be
29 entitled to two complete sets, and two complete sets of such volumes as
30 are necessary to update previously issued volumes, but each member of the
31 Legislature and each judge of any court referred to in this section shall

1 be entitled, on request, to an additional complete set. Copies of the
2 statutes distributed without charge, as listed in this section, shall be
3 the property of the state or governmental subdivision of the state and
4 not the personal property of the particular person receiving a copy.
5 Distribution of statutes to the library of the College of Law of the
6 University of Nebraska shall be as provided in sections 85-176 and
7 85-177.

8 **Sec. 232.** Section 54-2417, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 54-2417 For purposes of the Livestock Waste Management Act:

11 (1) Animal feeding operation means a location where beef cattle,
12 dairy cattle, horses, swine, sheep, poultry, or other livestock have
13 been, are, or will be stabled or confined and fed or maintained for a
14 total of forty-five days or more in any twelve-month period and crops,
15 vegetation, forage growth, or post-harvest residues are not sustained in
16 the normal growing season over any portion of the location. Two or more
17 animal feeding operations under common ownership are deemed to be a
18 single animal feeding operation if they are adjacent to each other or if
19 they utilize a common area or system for the disposal of livestock waste.
20 Animal feeding operation does not include aquaculture as defined in
21 section 2-3804.01;

22 (2) Best management practices means schedules of activities,
23 prohibitions, maintenance procedures, and other management practices
24 found to be the most effective methods based on the best available
25 technology achievable for specific sites to prevent or reduce the
26 discharge of pollutants to waters of the state and control odor where
27 appropriate. Best management practices also includes operating procedures
28 and practices to control site runoff, spillage, leaks, sludge or waste
29 disposal, or drainage from raw material storage;

30 (3) Construct means the initiation of physical onsite activities;

31 (4) Construction and operating permit means the state permit to

1 construct and operate a livestock waste control facility, including
2 conditions imposed on the livestock waste control facility and the
3 associated animal feeding operation;

4 (5) Construction approval means an approval issued prior to December
5 1, 2006, by the department allowing construction of a livestock waste
6 control facility;

7 (6) Council means the Environmental Quality Council;

8 (7) Department means the Department of Water, Energy, and
9 Environment ~~Environment and Energy~~;

10 (8) Discharge means the spilling, leaking, pumping, pouring,
11 emitting, emptying, or dumping of pollutants into any waters of the state
12 or in a place which will likely reach waters of the state;

13 (9) Existing livestock waste control facility means a livestock
14 waste control facility in existence prior to April 15, 1998, that does
15 not hold a permit and which has requested an inspection prior to January
16 1, 2000;

17 (10) Livestock waste control facility means any structure or
18 combination of structures utilized to control livestock waste at an
19 animal feeding operation until it can be used, recycled, or disposed of
20 in an environmentally acceptable manner. Such structures include, but are
21 not limited to, diversion terraces, holding ponds, debris basins, liquid
22 manure storage pits, lagoons, and other such devices utilized to control
23 livestock waste;

24 (11) Major modification means an expansion or increase to the lot
25 area or feeding area; change in the location of the animal feeding
26 operation; change in the methods of waste treatment, waste storage, or
27 land application of waste; increase in the number of animals; change in
28 animal species; or change in the size or location of the livestock waste
29 control facility;

30 (12) National Pollutant Discharge Elimination System permit means
31 either a general permit or an individual permit issued by the department

1 pursuant to subsection (11) of section 81-1505. A general permit
2 authorizes categories of disposal practices or livestock waste control
3 facilities and covers a geographic area corresponding to existing
4 geographic or political boundaries, though it may exclude specified areas
5 from coverage. General permits are limited to the same or similar types
6 of animal feeding operations or livestock waste control facilities which
7 require the same or similar monitoring and, in the opinion of the
8 Director of Water, Energy, and Environment ~~Environment and Energy~~, are
9 more appropriately controlled under a general permit than under an
10 individual permit;

11 (13) New animal feeding operation means an animal feeding operation
12 constructed after July 16, 2004;

13 (14) New livestock waste control facility means any livestock waste
14 control facility for which a construction permit, an operating permit, a
15 National Pollutant Discharge Elimination System permit, a construction
16 approval, or a construction and operating permit, or an application
17 therefor, is submitted on or after April 15, 1998;

18 (15) Operating permit means a permit issued prior to December 1,
19 2006, by the department after the completion of the livestock waste
20 control facility in accordance with the construction approval and the
21 submittal of a completed certification form to the department;

22 (16) Person has the same meaning as in section 81-1502; and

23 (17) Waters of the state has the same meaning as in section 81-1502.

24 **Sec. 233.** Section 54-2421, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 54-2421 A map delineating segments and watershed boundaries for cold
27 water class A streams, as designated prior to May 25, 1999, and prepared
28 by the department ~~Department of Environment and Energy and the Department~~
29 ~~of Natural Resources~~, shall be maintained by the department ~~Department of~~
30 ~~Environment and Energy~~ and used by the department for determinations made
31 concerning cold water class A streams and stream watersheds under the

1 Livestock Waste Management Act unless changed by the council. Beginning
2 on May 25, 1999, the council may designate and may redesignate previously
3 designated waters of this state as cold water class A streams for
4 purposes of the act based on the determination by the council that the
5 waters provide or could provide habitat of sufficient water volume or
6 flow, water quality, substrate composition, and water temperature capable
7 of maintaining year-round populations of cold water biota, including
8 reproduction of a salmonoid (trout) population. The council shall not
9 designate or redesignate a stream as a cold water class A stream unless
10 the stream has supported the reproduction of a salmonoid (trout)
11 population within the previous five years. The department shall revise
12 and maintain the cold water class A stream and stream watershed map to
13 incorporate all designations and redesignations of the council.

14 **Sec. 234.** Section 54-2429, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 54-2429 (1) An applicant for a National Pollutant Discharge
17 Elimination System permit or a construction and operating permit under
18 the Environmental Protection Act or the Livestock Waste Management Act
19 shall not be issued a permit until the applicant has obtained ~~, before~~
20 ~~issuance by the Department of Environment and Energy,~~ obtain any
21 necessary approvals from the department ~~Department of Natural Resources~~
22 under the Safety of Dams and Reservoirs Act ~~and certify such approvals to~~
23 ~~the Department of Environment and Energy.~~ The department ~~Department of~~
24 ~~Environment and Energy,~~ with the concurrence of the ~~Department of Natural~~
25 ~~Resources,~~ may require the applicant to obtain approval from ~~the~~
26 ~~Department of Natural Resources~~ for any dam, holding pond, or lagoon
27 structure which would not otherwise require approval under the Safety of
28 Dams and Reservoirs Act but which in the event of a failure could result
29 in a significant discharge into waters of the state and have a
30 significant impact on the environment. ~~The Department of Environment and~~
31 ~~Energy may provide for the payment of such costs of the Department of~~

1 ~~Natural Resources with revenue generated under section 54-2428.~~

2 (2) An applicant required to obtain a National Pollutant Discharge
3 Elimination System permit is subject to the requirements of the Engineers
4 and Architects Regulation Act.

5 (3) An applicant who has a large concentrated animal feeding
6 operation, as defined in 40 C.F.R. 122 and 123, as such regulations
7 existed on January 1, 2004, and who is required to obtain a construction
8 and operating permit is subject to the requirements of the Engineers and
9 Architects Regulation Act.

10 (4) An applicant who has a small or medium animal feeding operation,
11 as defined in 40 C.F.R. 122 and 123, as such regulations existed on
12 January 1, 2004, and who is required to obtain a construction and
13 operating permit, but not required to obtain a National Pollutant
14 Discharge Elimination System permit, is exempt from the Engineers and
15 Architects Regulation Act.

16 (5) The department may require an engineering evaluation or
17 assessment performed by a licensed professional engineer for a livestock
18 waste control facility if after an inspection: (a) The department
19 determines that the facility has (i) visible signs of structural breakage
20 below the permanent pool, (ii) signs of discharge or proven discharge due
21 to structural weakness, (iii) improper maintenance, or (iv) inadequate
22 capacity; or (b) the department has reason to believe that an animal
23 feeding operation with a livestock waste control facility has violated or
24 threatens to violate the Environmental Protection Act, the Livestock
25 Waste Management Act, or any rules or regulations adopted and promulgated
26 under such acts. Animal feeding operations not required to have a permit
27 under the Environmental Protection Act, the Livestock Waste Management
28 Act, or the rules and regulations adopted and promulgated pursuant to
29 such acts are exempt from the Engineers and Architects Regulation Act.

30 **Sec. 235.** Section 54-2430, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 54-2430 (1) Except as provided in this section, no new livestock
2 waste control facility shall be constructed and no physical onsite
3 activities specific to a new livestock waste control facility, except the
4 use of a borrow site for construction of other components of the animal
5 feeding operation, shall be initiated unless surface water runoff from
6 the upstream area, except incidental runoff, is adequately diverted
7 around the structure and is not permitted to enter the reservoir area.
8 For purposes of this section, incidental runoff means the runoff that
9 drains from the slope of the embankments, the top of the dam, the
10 reservoir area, the feedlots, the associated roadways, and up to twenty-
11 five acres of additional area that cannot be diverted. Incidental runoff
12 capacity from a twenty-five-year frequency, twenty-four-hour storm shall
13 be provided for in the waste reservoir in addition to the capacity
14 required for the waste effluent or stored materials.

15 (2) The department ~~Department of Natural Resources~~ shall permit a
16 requested increase in the twenty-five-acre limitation for a new livestock
17 waste control facility for an animal feeding operation for which an
18 inspection was requested prior to January 1, 2000, unless the department
19 determines that the detriment to existing water users that would result
20 from permitting the acreage increase would outweigh the detriment to the
21 operator of the animal feeding operation if the increase were not
22 permitted.

23 (3) For other new livestock waste control facilities, the department
24 ~~Department of Natural Resources~~ may permit an increase in the twenty-
25 five-acre limitation if it determines that (a) the applicant has no
26 reasonable way to limit the amount of the additional runoff acreage to
27 twenty-five acres or less at the proposed location of the livestock waste
28 control facility, (b) the applicant has no reasonable alternative for
29 relocating the livestock waste control facility so that the additional
30 runoff acreage would not exceed twenty-five acres, and (c) either (i) an
31 increase in the permitted runoff acreage would not reduce water supplies

1 to the detriment of existing water users or (ii)(A) the requested
2 facility is for a proposed expansion of an animal feeding operation in
3 existence and in compliance with the Livestock Waste Management Act as of
4 January 1, 2003, (B) the amount of the runoff acreage permitted in excess
5 of the twenty-five-acre limitation is not more than fifteen percent of
6 total permitted feedlot area, and (C) any detriment to existing water
7 users that would result from permitting the acreage increase would be
8 outweighed by the detriment to the operator of the animal feeding
9 operation if the increase were not permitted.

10 **Sec. 236.** Section 54-2940, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 54-2940 In carrying out its duties to prevent, suppress, control,
13 and eradicate dangerous diseases the department may:

14 (1) Issue quarantines to any person or public or private premises
15 within the state where an affected animal, suspected affected animal, or
16 regulated article is or was located, and upon any animal imported into
17 Nebraska in violation of the Animal Health and Disease Control Act, the
18 Exotic Animal Auction or Exchange Venue Act, and any importation rules or
19 regulations until such quarantine is released by the State Veterinarian.
20 Whenever additional animals are placed within a quarantined premises or
21 area, such quarantine may be amended accordingly by the department.
22 Births and death loss shall be included on inventory documentation
23 pursuant to the quarantine;

24 (2) Regulate or prohibit animal or regulated article movement into,
25 within, or through the state through quarantines, controlled movement
26 orders, importation orders, or embargoes as deemed necessary by the State
27 Veterinarian;

28 (3) Require an affected animal or suspected affected animal to be
29 (a) euthanized, detained, slaughtered, or sold for immediate slaughter at
30 a federally inspected slaughter establishment or (b) inspected, tested,
31 treated, subjected to an epidemiological investigation, monitored, or

1 vaccinated. The department may require tested animals to be identified by
2 an official identification eartag. Costs for confinement, restraint, and
3 furnishing the necessary assistance and facilities for such activities
4 shall be the responsibility of the owner or custodian of the animal;

5 (4) Seek an emergency proclamation by the Governor in accordance
6 with section 81-829.40 when deemed appropriate. All state agencies and
7 political subdivisions of the state shall cooperate with the
8 implementation of any emergency procedures and measures developed
9 pursuant to such proclamation;

10 (5)(a) Access records or animals and enter any premises related to
11 the purposes of the Animal Health and Disease Control Act or the Exotic
12 Animal Auction or Exchange Venue Act without being subject to any action
13 for trespass or reasonable damages if reasonable care is exercised; and

14 (b) Obtain an inspection warrant in the manner prescribed in
15 sections 29-830 to 29-835 if any person refuses to allow the department
16 access or entry as authorized under this subdivision;

17 (6) Adopt and promulgate rules and regulations to enforce and
18 effectuate the general purpose and provisions of the Animal Health and
19 Disease Control Act, the Exotic Animal Auction or Exchange Venue Act, and
20 any other provisions the department deems necessary for carrying out its
21 duties under such acts including:

22 (a) Standards for program diseases to align with USDA/APHIS/VS
23 program standards;

24 (b) Provisions for maintaining a livestock disease reporting system;

25 (c) Procedures for establishing and maintaining accredited,
26 certified, validated, or designated disease-free animals, herds, or
27 flocks;

28 (d) In consultation with the Department of Water, Energy, and
29 Environment ~~Environment and Energy~~ and the Department of Health and Human
30 Services, best management practices for the disposal of carcasses of dead
31 livestock;

1 (e) In consultation with the Department of Water, Energy, and
2 Environment ~~Environment and Energy~~ and the University of Nebraska,
3 operating procedures governing composting of livestock carcasses;

4 (f) Recommendations of where and how any available federal funds and
5 state personnel and materials are to be allocated for the purpose of
6 program disease activities; and

7 (g) Provisions for secure food supply plans to ensure the continuity
8 of business is maintained during a foreign animal or transboundary
9 disease outbreak;

10 (7) When funds are available, develop a livestock emergency response
11 system capable of coordinating and executing a rapid response to the
12 incursion or potential incursion of a dangerous livestock disease episode
13 which poses a threat to the health of the state's livestock and could
14 cause a serious economic impact on the state, international trade, or
15 both;

16 (8) When funds are available, support planning for and assistance
17 with catastrophic livestock mortality disposal, including the acquisition
18 of equipment and supplies and securing of services, to augment
19 preparedness for and response to a disease, natural disaster, or other
20 emergency event resulting in catastrophic livestock mortality or
21 euthanization;

22 (9) Allow animals intended for direct slaughter to move to a
23 controlled feedlot for qualified purposes; and

24 (10) Approve qualified commuter herd agreements and livestock
25 producer plans and, when appropriate, allow for exceptions to
26 requirements by written compliance agreements.

27 **Sec. 237.** Section 57-1407, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 57-1407 (1) After receipt of an application under section 57-1405,
30 the commission shall:

31 (a) Within sixty days, schedule a public hearing;

1 (b) Notify the pipeline carrier of the time, place, and purpose of
2 the public hearing;

3 (c) Publish a notice of the time, place, and purpose of the public
4 hearing in at least one newspaper of general circulation in each county
5 in which the major oil pipeline is to be constructed; and

6 (d) Serve notice of the public hearing upon the governing bodies of
7 the counties and municipalities through which the proposed route of the
8 major oil pipeline would be located as specified in subdivision (2)(d) of
9 section 57-1405.

10 (2) The commission may hold additional public meetings for the
11 purpose of receiving input from the public at locations as close as
12 practicable to the proposed route of the major oil pipeline. The
13 commission shall make the public input part of the record.

14 (3) If requested by the commission, the following agencies shall
15 file a report with the commission, prior to the hearing on the
16 application, regarding information within the respective agencies' area
17 of expertise relating to the impact of the major oil pipeline on any area
18 within the respective agencies' jurisdiction, including in such report
19 opinions regarding the advisability of approving, denying, or modifying
20 the location of the proposed route of the major oil pipeline: The
21 Department of Water, Energy, and Environment ~~Environment and Energy~~, the
22 ~~Department of Natural Resources~~, the Department of Revenue, the
23 Department of Transportation, the Game and Parks Commission, the Nebraska
24 Oil and Gas Conservation Commission, the Nebraska State Historical
25 Society, the State Fire Marshal, and the Board of Educational Lands and
26 Funds. The agencies may submit a request for reimbursement of reasonable
27 and necessary expenses incurred for any consultants hired pursuant to
28 this subsection.

29 (4) An application under the Major Oil Pipeline Siting Act shall be
30 approved if the proposed route of the major oil pipeline is determined by
31 the Public Service Commission to be in the public interest. The pipeline

1 carrier shall have the burden to establish that the proposed route of the
2 major oil pipeline would serve the public interest. In determining
3 whether the pipeline carrier has met its burden, the commission shall not
4 evaluate safety considerations, including the risk or impact of spills or
5 leaks from the major oil pipeline, but the commission shall evaluate:

6 (a) Whether the pipeline carrier has demonstrated compliance with
7 all applicable state statutes, rules, and regulations and local
8 ordinances;

9 (b) Evidence of the impact due to intrusion upon natural resources
10 and not due to safety of the proposed route of the major oil pipeline to
11 the natural resources of Nebraska, including evidence regarding the
12 irreversible and irretrievable commitments of land areas and connected
13 natural resources and the depletion of beneficial uses of the natural
14 resources;

15 (c) Evidence of methods to minimize or mitigate the potential
16 impacts of the major oil pipeline to natural resources;

17 (d) Evidence regarding the economic and social impacts of the major
18 oil pipeline;

19 (e) Whether any other utility corridor exists that could feasibly
20 and beneficially be used for the route of the major oil pipeline;

21 (f) The impact of the major oil pipeline on the orderly development
22 of the area around the proposed route of the major oil pipeline;

23 (g) The reports of the agencies filed pursuant to subsection (3) of
24 this section; and

25 (h) The views of the governing bodies of the counties and
26 municipalities in the area around the proposed route of the major oil
27 pipeline.

28 **Sec. 238.** Section 57-1502, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 57-1502 For purposes of sections 57-1501 to 57-1503:

31 (1) Department means the Department of Water, Energy, and

1 Environment ~~Environment and Energy~~;

2 (2) Oil pipeline means a pipeline which is larger than eight inches
3 in inside diameter and which is constructed in Nebraska for the
4 transportation of petroleum, or petroleum components, products, or
5 wastes, including crude oil or any fraction of crude oil, within,
6 through, or across Nebraska, but does not include in-field and gathering
7 lines; and

8 (3) Pipeline carrier means an individual, a company, a corporation,
9 an association, or any other legal entity that engages in owning,
10 operating, or managing an oil pipeline.

11 **Sec. 239.** Section 57-1609, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 57-1609 Before issuing a permit, the commission shall consult with
14 the Department of Water, Energy, and Environment ~~Environment and Energy~~
15 and the Underground Injection Control program permitting authority.

16 **Sec. 240.** Section 57-1614, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 57-1614 (1) The commission shall take action to ensure that a
19 storage facility does not cause pollution or create a nuisance. For the
20 purposes of this provision and in applying other laws, carbon dioxide
21 streams stored, and which remain in storage under a commission permit,
22 are not a pollutant and do not constitute a nuisance.

23 (2) The commission's authority in subsection (1) of this section
24 does not limit the jurisdiction held by the Department of Water, Energy,
25 and Environment ~~Environment and Energy~~. Nothing else in the Nebraska
26 Geologic Storage of Carbon Dioxide Act limits the jurisdiction held by
27 the Department of Water, Energy, and Environment ~~Environment and Energy~~.

28 (3) The commission shall take action to ensure that substances that
29 compromise the objectives of the act or the integrity of a storage
30 reservoir do not enter a storage reservoir.

31 (4) The commission shall take action to ensure that carbon dioxide

1 does not escape from a storage facility.

2 **Sec. 241.** Section 57-1619, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 57-1619 (1) After carbon dioxide injections into a reservoir end and
5 upon application by the storage operator, the commission shall consider
6 issuing a certificate of project completion.

7 (2) The certificate may only be issued after public notice and
8 hearing. The commission shall establish notice requirements for such
9 hearing.

10 (3) The certificate may only be issued after the commission has
11 consulted with the Department of Water, Energy, and Environment
12 ~~Environment and Energy~~ and the Underground Injection Control program
13 permitting authority.

14 (4) The certificate may only be issued if the storage operator:

15 (a) Is in full compliance with all laws governing the storage
16 facility;

17 (b) Shows that it has addressed all pending claims regarding the
18 storage facility's operation;

19 (c) Shows that it has received an authorization of site closure from
20 the applicable underground injection control program permitting authority
21 for each storage facility injection well; and

22 (d) Shows that any wells, equipment, and facilities to be used in
23 the post-closure period are in good condition and retain mechanical
24 integrity.

25 (5) Once a certificate is issued:

26 (a) Title to the storage facility and to the stored carbon dioxide
27 transfers, without payment of any compensation, to the State of Nebraska;

28 (b) Title acquired by the state includes all rights and interests
29 in, and all responsibilities associated with, the stored carbon dioxide;

30 (c) The storage operator and all persons who generated any injected
31 carbon dioxide streams are released from all regulatory requirements

1 associated with the storage facility;

2 (d) Any financial assurance provided by the storage operator shall
3 be released; and

4 (e) Monitoring and managing the storage facility is the state's
5 responsibility to be overseen by the commission.

6 **Sec. 242.** Section 58-202, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 58-202 (1) The Legislature hereby finds and declares that:

9 (a) The high cost of agricultural loans and the general
10 unavailability of such loans at favorable rates and terms for farmers,
11 particularly beginning farmers, and other agricultural enterprises have
12 resulted in decreased crop, livestock, and business productivity and
13 prevented farmers and other agricultural enterprises from acquiring
14 modern agricultural equipment and processes. These problems have made it
15 difficult for farmers and other agricultural enterprises to maintain or
16 increase their present number of employees and have decreased the supply
17 of agricultural commodities available to fulfill the needs of the
18 citizens of this state; and

19 (b) There exists in this state an inadequate supply of and a
20 pressing need for farm credit and agricultural loan financing at interest
21 rates and terms which are consistent with the needs of farmers,
22 particularly beginning farmers, and other agricultural enterprises.

23 (2) The Legislature hereby finds and declares that:

24 (a) From time to time the high rates of interest charged by mortgage
25 lenders seriously restrict existing housing transfers and new housing
26 starts and the resultant reduction in residential construction starts
27 causes a condition of substantial unemployment and underemployment in the
28 construction industry;

29 (b) Such conditions generally result in and contribute to the
30 creation of slums and blighted areas in the urban and rural areas of this
31 state and a deterioration of the quality of living conditions within this

1 state and necessitate excessive and disproportionate expenditures of
2 public funds for crime prevention and punishment, public health and
3 safety, fire and accident prevention, and other public services and
4 facilities; and

5 (c) There exists in the urban and rural areas of this state an
6 inadequate supply of and a pressing need for sanitary, safe, and
7 uncrowded housing at prices at which low-income and moderate-income
8 persons, particularly first-time homebuyers, can afford to purchase,
9 construct, or rent and as a result such persons are forced to occupy
10 unsanitary, unsafe, and overcrowded housing.

11 (3) The Legislature hereby finds and declares that:

12 (a) Adequate and reliable energy supplies are a basic necessity of
13 life and sufficient energy supplies are essential to supplying adequate
14 food and shelter;

15 (b) The cost and availability of energy supplies has been and will
16 continue to be a matter of state and national concern;

17 (c) The increasing cost and decreasing availability of energy
18 supplies for purposes of residential heating will limit the ability of
19 many of Nebraska's citizens to provide the basic necessities of life and
20 will result in a deterioration in living conditions and a threat to the
21 health and welfare of the citizens of this state;

22 (d) Energy conservation through building modifications including,
23 but not limited to, insulation, weatherization, and the installation of
24 alternative energy devices has been shown to be a prudent means of
25 reducing energy consumption costs and the need for additional costly
26 facilities to produce and supply energy;

27 (e) Because of the high cost of available capital, the purchase of
28 energy conservation devices is not possible for many Nebraskans. The
29 prohibitively high interest rates for private capital create a situation
30 in which the necessary capital cannot be obtained solely from private
31 enterprise sources and there is a need for the stimulation of investment

1 of private capital, thereby encouraging the purchase of energy
2 conservation devices and energy conserving building modifications;

3 (f) The increased cost per capita of supplying adequate life-
4 sustaining energy needs has reduced the amount of funds, both public and
5 private, available for providing other necessities of life, including
6 food, health care, and safe, sanitary housing; and

7 (g) The continuing purchase of energy supplies results in the
8 transfer of ever-increasing amounts of capital to out-of-state energy
9 suppliers.

10 (4) The Legislature hereby finds and declares that:

11 (a) There exist within this state unemployment and underemployment
12 especially in areas of basic economic activity, caused by economic
13 decline and need for diversification of the economic base, needlessly
14 increasing public expenditures for unemployment compensation and welfare,
15 decreasing the tax base, reducing tax revenue, and resulting in economic
16 and social liabilities to the entire state;

17 (b) Such unemployment and underemployment cause areas of the state
18 to deteriorate and become substandard and blighted and such conditions
19 result in making such areas economic or social liabilities harmful to the
20 economic and social well-being of the entire state and the communities in
21 which they exist, needlessly increasing public expenditures, imposing
22 onerous state and municipal burdens, decreasing the tax base, reducing
23 tax revenue, substantially impairing or arresting the sound growth of the
24 state and the municipalities, depreciating general state and community-
25 wide values, and contributing to the spread of disease and crime which
26 necessitate excessive and disproportionate expenditures of public funds
27 for the preservation of the public health and safety, for crime
28 prevention, correction, prosecution, and punishment, for the treatment of
29 juvenile delinquency, for the maintenance of adequate police, fire, and
30 accident protection, and for other public services and facilities;

31 (c) There exist within this state conditions resulting from the

1 concentration of population of various counties, cities, and villages
2 which require the construction, maintenance, and operation of adequate
3 hospital and nursing facilities for the care of the public health. Since
4 these conditions cannot be remedied by the ordinary operations of private
5 enterprises and since provision of adequate hospital, nursing, and
6 medical care is a public use, it is in the public interest that adequate
7 hospital and medical facilities and care be provided in order to care for
8 and protect the public health and welfare;

9 (d) Creation of basic economic jobs in the private sector and the
10 promotion of health and welfare by the means provided under the Nebraska
11 Investment Finance Authority Act and the resulting reduction of needless
12 public expenditures, expansion of the tax base, provision of hospitals
13 and health care and related facilities, and increase of tax revenue are
14 needed within this state; and

15 (e) Stimulation of economic development throughout the state and the
16 provision of health care at affordable prices are matters of state
17 policy, public interest, and statewide concern and within the powers and
18 authority inherent in and reserved to the state in order that the state
19 and its municipalities shall not continue to be endangered by areas which
20 consume an excessive proportion of their revenue, in order that the
21 economic base of the state may be broadened and stabilized thereby
22 providing jobs and necessary tax base, and in order that adequate health
23 care services be provided to all residents of this state.

24 (5) The Legislature hereby finds and declares that:

25 (a) There is a need within this state for financing to assist
26 municipalities, as defined in section 81-15,149, in providing wastewater
27 treatment facilities and safe drinking water facilities. The federal
28 funding provided for wastewater treatment facilities is extremely limited
29 while the need to provide and improve wastewater treatment facilities and
30 safe drinking water facilities is great;

31 (b) The construction, development, rehabilitation, and improvement

1 of modern and efficient sewer systems and wastewater treatment facilities
2 are essential to protecting and improving the state's water quality, the
3 provision of adequate wastewater treatment facilities and safe drinking
4 water facilities is essential to economic growth and development, and new
5 sources of financing for such projects are needed;

6 (c) The federal government has acted to end the system of federal
7 construction grants for clean water projects and has instead provided for
8 capitalization grants to capitalize state revolving funds for wastewater
9 treatment projects and will soon expand that to include safe drinking
10 water facilities, and the state has created or is expected to create
11 appropriate funds or accounts for such purpose. The state is required or
12 expected to be required to provide matching funds for deposit into such
13 funds or accounts, and there is a need for financing in excess of the
14 amount which can be provided by the federal money and the state match;
15 and

16 (d) Additional assistance can be provided to municipalities as
17 defined in section 81-15,149 to alleviate the problems of water pollution
18 or the provision of safe drinking water by providing for the issuance of
19 revenue bonds, the proceeds of which shall be deposited into the
20 Wastewater Treatment Facilities Construction Loan Fund or the comparable
21 state fund to finance safe drinking water facilities. Nothing in this
22 section shall prohibit the provision of loans ~~, including loans made~~
23 ~~pursuant to the Conservation Corporation Act,~~ to a municipality as
24 defined in section 81-15,149 for the construction, development,
25 rehabilitation, operation, maintenance, and improvement of wastewater
26 treatment facilities or safe drinking water facilities.

27 (6) The Legislature hereby finds and declares that:

28 (a) There is a need within this state for financing to assist public
29 school boards and school districts and private for-profit or not-for-
30 profit schools in connection with removal of materials determined to be
31 hazardous to the health and well-being of the residents of the state and

1 the reduction or elimination of accessibility barriers and that the
2 federal funding provided for such projects is extremely limited and the
3 need and requirement to remove such materials and to reduce or eliminate
4 accessibility barriers from school buildings is great;

5 (b) The financing of the removal of such environmental hazards and
6 the reduction or elimination of accessibility barriers is essential to
7 protecting and improving the facilities in the state which provide
8 educational benefits and services;

9 (c) The federal government has directed schools to remove such
10 hazardous materials and to reduce or eliminate accessibility barriers;
11 and

12 (d) The problems enumerated in this subsection cannot be remedied
13 through the operation of private enterprise or individual communities or
14 both but may be alleviated through the assistance of the authority to
15 encourage the investment of private capital and assist in the financing
16 of the removal of environmental hazards and the reduction or elimination
17 of accessibility barriers in educational facilities in this state in
18 order to provide for a clean, safe, and accessible environment to protect
19 the health and welfare of the citizens and residents of this state.

20 (7) The Legislature hereby finds and declares that:

21 (a) The rapidly rising volume of waste deposited by society
22 threatens the capacity of existing and future landfills. The nature of
23 waste disposal means that unknown quantities of potentially toxic and
24 hazardous materials are being buried and pose a constant threat to the
25 ground water supply. In addition, the nature of the waste and the
26 disposal methods utilized allow the waste to remain basically inert for
27 decades, if not centuries, without decomposition;

28 (b) Wastes filling Nebraska's landfills may at best represent a
29 potential resource, but without proper management wastes are hazards to
30 the environment and to the public health and welfare;

31 (c) The growing concern with ground water protection and the desire

1 to avoid financial risks inherent in ground water contamination have
2 caused many smaller landfills to close in favor of using higher-volume
3 facilities. Larger operations allow for better ground water protection at
4 a relatively lower and more manageable cost;

5 (d) The reduction of solid waste at the source and the recycling of
6 reusable waste materials will reduce the flow of waste to landfills and
7 increase the supply of reusable materials for the use of the public;

8 (e) There is a need within this state for financing to assist
9 counties, cities, villages, entities created under the Interlocal
10 Cooperation Act and the Joint Public Agency Act, and private persons with
11 the construction and operation of new solid waste disposal areas or
12 facilities and with the closure, monitoring, and remediation of existing
13 solid waste disposal areas and facilities;

14 (f) Financing the construction and operation of new solid waste
15 disposal areas and facilities and financing the closure, monitoring, and
16 remediation of existing and former solid waste disposal areas and
17 facilities in the state is essential to protect the environment and the
18 public health and welfare;

19 (g) The federal government has directed that effective October 1,
20 1993, all solid waste disposal areas and facilities shall be upgraded to
21 meet stringent siting, design, construction, operation, closure,
22 monitoring, and remediation requirements; and

23 (h) The problems enumerated in this subsection cannot be remedied
24 through the operation of private enterprise or individual communities or
25 both but may be alleviated through the assistance of the authority to
26 encourage the investment of private capital and to assist in the
27 financing of solid waste disposal areas and facilities and in the removal
28 of environmental hazards in solid waste disposal areas and facilities in
29 this state in order to provide for a clean environment to protect the
30 health and welfare of the citizens and residents of this state.

31 (8) The Legislature hereby finds and declares that:

1 (a) During emergencies the resources of political subdivisions must
2 be effectively directed and coordinated to public safety agencies to save
3 lives, to protect property, and to meet the needs of citizens;

4 (b) There exists a need for public safety communication systems for
5 use by Nebraska's public safety agencies as defined in the Nebraska
6 Public Safety Communication System Act;

7 (c) Investment in the public safety communication infrastructure is
8 required to ensure the effectiveness of such public safety agencies.
9 Since the maintenance of public safety is a paramount concern but the
10 cost of purchasing and operating multiple communication infrastructures
11 is prohibitive, it is imperative that political subdivisions cooperate in
12 their efforts to obtain real and personal property to establish, operate,
13 maintain, and manage public safety communication systems; and

14 (d) There is a need within this state for financing to assist
15 political subdivisions and any entities created under the Interlocal
16 Cooperation Act and the Joint Public Agency Act with the acquisition,
17 construction, and operation of real and personal property of public
18 safety communication systems.

19 (9) The Legislature hereby finds and declares that, as of May 27,
20 2005, and in connection with the financing of agricultural projects,
21 there is a need to increase both the limit on individual net worth and
22 the limit on the aggregate loan amount that may be provided by the
23 authority. Such adjustments are necessary to address the inadequate
24 supply of and pressing need for farm credit and agricultural loan
25 financing at interest rates and terms that are consistent with the needs
26 of farmers, particularly beginning farmers, and other agricultural
27 enterprises.

28 (10) The Legislature hereby finds and declares that:

29 (a) The amount of funding and other resources available to remedy
30 the problems identified in this section has been, and continues to be,
31 insufficient. Accordingly, the authority must be provided with additional

1 powers to adequately address the problems identified in this section with
2 funding derived from public and private sources and state and federal
3 sources;

4 (b) Carrying out the purposes of the Nebraska Investment Finance
5 Authority Act may necessitate innovative agreements with public agencies
6 and private entities and it is the policy of this state to encourage such
7 public-private and intergovernmental cooperation; and

8 (c) Better, more broad-based sources of financing must be made
9 available to the authority and by the authority to the private sector of
10 the economy to enable the authority to address the problems identified in
11 this section.

12 **Sec. 243.** Section 58-221, Revised Statutes Cumulative Supplement,
13 2024, is amended to read:

14 58-221 Residential energy conservation device shall mean any prudent
15 means of reducing the demands for conventional fuels or increasing the
16 supply or efficiency of these fuels in residential housing and shall
17 include, but not be limited to:

18 (1) Caulking and weather stripping of doors and windows;

19 (2) Furnace efficiency modifications, including:

20 (a) Replacement burners, furnaces, heat pumps, or boilers or any
21 combination thereof which, as determined by the Director of Water,
22 Energy, and Environment ~~Environment and Energy~~, substantially increases
23 the energy efficiency of the heating system;

24 (b) Any device for modifying flue openings which will increase the
25 energy efficiency of the heating system; and

26 (c) Any electrical or mechanical furnace ignition system which
27 replaces a standing gas pilot light;

28 (3) A clock thermostat;

29 (4) Ceiling, attic, wall, and floor insulation;

30 (5) Water heater insulation;

31 (6) Storm windows and doors, multiglazed windows and doors, and

1 heat-absorbed or heat-reflective glazed window and door materials;

2 (7) Any device which controls demand of appliances and aids load
3 management;

4 (8) Any device to utilize solar energy, biomass, geothermal, or wind
5 power for any residential energy conservation purpose including heating
6 of water and space heating or cooling; and

7 (9) Any other conservation device, renewable energy technology, and
8 specific home improvement necessary to insure the effectiveness of the
9 energy conservation measures as the Director of Water, Energy, and
10 Environment ~~Environment and Energy~~ by rule or regulation identifies.

11 **Sec. 244.** Section 60-6,363, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 60-6,363 For purposes of sections 60-6,363 to 60-6,374:

14 (1) Diesel-powered motor vehicle shall mean a self-propelled vehicle
15 which is designed primarily for transporting persons or property on a
16 highway and which is powered by an internal combustion engine of the
17 compression ignition type;

18 (2) Motor vehicle shall mean a self-propelled vehicle with a gross
19 unloaded vehicle weight of ten thousand pounds or more or any combination
20 of vehicles of a type subject to registration which is towed by such a
21 vehicle;

22 (3) Smoke shall mean the solid or liquid matter, except water,
23 discharged from a motor vehicle engine which obscures the transmission of
24 light;

25 (4) Smokemeter shall mean a full-flow, light-extinction smokemeter
26 of a type approved by the Department of Water, Energy, and Environment
27 ~~Environment and Energy~~ and operating on the principles described in the
28 federal standards;

29 (5) Opacity shall mean the degree to which a smoke plume emitted
30 from a diesel-powered motor vehicle engine will block the passage of a
31 beam of light expressed as a percentage; and

1 (6) Smoke control system shall mean a system consisting of one or
2 more devices and adjustments designed to control the discharge of smoke
3 from diesel-powered motor vehicles.

4 **Sec. 245.** Section 60-6,364, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 60-6,364 Sections 60-6,363 to 60-6,374 shall apply to all diesel-
7 powered motor vehicles operated within this state with the exception of
8 the following:

9 (1) Emergency vehicles operated by federal, state, and local
10 governmental authorities;

11 (2) Vehicles which are not required to be registered in accordance
12 with the Motor Vehicle Registration Act;

13 (3) Vehicles used for research and development which have been
14 approved by the Director of Water, Energy, and Environment ~~Environment~~
15 ~~and Energy~~;

16 (4) Vehicles being operated while undergoing maintenance;

17 (5) Vehicles operated under emergency conditions;

18 (6) Vehicles being operated in the course of training programs which
19 have been approved by the director; and

20 (7) Other vehicles expressly exempted by the director.

21 **Sec. 246.** Section 60-6,367, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 60-6,367 (1) Officials of the Department of Water, Energy, and
24 Environment ~~Environment and Energy~~ and local enforcement officials shall
25 have the authority to issue citations to suspected violators of sections
26 60-6,363 to 60-6,374 on the basis of their visual evaluation of the smoke
27 emitted from a diesel-powered motor vehicle. A citation shall give the
28 suspected violator a reasonable time to furnish evidence to the
29 department that such alleged violation has been corrected or else such
30 suspected violator shall be subject to the penalties set out in section
31 60-6,373. A suspected violator may demand that the suspected vehicle be

1 tested by an approved smokemeter prior to a trial on the alleged
2 violation.

3 (2) Smokemeter tests shall be conducted (a) by or under the
4 supervision of a person or testing facility authorized by the Director of
5 Water, Energy, and Environment ~~Environment and Energy~~ to conduct such
6 tests and (b) by installing an approved smokemeter on the exhaust pipe
7 and operating the suspected vehicle at engine revolutions per minute
8 equivalent to the engine revolutions per minute at the time of the
9 alleged violation.

10 (3) The results of smokemeter tests run in accordance with this
11 section and after the alleged violation shall be admissible as evidence
12 in legal proceedings.

13 **Sec. 247.** Section 60-6,368, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 60-6,368 (1) The Director of Water, Energy, and Environment
16 ~~Environment and Energy~~ shall have the power, after public hearings on due
17 notice, to adopt and promulgate, consistent with and in furtherance of
18 the provisions of sections 60-6,363 to 60-6,374, rules and regulations in
19 accordance with which he or she will carry out his or her
20 responsibilities and obligations under such sections.

21 (2) Any rules or regulations promulgated by the director shall be
22 consistent with the provisions of the federal standards, if any, relating
23 to control of emissions from the diesel-powered motor vehicles affected
24 by such rules and regulations. The director shall not require, as a
25 condition for the sale of any diesel-powered motor vehicle covered by
26 sections 60-6,363 to 60-6,374, the inspection, certification, or other
27 approval of any feature or equipment designed for the control of noise or
28 emissions from such diesel-powered motor vehicles if such feature or
29 equipment has been certified, approved, or otherwise authorized pursuant
30 to laws or regulations of any federal governmental body as sufficient to
31 make lawful the sale of any diesel-powered motor vehicle covered by such

1 sections.

2 **Sec. 248.** Section 61-201, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 61-201 The Chief Water Officer of the Department of Water, Energy,
5 and Environment Director of Natural Resources shall be qualified by
6 training and business experience to manage and supervise the Division of
7 Water of the Department of Water, Energy, and Environment ~~Department of~~
8 ~~Natural Resources.~~ The Chief Water Officer ~~director~~ shall be a
9 ~~professional engineer as provided in the Engineers and Architects~~
10 ~~Regulation Act and~~ have had at least five years' experience in a position
11 of responsibility in irrigation work and shall be appointed by the
12 Governor, subject to confirmation by the Legislature. The Chief Water
13 Officer shall report directly to the Director of Water, Energy, and
14 Environment. The Chief Water Officer shall, before assuming the duties of
15 the office, take and subscribe an oath, such as is required by state
16 officers.

17 **Sec. 249.** Section 61-202, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 61-202 The Department of Water, Energy, and Environment ~~Director of~~
20 ~~Natural Resources~~ may employ such personnel, including legal and
21 technical advisors, as necessary to carry out the duties required of the
22 department ~~director.~~

23 **Sec. 250.** Section 61-203, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 61-203 The Director of Water, Energy, and Environment ~~Natural~~
26 ~~Resources~~ shall adopt a seal. Copies of all records or other instruments
27 in the Department of Water, Energy, and Environment ~~Natural Resources~~
28 when certified by the department as true copies and bearing the seal
29 thereof shall be received in any court as prima facie evidence of the
30 original record or instruments.

31 **Sec. 251.** Section 61-204, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 61-204 (1) The Director of Water, Energy, and Environment ~~Natural~~
3 ~~Resources~~ may adopt and promulgate rules and regulations for the
4 Department of Water, Energy, and Environment ~~Natural Resources~~ except to
5 the extent such power is statutorily granted to the Nebraska Natural
6 Resources Commission. The director shall administer rules and regulations
7 adopted and promulgated by the commission.

8 (2) The rules, regulations, and orders of the Director of Water
9 Resources, the Department of Water Resources, ~~and~~ the Nebraska Natural
10 Resources Commission, the Director of Natural Resources, and the
11 Department of Natural Resources shall remain in effect unless changed or
12 eliminated by the ~~Director of Natural Resources or the~~ Department of
13 Water, Energy, and Environment ~~Natural Resources~~ or by the commission to
14 the extent such power is statutorily granted to the commission.

15 **Sec. 252.** Section 61-205, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 61-205 The Department of Water, Energy, and Environment shall
18 exercise the powers and perform the duties assigned to the Department of
19 Natural Resources prior to July 1, 2025. ~~The Department of Natural~~
20 ~~Resources shall exercise the powers and perform the duties assigned to~~
21 ~~the Department of Water Resources prior to July 1, 2000.~~ ~~The Department~~
22 ~~of Natural Resources shall exercise the powers and perform the duties~~
23 ~~assigned to the Nebraska Natural Resources Commission prior to July 1,~~
24 ~~2000, except as otherwise specifically provided.~~

25 The Director of Water, Energy, and Environment ~~Natural Resources~~ and
26 his or her duly authorized assistants shall have access at all reasonable
27 times to all dams, reservoirs, hydroelectric plants, water measuring
28 devices, and headgates, and other devices for diverting water, for the
29 purpose of performing the duties assigned to the department.

30 **Sec. 253.** Section 61-206, Revised Statutes Cumulative Supplement,
31 2024, is amended to read:

1 61-206 (1) The Department of Water, Energy, and Environment ~~Natural~~
2 ~~Resources~~ is given jurisdiction over all matters pertaining to water
3 rights for irrigation, power, or other useful purposes except as such
4 jurisdiction is specifically limited by statute. The department may adopt
5 and promulgate rules and regulations governing matters coming before it.
6 It may refuse to allow any water to be used by claimants until their
7 rights have been determined and made of record. It may request
8 information relative to irrigation and water power works from any county,
9 irrigation, or power officers and from any other persons. It may have
10 hearings on complaints, petitions, or applications in connection with any
11 of such matters. Such hearings shall be had at the time and place
12 designated by the department. The department shall have power to certify
13 official acts, compel attendance of witnesses, take testimony by
14 deposition as in suits at law, and examine books, papers, documents, and
15 records of any county, party, or parties interested in any of the matters
16 mentioned in this section or have such examinations made by its qualified
17 representative and shall make and preserve a true and complete transcript
18 of its proceedings and hearings. If a final decision is made without a
19 hearing, a hearing shall be held at the request of any party to the
20 proceeding if the request is made within thirty days after the decision
21 is rendered. If a hearing is held at the request of one or more parties,
22 the department may require each such requesting party and each person who
23 requests to be made a party to such hearing to pay the proportional share
24 of the cost of such transcript. Upon any hearing, the department shall
25 receive any evidence relevant to the matter under investigation and the
26 burden of proof shall be upon the person making the complaint, petition,
27 and application. After such hearing and investigation, the department
28 shall render a decision in the premises in writing and shall issue such
29 order or orders duly certified as it may deem necessary.

30 (2) The department shall serve as the official agency of the state
31 in connection with water resources development, soil and water

1 conservation, flood prevention, watershed protection, and flood control.

2 (3) The department shall:

3 (a) Offer assistance as appropriate to the supervisors or directors
4 of any subdivision of government with responsibilities in the area of
5 natural resources conservation, development, and use in the carrying out
6 of any of their powers and programs;

7 (b) Keep the supervisors or directors of each such subdivision
8 informed of the activities and experience of all other such subdivisions
9 and facilitate cooperation and an interchange of advice and experience
10 between such subdivisions;

11 (c) Coordinate the programs of such subdivisions so far as this may
12 be done by advice and consultation;

13 (d) Secure the cooperation and assistance of the United States, any
14 of its agencies, and agencies of this state in the work of such
15 subdivisions;

16 (e) Disseminate information throughout the state concerning the
17 activities and programs of such subdivisions;

18 (f) Plan, develop, and promote the implementation of a comprehensive
19 program of resource development, conservation, and utilization for the
20 soil and water resources of this state in cooperation with other local,
21 state, and federal agencies and organizations;

22 (g) When necessary for the proper administration of the functions of
23 the department, rent or lease space outside the State Capitol; and

24 (h) Assist such local governmental organizations as villages,
25 cities, counties, and natural resources districts in securing, planning,
26 and developing information on flood plains to be used in developing
27 regulations and ordinances on proper use of these flood plains.

28 **Sec. 254.** Section 61-207, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 61-207 If any county, party, or parties interested in irrigation or
31 water power work affected thereby are dissatisfied with the decision or

1 with any order adopted, such dissatisfied county, party, or parties may
2 appeal to the Court of Appeals to reverse, vacate, or modify the order
3 complained of. The procedure to obtain such reversal, modification, or
4 vacation of any such decision or order upon which a hearing has been had
5 before the Department of Water, Energy, and Environment ~~Natural Resources~~
6 shall be governed by the same provisions in force with reference to
7 appeals and error proceedings from the district court. The evidence
8 presented before the department as reported by its official stenographer
9 and reduced to writing, together with a transcript of the record and
10 pleadings upon which the decision is based, duly certified in such case
11 under the seal of the department, shall constitute the complete record
12 and the evidence upon which the case shall be presented to the appellate
13 court. The time for perfecting such appeal shall be limited to thirty
14 days after the rendition of such decision or order, and the appellate
15 court shall advance such appeal to the head of its docket.

16 **Sec. 255.** Section 61-208, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 61-208 The Department of Water, Energy, and Environment ~~Natural~~
19 ~~Resources~~ may make surveys of streams showing location of possible water
20 power developments and irrigation projects.

21 **Sec. 256.** Section 61-209, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 61-209 The Department of Water, Energy, and Environment ~~Natural~~
24 ~~Resources~~ may conduct special projects for water data collection on
25 behalf of other state agencies, political subdivisions, or federal
26 agencies. Such data shall be public information. The department may
27 charge a fee to cover in whole or in part the costs of collecting,
28 analyzing, and publishing the data and such fees shall be deposited in
29 the Department of Water, Energy, and Environment ~~Natural Resources~~ Cash
30 Fund.

31 **Sec. 257.** Section 61-210, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 61-210 The Department of Water, Energy, and Environment ~~Natural~~
3 ~~Resources~~ Cash Fund is created. The State Treasurer shall credit to such
4 fund such money as is specifically appropriated or reappropriated by the
5 Legislature. The State Treasurer shall also credit such fund with
6 payments, if any, accepted for services rendered by the department and
7 fees collected pursuant to subsection (6) of section 46-606 and section
8 61-209. The funds made available to the Department of Water, Energy, and
9 Environment ~~Natural Resources~~ by the United States, through the Natural
10 Resources Conservation Service of the Department of Agriculture or
11 through any other agencies, shall be credited to the fund by the State
12 Treasurer. Any money in the fund available for investment shall be
13 invested by the state investment officer pursuant to the Nebraska Capital
14 Expansion Act and the Nebraska State Funds Investment Act. The Department
15 of Water, Energy, and Environment ~~Natural Resources~~ shall allocate money
16 from the fund to pay costs of the programs or activities of the
17 department. The Director of Administrative Services, upon receipt of
18 proper vouchers approved by the department, shall issue warrants on the
19 fund, and the State Treasurer shall countersign and pay from, but never
20 in excess of, the amounts to the credit of the fund. Transfers may be
21 made from the fund to the General Fund at the direction of the
22 Legislature.

23 **Sec. 258.** Section 61-211, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 61-211 The Department of Water, Energy, and Environment ~~Natural~~
26 ~~Resources~~ may direct managers or operators of interstate ditches to
27 construct and maintain suitable measuring devices at or near the state
28 line in Nebraska. A manager or operator shall within thirty days after
29 receipt of notice from the department construct and complete installation
30 of such a measuring device and shall furnish daily gauge height reports
31 to the department from the beginning to the end of the irrigation season,

1 in such form and manner as recommended by the department. Failure of any
2 manager or operator of an interstate ditch to comply with this section
3 shall be a Class V misdemeanor.

4 **Sec. 259.** Section 61-215, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 61-215 There shall be one or more division supervisors acting for
7 the Department of Water, Energy, and Environment ~~Natural Resources~~ to
8 administer the public water of the state in water division No. 1 and
9 water division No. 2, as the water divisions created by section 61-212.
10 Such a division supervisor, acting for the department, shall have the
11 immediate direction and control of the distribution of water in such
12 manner as directed by the department.

13 **Sec. 260.** Section 61-216, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 61-216 The division supervisor or supervisors shall, under the
16 direction of the Department of Water, Energy, and Environment ~~Natural~~
17 ~~Resources~~, see that the laws relative to the distribution of water are
18 executed in accordance with the rights of priority of appropriation.

19 **Sec. 261.** Section 61-218, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 61-218 (1) The Water Resources Cash Fund is created. The fund shall
22 be administered by the Department of Water, Energy, and Environment
23 ~~Natural Resources~~. Any money in the fund available for investment shall
24 be invested by the state investment officer pursuant to the Nebraska
25 Capital Expansion Act and the Nebraska State Funds Investment Act.

26 (2) The State Treasurer shall credit to the fund such money as is
27 (a) transferred to the fund by the Legislature, (b) paid to the state as
28 fees, deposits, payments, and repayments relating to the fund, both
29 principal and interest, (c) donated as gifts, bequests, or other
30 contributions to such fund from public or private entities, (d) made
31 available by any department or agency of the United States if so directed

1 by such department or agency, (e) allocated pursuant to section
2 81-15,175, and (f) received by the state for settlement of claims
3 relating to interstate river compacts or decrees.

4 (3)(a) The fund shall be expended by the department in any area that
5 has adopted an integrated management plan as provided in section 46-715.

6 (b) The fund shall be used in any such area:

7 (i) To aid management actions taken to reduce consumptive uses of
8 water;

9 (ii) To enhance streamflows or ground water recharge;

10 (iii) For any other activity deemed necessary by the department in
11 the development and implementation of an integrated management plan;

12 (iv) For purposes of the Resilient Soils and Water Quality Act; or

13 (v) For purposes of projects or proposals described in the grant
14 application as set forth in subdivision (2)(h) of section 81-15,175.

15 (c) To the extent funds are not expended pursuant to subdivision (b)
16 of this subsection, the department may conduct a statewide assessment of
17 short-term and long-term water management activities and funding needs to
18 meet statutory requirements in sections 46-713 to 46-718 and 46-739 and
19 any requirements of an interstate compact or decree or formal state
20 contract or agreement.

21 (d) The fund shall not be used to pay for administrative expenses or
22 any salaries for any political subdivision.

23 (4) It is the intent of the Legislature that three million three
24 hundred thousand dollars be transferred each fiscal year from the General
25 Fund to the Water Resources Cash Fund for FY2011-12 through FY2022-23,
26 except that for FY2012-13 it is the intent of the Legislature that four
27 million seven hundred thousand dollars be transferred from the General
28 Fund to the Water Resources Cash Fund. It is the intent of the
29 Legislature that the State Treasurer credit any money received from any
30 Republican River Compact settlement to the Water Resources Cash Fund in
31 the fiscal year in which it is received.

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

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

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

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

28 (6) The Department of Water, Energy, and Environment ~~Natural~~
29 ~~Resources~~ shall submit electronically an annual report to the Legislature
30 no later than October 1 of each year, ~~beginning in the year 2007~~, that
31 shall detail the use of the Water Resources Cash Fund in the previous

1 year. The report shall provide:

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

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

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

18 (b) If the application is granted, funds received from such grant
19 shall be remitted to the State Treasurer for credit to the Water
20 Resources Cash Fund for the purpose of supporting the projects set forth
21 in the grant application. The department shall include in its grant
22 application documentation that the Legislature has authorized a transfer
23 of three million three hundred thousand dollars from the General Fund
24 into the Water Resources Cash Fund for each of fiscal years 2011-12 and
25 2012-13 and has stated its intent to transfer three million three hundred
26 thousand dollars to the Water Resources Cash Fund for fiscal year
27 2013-14.

28 (c) It is the intent of the Legislature that the department apply
29 for an additional three-year grant that would begin in fiscal year
30 2014-15, an additional three-year grant from the Nebraska Environmental
31 Trust Fund that would begin in fiscal year 2017-18, and an additional

1 three-year grant from the Nebraska Environmental Trust Fund that would
2 begin in fiscal year 2020-21 if the criteria established in subsection
3 (4) of section 81-15,175 are achieved.

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

12 (9) Any funds transferred from the Nebraska Environmental Trust Fund
13 to the Water Resources Cash Fund shall be expended in accordance with
14 section 81-15,168.

15 (10) The State Treasurer shall transfer one million dollars from the
16 Water Resources Cash Fund to the Nitrogen Reduction Incentive Cash Fund
17 as soon as administratively possible after July 19, 2024, but before June
18 30, 2025, on such dates and in such amounts as directed by the budget
19 administrator of the budget division of the Department of Administrative
20 Services.

21 **Sec. 262.** Section 61-222, Revised Statutes Cumulative Supplement,
22 2024, is amended to read:

23 61-222 The Water Sustainability Fund is created in the Department of
24 Water, Energy, and Environment ~~Natural Resources~~. The fund shall be used
25 in accordance with the provisions established in sections 2-1506 to
26 2-1513 and for costs directly related to the administration of the fund.
27 The Legislature shall not appropriate or transfer money from the Water
28 Sustainability Fund for any other purpose, except that transfers may be
29 made from the Water Sustainability Fund to the Department of Water,
30 Energy, and Environment ~~Natural Resources~~ Cash Fund and as a one-time
31 transfer to the General Fund as described in this section.

1 The Water Sustainability Fund shall consist of money transferred to
2 the fund by the Legislature, other funds as appropriated by the
3 Legislature, and money donated as gifts, bequests, or other contributions
4 from public or private entities. Funds made available by any department
5 or agency of the United States may also be credited to the fund if so
6 directed by such department or agency. Any money in the fund available
7 for investment shall be invested by the state investment officer pursuant
8 to the Nebraska Capital Expansion Act and the Nebraska State Funds
9 Investment Act. Prior to October 1, 2024, investment earnings from
10 investment of money in the fund shall be credited to the fund. Beginning
11 October 1, 2024, any investment earnings from investment of money in the
12 fund shall be credited to the General Fund.

13 It is the intent of the Legislature that twenty-one million dollars
14 be transferred from the General Fund to the Water Sustainability Fund in
15 fiscal year 2014-15 and that eleven million dollars be transferred from
16 the General Fund to the Water Sustainability Fund each fiscal year
17 beginning in fiscal year 2015-16.

18 The State Treasurer shall transfer one hundred seventy-five thousand
19 dollars from the Water Sustainability Fund to the Department of Water,
20 Energy, and Environment ~~Natural Resources~~ Cash Fund on or before June 30,
21 2021, on such dates and in such amounts as directed by the budget
22 administrator of the budget division of the Department of Administrative
23 Services.

24 The State Treasurer shall transfer four hundred twenty-five thousand
25 dollars from the Water Sustainability Fund to the Department of Water,
26 Energy, and Environment ~~Natural Resources~~ Cash Fund on or before June 30,
27 2021, on such dates and in such amounts as directed by the budget
28 administrator of the budget division of the Department of Administrative
29 Services.

30 The State Treasurer shall transfer five hundred thousand dollars
31 from the Water Sustainability Fund to the General Fund on or before June

1 30, 2021, on such dates and in such amounts as directed by the budget
2 administrator of the budget division of the Department of Administrative
3 Services.

4 The State Treasurer shall transfer four hundred seventy-five
5 thousand dollars from the Water Sustainability Fund to the Department of
6 Water, Energy, and Environment ~~Natural Resources~~ Cash Fund on or before
7 June 30, 2022, on such dates and in such amounts as directed by the
8 budget administrator of the budget division of the Department of
9 Administrative Services.

10 The State Treasurer shall transfer four hundred seventy-five
11 thousand dollars from the Water Sustainability Fund to the Department of
12 Water, Energy, and Environment ~~Natural Resources~~ Cash Fund on or before
13 June 30, 2023, on such dates and in such amounts as directed by the
14 budget administrator of the budget division of the Department of
15 Administrative Services.

16 **Sec. 263.** Section 61-224, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 61-224 There is hereby created the Critical Infrastructure
19 Facilities Cash Fund in the Department of Water, Energy, and Environment
20 ~~Natural Resources~~. The fund shall consist of funds appropriated or
21 transferred by the Legislature. The fund shall be used by the Department
22 of Water, Energy, and Environment ~~Natural Resources~~ (1) to provide a
23 grant to a natural resources district to offset costs related to soil and
24 water improvements intended to protect critical infrastructure facilities
25 within the district which includes military installations, transportation
26 routes, and wastewater treatment facilities, (2) to provide a grant to an
27 irrigation district for reimbursement of costs related to temporary
28 repairs to the main canal and tunnels of an interstate irrigation system
29 which experienced a failure, and (3) to provide a grant to an entity
30 within a county with a population exceeding one hundred thousand
31 inhabitants formed pursuant to the Interlocal Cooperation Act for the

1 purpose of funding a portion of the cost of a wastewater system. Any
2 funds remaining after all such project costs have been completely funded
3 shall be transferred to the General Fund. Transfers may be made from the
4 Critical Infrastructure Facilities Cash Fund to the General Fund at the
5 direction of the Legislature. Any money in the Critical Infrastructure
6 Facilities Cash Fund available for investment shall be invested by the
7 state investment officer pursuant to the Nebraska Capital Expansion Act
8 and the Nebraska State Funds Investment Act, and any interest earned by
9 the fund shall be credited to the General Fund.

10 **Sec. 264.** Section 61-226, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 61-226 The Department of Water, Energy, and Environment ~~Natural~~
13 ~~Resources~~ shall develop a state flood mitigation plan as a stand-alone
14 document to be annexed into the state hazard mitigation plan maintained
15 by the Nebraska Emergency Management Agency. Such plan shall be
16 structured in accordance with Federal Emergency Management Agency
17 guidelines, and shall be comprehensive, collaborative, and statewide in
18 scope with opportunities for input from diverse stakeholders.

19 **Sec. 265.** Section 61-227, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 61-227 The Department of Water, Energy, and Environment ~~Natural~~
22 ~~Resources~~ shall convene a plan development group which shall be housed
23 and staffed for administrative purposes within such department. The
24 Department of Water, Energy, and Environment ~~Natural Resources~~ shall
25 engage with federal, state, and local agency and community stakeholders
26 in the development of the state flood mitigation plan, including, but not
27 limited to, the Department of Transportation, ~~the Department of~~
28 ~~Environment and Energy~~, the Department of Economic Development, the
29 Department of Agriculture, the Nebraska Emergency Management Agency,
30 natural resources districts, the United States Department of Agriculture,
31 the United States Army Corps of Engineers, the United States Geological

1 Survey, the Federal Emergency Management Agency, the University of
2 Nebraska, representatives of counties, municipalities, and other
3 political subdivisions, and the Natural Resources Committee of the
4 Legislature. The Department of Water, Energy, and Environment ~~Natural~~
5 ~~Resources~~ may engage other sources to provide technical expertise as
6 needed.

7 **Sec. 266.** Section 61-228, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 61-228 The Department of Water, Energy, and Environment ~~Natural~~
10 ~~Resources~~ shall:

11 (1) Evaluate the flood issues that occurred in 2019, and identify
12 cost-effective flood mitigation strategies that should be adopted to
13 reduce the disruption of lives and livelihoods and prioritize making
14 Nebraska communities more resilient;

15 (2) Identify opportunities to implement flood hazard mitigation
16 strategies with the intent to reduce the impact of flood events;

17 (3) Work to improve knowledge and understanding of available
18 recovery resources while identifying potential gaps in current disaster
19 program delivery;

20 (4) Identify potential available funding sources that can be
21 accessed to improve the resilience of the state through flood mitigation
22 and post-flood disaster recovery. The funding sources shall include, but
23 not be limited to, assistance from (a) the Federal Emergency Management
24 Agency's Flood Mitigation Assistance Grant Program, Building Resilient
25 Infrastructure and Communities Grant Program, Hazard Mitigation Grant
26 Program, Public Assistance Program, and Individual Assistance Program,
27 (b) the United States Department of Housing and Urban Development's
28 Community Development Block Grant Program and Community Development Block
29 Grant Disaster Recovery Program, and (c) programs of the United States
30 Department of Agriculture's Natural Resources Conservation Service.
31 Identification of such funding sources shall be in addition to grants and

1 cost-sharing programs available through other agencies that support flood
2 hazard mitigation planning in communities;

3 (5) Compile a centralized list of critical infrastructure and state-
4 owned facilities and identify those with the highest risk of flooding. In
5 compiling such list, the Department of Water, Energy, and Environment
6 ~~Natural Resources~~ shall consult and collaborate with other state and
7 local agencies that have information that identifies vulnerable
8 facilities;

9 (6) Evaluate state laws, rules, regulations, policies, and programs
10 related to flood hazard mitigation and development in flood hazard-prone
11 areas to support the state's administration of the Federal Emergency
12 Management Agency's National Flood Insurance Program, Community Rating
13 System, and Risk Mapping, Assessment, and Planning Program;

14 (7) Examine existing law and, if necessary, recommend statutory or
15 administrative changes to help ensure collaboration and coordination
16 between state and local entities in statewide flood mitigation planning;
17 and

18 (8) Hold two public hearings, one prior to the first state flood
19 mitigation plan development meeting and one prior to the completion of
20 such plan. Notice of each hearing shall be published at least thirty days
21 prior to the hearing date.

22 **Sec. 267.** Section 61-303, Revised Statutes Cumulative Supplement,
23 2024, is amended to read:

24 61-303 The Department of Water, Energy, and Environment ~~Natural~~
25 ~~Resources~~ shall have the necessary authority to develop, construct,
26 manage, and operate the Perkins County Canal Project consistent with the
27 terms of the South Platte River Compact and pursuant to the Perkins
28 County Canal Project Act. The department's powers under the act shall
29 include: (a) Contracting for services, (b) acquiring permits, (c)
30 acquiring and owning real property, (d) acquiring, holding, and
31 exercising water rights, (e) employing personnel, (f) accepting grants,

1 loans, donations, gifts, bequests, or other contributions from any person
2 or entity, public or private, including any funds made available by any
3 department or agency of the United States, (g) managing and expending
4 such funds as are made available to it from the Perkins County Canal
5 Project Fund, and (h) any other necessary functions consistent with the
6 compact and pursuant to the act in protecting Nebraska's full entitlement
7 to flows of the South Platte River. For purposes of the Perkins County
8 Canal Project Act, the Department of Water, Energy, and Environment
9 ~~Natural Resources~~ is authorized to acquire real estate or access thereto
10 in the name of the State of Nebraska by the use of eminent domain as
11 provided under section 76-725. The department is also authorized to
12 resolve all disputes that may arise, including the initiation or defense
13 of legal actions of any kind, as necessary to achieve the purposes of the
14 act.

15 **Sec. 268.** Section 61-305, Revised Statutes Cumulative Supplement,
16 2024, is amended to read:

17 61-305 (1) The Perkins County Canal Project Fund is created. The
18 fund shall be administered by the Department of Water, Energy, and
19 Environment ~~Natural Resources~~. The State Treasurer shall credit to the
20 fund any money transferred by the Legislature and such grants, loans,
21 donations, gifts, bequests, or other money received from any federal or
22 state agency or public or private source for use by the department for
23 the canal project. Any fees collected for water delivery may be credited
24 to the fund. Any money in the Perkins County Canal Project Fund available
25 for investment shall be invested by the state investment officer pursuant
26 to the Nebraska Capital Expansion Act and the Nebraska State Funds
27 Investment Act. Any investment earnings from investment of money in the
28 Perkins County Canal Project Fund shall be credited to such fund, except
29 that for fiscal years 2023-24, 2024-25, and 2025-26, such investment
30 earnings shall be credited as provided in section 84-622.

31 (2)(a) The department shall use the Perkins County Canal Project

1 Fund to identify the optimal route and purchase land for and develop,
2 construct, manage, and operate the Perkins County Canal as outlined by
3 the South Platte River Compact and to contract with an independent firm
4 for the purposes of completing a study of such canal. The study shall
5 include, but may not be limited to, the following:

6 (i) Costs of completion of a canal and adjoining reservoirs as
7 outlined in the South Platte River Compact;

8 (ii) A timeline for completion of a canal and adjoining reservoirs
9 as outlined in the South Platte River Compact;

10 (iii) A cost-effectiveness study examining alternatives, including
11 alternatives that may reduce environmental or financial impacts; and

12 (iv) The impacts of the canal on drinking water supplies for the
13 cities of Lincoln and Omaha.

14 (b) The department shall provide the findings of such study
15 electronically to the Clerk of the Legislature and present the findings
16 at a public hearing held by the Appropriations Committee of the
17 Legislature on or before December 31, 2022.

18 **Sec. 269.** Section 61-401, Revised Statutes Cumulative Supplement,
19 2024, is amended to read:

20 61-401 Sections 61-401 to 61-405 ~~61-404~~ shall be known and may be
21 cited as the Jobs and Economic Development Initiative Act and may also be
22 referred to as the JEDI Act.

23 **Sec. 270.** Section 61-403, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 61-403 (1) The Department of Water, Energy, and Environment ~~Natural~~
26 ~~Resources~~ is granted all power necessary to carry out the purposes of the
27 Jobs and Economic Development Initiative Act, including, but not limited
28 to, the power to:

29 (a) Purchase, sell, or lease land;

30 (b) Enter into contracts, including, but not limited to, contracts
31 relating to the provision of construction services, management services,

1 legal services, auditor services, and other consulting services or advice
2 as the department may require in the performance of its duties; and

3 (c) Enter into agreements with natural resources districts to
4 accomplish the purposes of the act. In any such agreement, a natural
5 resources district may use the full powers granted to it by law.

6 (2) It is the intent of the Legislature that the department engage
7 private parties and entities to construct and develop the lake and enter
8 into contracts or public-private partnerships that the department deems
9 advantageous to the construction and development of the lake, and land
10 adjacent thereto, and to advance the purposes of the act.

11 (3) Notwithstanding any other provision of law, the department shall
12 give preference to:

13 (a) Contract proposals relating to the development or management of
14 the lake from a Nebraska nonprofit corporation whose board of directors
15 include at least four directors who are appointed by the Governor with
16 the approval of a majority of the Legislature, one representative of the
17 Game and Parks Commission who is a nonvoting, ex officio member of such
18 board of directors, and one member of the Legislature who is appointed by
19 the Executive Board of the Legislative Council and who is a nonvoting, ex
20 officio member of such board of directors. All such directors must agree
21 to be bound by the conflict-of-interest provisions in sections 49-1493 to
22 49-14,104. Any such nonprofit corporation shall be bound by the Open
23 Meetings Act and sections 84-712 to 84-712.09 and shall publicly let
24 contracts valued in excess of twenty-five thousand dollars; and

25 (b) Contract proposals which provide for a public-private
26 partnership with the state in constructing, developing, or managing the
27 lake.

28 (4) The department is granted authority to select the land upon
29 which the lake will be built. In making such selection, the following
30 shall apply:

31 (a) The land shall be located in or near a county having a

1 population of at least one hundred thousand but not more than three
2 hundred thousand inhabitants and within the flood plain or floodway of
3 the Platte River;

4 (b) Preference shall be given to locations that were materially
5 underwater when the Platte River flooded in 2019;

6 (c) It is the intent of the Legislature that the lake be at least
7 three thousand six hundred surface acres in size;

8 (d) No dam shall be constructed on the main channel of the Platte
9 River in order to construct the lake; and

10 (e) No city or village, or any part thereof, shall be flooded in
11 order to construct the lake.

12 (5) The department is granted authority to designate the land
13 selected for the lake under subsection (4) of this section, and land near
14 or adjacent thereto, as the Lake Development District.

15 (6) The department may, in the performance of its duties, seek input
16 and advice from any natural resources district that encompasses any of
17 the area included in the Lake Development District.

18 (7) It is the intent of the Legislature that the department engage
19 local stakeholders as the department carries out its duties under this
20 section.

21 (8) The land selected for the lake shall be owned by the state, and
22 the department shall ensure that the general public has complete access
23 to the lake. No private entity involved in the constructing, developing,
24 or managing of the lake shall designate any portion of the lake for
25 exclusively private use. Nothing in this subsection shall preclude
26 reasonable limitations on the number of people using the lake, a marina,
27 or any other access point so long as such limitation does not restrict
28 access to a designated class of private parties.

29 (9) Neither the Director of Water, Energy, and Environment ~~Natural~~
30 ~~Resources~~ nor any employee of the Department of Water, Energy, and
31 Environment ~~Natural Resources~~ shall have a financial interest, either

1 personally or through an immediate family member, in any purchase, sale,
2 or lease of real property relating to the construction or development of
3 the lake or in any contract entered into by the department relating to
4 the construction, development, or management of the lake. For purposes of
5 this subsection, immediate family member means a spouse, child, sibling,
6 parent, grandparent, or grandchild.

7 **Sec. 271.** Section 61-404, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 61-404 Notwithstanding any other provision of law, no land within
10 the Lake Development District, as designated by the Department of Water,
11 Energy, and Environment ~~Natural Resources~~ pursuant to section 61-403,
12 shall be annexed.

13 **Sec. 272.** Section 61-405, Revised Statutes Cumulative Supplement,
14 2024, is amended to read:

15 61-405 (1) The Jobs and Economic Development Initiative Fund is
16 created. The fund shall be administered by the Department of Water,
17 Energy, and Environment ~~Natural Resources~~. The State Treasurer shall
18 credit to the fund any money transferred to the fund by the Legislature
19 and such donations, gifts, bequests, or other money received from any
20 federal or state agency or public or private source. The fund shall be
21 used for water and recreational projects pursuant to the Jobs and
22 Economic Development Initiative Act. Transfers may be made from the fund
23 to the Cash Reserve Fund or the Roads Operations Cash Fund at the
24 direction of the Legislature. Any money in the Jobs and Economic
25 Development Initiative Fund available for investment shall be invested by
26 the state investment officer pursuant to the Nebraska Capital Expansion
27 Act and the Nebraska State Funds Investment Act. Prior to October 1,
28 2024, any investment earnings from investment of money in the fund shall
29 be credited to the fund. Beginning October 1, 2024, any investment
30 earnings from investment of money in the fund shall be credited to the
31 General Fund.

1 (2) An amount, not to exceed twenty million dollars, shall be
2 available for site selection costs, feasibility and public water supply
3 studies, and flood mitigation costs of the Department of Water, Energy,
4 and Environment Natural Resources related to any projects pursuant to the
5 Jobs and Economic Development Initiative Act. The Department of Water,
6 Energy, and Environment Natural Resources shall, in cooperation with
7 impacted communities, including, but not limited to, any city of the
8 primary class and metropolitan utilities district, contract with an
9 independent consultant to conduct a study on the consequences of any lake
10 located in the Lower Platte River Basin to the public water supply of
11 such communities. Such study shall consider all aspects of water quality,
12 water quantity, and water infrastructure, and any other issues necessary
13 to protect the public water supply, including the impact to future water
14 supply opportunities to the impacted communities.

15 (3) No funds shall be expended for any project, other than those
16 enumerated in subsection (2) of this section, from the Jobs and Economic
17 Development Initiative Fund unless the Director of Water, Energy, and
18 Environment Natural Resources certifies to the budget administrator of
19 the budget division of the Department of Administrative Services that the
20 Department of Water, Energy, and Environment Natural Resources has
21 conducted any environmental, hydrological, or other feasibility studies
22 the director deems necessary to establish the feasibility of any projects
23 pursuant to the Jobs and Economic Development Initiative Act and that,
24 based on the results of such studies, the director has deemed the
25 projects feasible.

26 **Sec. 273.** Section 61-502, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 61-502 For purposes of the Public Water and Natural Resources
29 Project Contracting Act:

30 (1) Alternative technical concept means changes suggested by a
31 qualified, eligible, short-listed design-builder to the department's

1 basic configurations, project scope, design, or construction criteria;

2 (2) Best value-based selection process means a process of selecting
3 a design-builder using price, schedule, and qualifications for evaluation
4 factors;

5 (3) Construction manager means the legal entity which proposes to
6 enter into a construction manager-general contractor contract pursuant to
7 the act;

8 (4) Construction manager-general contractor contract means a
9 contract which is subject to a qualification-based selection process
10 between the department and a construction manager to furnish
11 preconstruction services during the design development phase of the
12 project and, if an agreement can be reached which is satisfactory to the
13 department, construction services for the construction phase of the
14 project;

15 (5) Construction services means activities associated with building
16 the project;

17 (6) Department means the Department of Water, Energy, and
18 Environment ~~Natural Resources~~;

19 (7) Design-build contract means a contract between the department
20 and a design-builder which is subject to a best value-based selection
21 process to furnish (a) architectural, engineering, and related design
22 services and (b) labor, materials, supplies, equipment, and construction
23 services;

24 (8) Design-builder means the legal entity which proposes to enter
25 into a design-build contract;

26 (9) Preconstruction services means all nonconstruction-related
27 services that a construction manager performs in relation to the design
28 of the project before execution of a contract for construction services.
29 Preconstruction services includes, but is not limited to, cost
30 estimating, value engineering studies, constructability reviews, delivery
31 schedule assessments, and life-cycle analysis;

1 (10) Private partner means any entity that is a partner in a public-
2 private partnership other than the State of Nebraska, any agency of the
3 State of Nebraska, the federal government, any agency of the federal
4 government, any other state government, or any agency of any government
5 at any level;

6 (11) Progressive design-build means a project-delivery process in
7 which both the design and construction of a project are procured from a
8 single entity that is selected through a qualification-based selection
9 process at the earliest feasible stage of the project;

10 (12) Project performance criteria means the performance requirements
11 of the project suitable to allow the design-builder to make a proposal.
12 Performance requirements shall include, but are not limited to, the
13 following, if required by the project: Capacity, durability, standards,
14 ingress and egress requirements, description of the site, surveys, soil
15 and environmental information concerning the site, material quality
16 standards, design and milestone dates, site development requirements,
17 compliance with applicable law, and other criteria for the intended use
18 of the project;

19 (13) Proposal means an offer in response to a request for proposals
20 (a) by a design-builder to enter into a design-build contract or (b) by a
21 construction manager to enter into a construction manager-general
22 contractor contract;

23 (14) Public-private partnership means a project delivery method for
24 construction or financing of capital projects or procurement of services
25 under a written public-private partnership agreement entered into
26 pursuant to section 61-520 between at least one private partner and the
27 State of Nebraska or any agency of the state;

28 (15) Qualification-based selection process means a process of
29 selecting a construction manager or progressive design-builder based on
30 qualifications;

31 (16) Request for proposals means the documentation by which the

1 department solicits proposals; and

2 (17) Request for qualifications means the documentation or
3 publication by which the department solicits qualifications.

4 **Sec. 274.** Section 61-520, Revised Statutes Cumulative Supplement,
5 2024, is amended to read:

6 61-520 (1) A public-private partnership delivery method may be used
7 for projects under the Public Water and Natural Resources Project
8 Contracting Act as provided in this section and rules and regulations
9 adopted and promulgated pursuant to this section only to the extent
10 allowed under the Constitution of Nebraska. State contracts using this
11 method shall be awarded by competitive negotiation.

12 (2) The department utilizing a public-private partnership shall
13 continue to be responsible for oversight of any function that is
14 delegated to or otherwise performed by a private partner.

15 (3) On or before July 1, 2024, the Director of Water, Energy, and
16 Environment ~~Natural Resources~~ shall adopt and promulgate rules and
17 regulations setting forth criteria to be used in determining when a
18 public-private partnership is to be used for a particular project. The
19 rules and regulations shall reflect the intent of the Legislature to
20 promote and encourage the use of public-private partnerships in the State
21 of Nebraska. The Director of Water, Energy, and Environment ~~Natural~~
22 ~~Resources~~ shall consult with design-builders, progressive design-
23 builders, construction managers, other contractors and design
24 professionals, including engineers and architects, and other appropriate
25 professionals during the development of the rules and regulations.

26 (4) A request for proposals for a project utilizing a public-private
27 partnership shall include at a minimum:

28 (a) The parameters of the proposed public-private partnership
29 agreement;

30 (b) The duties and responsibilities to be performed by the private
31 partner or private partners;

1 (c) The methods of oversight to be employed by the department;

2 (d) The duties and responsibilities that are to be performed by the
3 department and any other parties to the contract;

4 (e) The evaluation factors and the relative weight of each factor to
5 be used in the scoring of awards;

6 (f) Plans for financing and operating the project and the revenue,
7 service payments, bond financings, and appropriations of public funds
8 needed for the qualifying project;

9 (g) Comprehensive documentation of the experience, capabilities,
10 capitalization and financial condition, and other relevant qualifications
11 of the private entity submitting the proposal;

12 (h) The ability of a private partner or private partners to quickly
13 respond to the needs presented in the request for proposals and the
14 importance of economic development opportunities represented by the
15 project. In evaluating proposals, preference shall be given to a plan
16 that includes the involvement of small businesses as subcontractors, to
17 the extent that small businesses can provide services in a competitive
18 manner, unless any preference interferes with the qualification for
19 federal or other funds; and

20 (i) Other information required by the department to evaluate the
21 proposals submitted and the overall proposed public-private partnership.

22 (5) A private entity desiring to be a private partner shall
23 demonstrate to the satisfaction of the department that it is capable of
24 performing any duty, responsibility, or function it may be authorized or
25 directed to perform as a term or condition of the public-private
26 partnership agreement.

27 (6) A request for proposals may be canceled, or all proposals may be
28 rejected, if it is determined in writing that such action is taken in the
29 best interest of the State of Nebraska and approved by the purchasing
30 officer.

31 (7) Upon execution of a public-private partnership agreement, the

1 department shall ensure that the contract clearly identifies that a
2 public-private partnership is being utilized.

3 (8) The department shall:

4 (a) Adhere to the rules and regulations adopted and promulgated
5 under this section when utilizing a public-private partnership for
6 financing capital projects; and

7 (b) Electronically report annually to the Natural Resources
8 Committee of the Legislature regarding private-public partnerships which
9 have been considered or are approved pursuant to this section.

10 **Sec. 275.** Section 66-203, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 66-203 (1) The Department of Water, Energy, and Environment
13 ~~Environment and Energy~~ shall offer a rebate for qualified clean-burning
14 motor vehicle fuel property.

15 (2)(a) The rebate for qualified clean-burning motor vehicle fuel
16 property as defined in subdivisions (4)(a) and (b) of section 66-202 is
17 the lesser of fifty percent of the cost of the qualified clean-burning
18 motor vehicle fuel property or four thousand five hundred dollars for
19 each motor vehicle.

20 (b) A qualified clean-burning motor vehicle fuel property is not
21 eligible for a rebate under this section if the person or entity applying
22 for the rebate has claimed another rebate or grant for the same motor
23 vehicle under any other state rebate or grant program.

24 (3) The rebate for qualified clean-burning motor vehicle fuel
25 property as defined in subdivision (4)(c) of section 66-202 is the lesser
26 of fifty percent of the cost of the qualified clean-burning motor vehicle
27 fuel property or two thousand five hundred dollars for each qualified
28 clean-burning motor vehicle fuel property.

29 (4) No qualified clean-burning motor vehicle fuel property shall
30 qualify for more than one rebate under this section.

31 **Sec. 276.** Section 66-204, Revised Statutes Cumulative Supplement,

1 2024, is amended to read:

2 66-204 (1) The Clean-burning Motor Fuel Development Fund is created.
3 The fund shall consist of grants, private contributions, and all other
4 sources.

5 (2) The fund shall be used by the Department of Water, Energy, and
6 Environment ~~Environment and Energy~~ to provide rebates under the Nebraska
7 Clean-burning Motor Fuel Development Act up to the amount transferred
8 under subsection (3) of this section. No more than thirty-five percent of
9 the money in the fund annually shall be used as rebates for flex-fuel
10 dispensers. The department may use the fund for necessary costs in the
11 administration of the act up to an amount not exceeding ten percent of
12 the fund annually.

13 (3) Within five days after August 30, 2015, the State Treasurer
14 shall transfer five hundred thousand dollars from the General Fund to the
15 Clean-burning Motor Fuel Development Fund to carry out the Nebraska
16 Clean-burning Motor Fuel Development Act.

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

20 (5) The State Treasurer shall transfer two hundred thousand dollars
21 from the Clean-burning Motor Fuel Development Fund to the General Fund on
22 or before June 30, 2018, on such dates and in such amounts as directed by
23 the budget administrator of the budget division of the Department of
24 Administrative Services.

25 **Sec. 277.** Section 66-301, Revised Statutes Cumulative Supplement,
26 2024, is amended to read:

27 66-301 For purposes of sections 66-301 to 66-304:

28 (1) Covered electric generating unit means a fossil fuel-fired
29 electric generating unit existing within the state prior to August 30,
30 2015, that is subject to regulation under the federal emission
31 guidelines;

1 (2) Federal emission guidelines means any final rules, regulations,
2 guidelines, or other requirements that the United States Environmental
3 Protection Agency may adopt for regulating carbon dioxide emissions from
4 covered electric generating units under section 111(d) of the federal
5 Clean Air Act, 42 U.S.C. 7411(d);

6 (3) State means the State of Nebraska; and

7 (4) State plan means any plan to establish and enforce carbon
8 dioxide emission control measures that the Department of Water, Energy,
9 and Environment ~~Environment and Energy~~ may adopt to implement the
10 obligations of the state under the federal emission guidelines.

11 **Sec. 278.** Section 66-302, Revised Statutes Cumulative Supplement,
12 2024, is amended to read:

13 66-302 The Department of Water, Energy, and Environment ~~Environment~~
14 ~~and Energy~~ shall not submit a state plan for regulating carbon dioxide
15 emissions from covered electric generating units to the United States
16 Environmental Protection Agency until the department has prepared a
17 report as required in section 66-303. Nothing in this section shall
18 prevent the department from complying with federally prescribed
19 deadlines.

20 **Sec. 279.** Section 66-303, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 66-303 (1) The Department of Water, Energy, and Environment
23 ~~Environment and Energy~~ shall also prepare a report that assesses the
24 effects of the state plan for regulating carbon dioxide emissions from
25 covered electric generating units on:

26 (a) The electric power sector, including:

27 (i) The type and amount of electric generating capacity within the
28 state that is likely to retire or switch to another fuel;

29 (ii) The stranded investment in electric generating capacity and
30 other infrastructure;

31 (iii) The amount of investment necessary to offset retirements of

1 electric generating capacity and maintain generation reserve margins;

2 (iv) Potential risks to electric reliability, including resource
3 adequacy risks and transmission constraints; and

4 (v) The amount by which retail electricity prices within the state
5 are forecast to increase or decrease; and

6 (b) Employment within the state, including direct and indirect
7 employment effects within affected sectors of the state's economy.

8 (2) The department shall complete the report required under this
9 section at least thirty days prior to submitting the state plan prepared
10 pursuant to section 66-302 and shall electronically submit to the
11 Legislature a copy of such report.

12 (3) If the Legislature is in session when it receives the report,
13 the Legislature may vote on a nonbinding legislative resolution endorsing
14 or disapproving the state plan based on the findings of the report.

15 **Sec. 280.** Section 66-304, Revised Statutes Cumulative Supplement,
16 2024, is amended to read:

17 66-304 Upon submitting a state plan to the United States
18 Environmental Protection Agency, the Department of Water, Energy, and
19 Environment ~~Environment and Energy~~ shall electronically submit to the
20 Legislature a copy of the state plan.

21 **Sec. 281.** Section 66-489.02, Revised Statutes Cumulative Supplement,
22 2024, is amended to read:

23 66-489.02 (1) For tax periods beginning on and after July 1, 2009,
24 at the time of filing the return required by section 66-488, the
25 producer, supplier, distributor, wholesaler, or importer shall, in
26 addition to the other taxes provided for by law, pay a tax at the rate of
27 five percent of the average wholesale price of gasoline for the gallons
28 of the motor fuels as shown by the return, except that there shall be no
29 tax on the motor fuels reported if they are otherwise exempted by
30 sections 66-482 to 66-4,149.

31 (2) The department shall calculate the average wholesale price of

1 gasoline on April 1, 2009, and on each April 1 and October 1 thereafter.
2 The average wholesale price on April 1 shall apply to returns for the tax
3 periods beginning on and after July 1, and the average wholesale price on
4 October 1 shall apply to returns for the tax periods beginning on and
5 after January 1. The average wholesale price shall be determined using
6 data available from the Department of Water, Energy, and Environment
7 ~~Environment and Energy~~ and shall be an average wholesale price per gallon
8 of gasoline sold in the state over the previous six-month period,
9 excluding any state or federal excise tax or environmental fees. The
10 change in the average wholesale price between two six-month periods shall
11 be adjusted so that the increase or decrease in the tax provided for in
12 this section or section 66-6,109.02 does not exceed one cent per gallon.

13 (3) All sums of money received under this section shall be credited
14 to the Highway Trust Fund. Credits and refunds of such tax allowed to
15 producers, suppliers, distributors, wholesalers, or importers shall be
16 paid from the Highway Trust Fund. The balance of the amount credited,
17 after credits and refunds, shall be allocated as follows:

18 (a) Sixty-six percent to the Highway Cash Fund for the Department of
19 Transportation;

20 (b) Seventeen percent to the Highway Allocation Fund for allocation
21 to the various counties for road purposes; and

22 (c) Seventeen percent to the Highway Allocation Fund for allocation
23 to the various municipalities for street purposes.

24 **Sec. 282.** Section 66-1004, Revised Statutes Cumulative Supplement,
25 2024, is amended to read:

26 66-1004 Energy conservation measure shall mean installing or using
27 any:

- 28 (1) Caulking or weatherstripping of doors or windows;
- 29 (2) Furnace efficiency modifications involving electric service;
- 30 (3) Clock thermostats;
- 31 (4) Water heater insulation or modification;

1 (5) Ceiling, attic, wall, or floor insulation;

2 (6) Storm windows or doors, multiglazed windows or doors, or heat
3 absorbing or reflective glazed window and door material;

4 (7) Devices which control demand of appliances and aid load
5 management;

6 (8) Devices to utilize solar energy, biomass, or wind power for any
7 energy conservation purpose, including heating of water and space heating
8 or cooling, which have been identified by the Department of Water,
9 Energy, and Environment ~~Environment and Energy~~ as an energy conservation
10 measure for the purposes of sections 66-1001 to 66-1011;

11 (9) High-efficiency lighting and motors;

12 (10) Devices which are designed to increase energy efficiency, the
13 utilization of renewable resources, or both; and

14 (11) Such other conservation measures as the department shall
15 identify.

16 **Sec. 283.** Section 66-1009, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 66-1009 (1) A customer borrowing from a utility under a plan adopted
19 pursuant to sections 66-1001 to 66-1011 shall be allowed to contract with
20 the utility for a repayment plan and shall be offered a repayment period
21 of not less than three years and not more than twenty years.

22 (2) Upon default on a loan by a customer, after expending reasonable
23 efforts to collect, a utility may treat the entire unpaid contract amount
24 as due, but services to a residential, agricultural, or commercial
25 customer may not be terminated as a result of such default. Default
26 occurs when any amount due a utility under a plan adopted pursuant to
27 sections 66-1001 to 66-1011, 70-625, 70-704, 81-1606 to 81-1626, and
28 84-162 to 84-167 is not paid within sixty days of the due date.

29 (3) Any customer obtaining a loan pursuant to section 66-1007 shall
30 only use the funds to accomplish the purposes agreed upon at the time of
31 the loan. If the borrower of any funds obtained pursuant to sections

1 66-1001 to 66-1011 uses such funds in a manner or for a purpose not
2 authorized by this section, the total amount of the loan shall
3 immediately become due and payable.

4 (4) Any amount due a utility on a loan pursuant to sections 66-1001
5 to 66-1011 which is not paid in full within sixty days of the due date
6 shall become a lien as provided in this section on the real property
7 concerned as to the full unpaid balance. No lien under this section shall
8 be valid unless (a) the loan was signed by the party or parties shown on
9 the indexes of the register of deeds to be the owners of record of such
10 real property on the date of the loan and (b) the lien is filed not more
11 than four months after the date of default, in the same office and in the
12 same manner as mortgages in the county in which the real property is
13 located. Such lien shall take effect and be in force from and after the
14 time of delivering the same to the register of deeds for recording, and
15 not before, as to all creditors and subsequent purchasers in good faith
16 without notice, and such lien shall be adjudged void as to all such
17 creditors and subsequent purchasers without notice whose deeds,
18 mortgages, or other instruments shall be first recorded, except that such
19 lien shall be valid between the parties. A publicly owned utility shall
20 not maintain possession of any property which it may acquire pursuant to
21 a lien authorized by this section for a period of time longer than is
22 reasonably necessary to dispose of such property.

23 (5) Any loan made under a plan adopted pursuant to sections 66-1001
24 to 66-1011 shall not exceed fifteen thousand dollars, subject to any
25 existing limitations under federal law. Any loan to be made by a utility
26 which exceeds ten thousand dollars shall only be made in participation
27 with a bank pursuant to a contract. The utility and the participating
28 bank shall determine the terms and conditions of the contract.

29 (6) The Director of Water, Energy, and Environment ~~Environment and~~
30 ~~Energy~~ may adopt and promulgate rules and regulations to carry out
31 sections 66-1001 to 66-1011.

1 **Sec. 284.** Section 66-1105, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 66-1105 Any person who desires to withdraw ground water within the
4 State of Nebraska for geothermal resource development shall, prior to
5 commencing construction of any wells, obtain from the Director of Water,
6 Energy, and Environment ~~Natural Resources~~ a permit to authorize the
7 withdrawal, transfer, and further use or reinjection of such ground
8 water. The Department of Water, Energy, and Environment ~~Natural Resources~~
9 shall adopt and promulgate rules and regulations governing the issuance
10 of such permits, consistent with sections 66-1101 to 66-1106 and with
11 Chapter 46, article 6. Such rules and regulations ~~shall provide for~~
12 ~~consultation with the Department of Environment and Energy pursuant to~~
13 ~~the issuance of such permits and~~ shall be compatible with rules and
14 regulations adopted and promulgated by the department ~~Department of~~
15 ~~Environment and Energy~~ under the Environmental Protection Act. Any
16 geothermal fluids produced incident to the development and production of
17 geothermal resources shall be reinjected into the same geologic formation
18 from which they were extracted in substantially the same volume and
19 substantially the same or higher quality as when extracted unless the
20 permit issued in accordance with this section authorizes further uses or
21 processing other than those incident to reinjection.

22 **Sec. 285.** Section 66-1344, Revised Statutes Cumulative Supplement,
23 2024, is amended to read:

24 66-1344 (1) Beginning June 1, 2000, during such period as funds
25 remain in the Ethanol Production Incentive Cash Fund, any ethanol
26 facility shall receive a credit of seven and one-half cents per gallon of
27 ethanol, before denaturing, for new production for a period not to exceed
28 thirty-six consecutive months. For purposes of this subsection, new
29 production means production which results from the expansion of an
30 existing facility's capacity by at least two million gallons first placed
31 into service after June 1, 1999, as certified by the facility's design

1 engineer to the Department of Revenue. For expansion of an existing
2 facility's capacity, new production means production in excess of the
3 average of the highest three months of ethanol production at an ethanol
4 facility during the twenty-four-month period immediately preceding
5 certification of the facility by the design engineer. No credits shall be
6 allowed under this subsection for expansion of an existing facility's
7 capacity until production is in excess of twelve times the three-month
8 average amount determined under this subsection during any twelve-
9 consecutive-month period beginning no sooner than June 1, 2000. New
10 production shall be approved by the Department of Revenue based on such
11 ethanol production records as may be necessary to reasonably determine
12 new production. This credit must be earned on or before December 31,
13 2003.

14 (2)(a) Beginning January 1, 2002, any new ethanol facility which is
15 in production at the minimum rate of one hundred thousand gallons
16 annually for the production of ethanol, before denaturing, and which has
17 provided to the Department of Revenue written evidence substantiating
18 that the ethanol facility has received the requisite authority from the
19 Department of Water, Energy, and Environment ~~Environment and Energy~~ and
20 from the United States Department of Justice, Bureau of Alcohol, Tobacco,
21 Firearms and Explosives, on or before June 30, 2004, shall receive a
22 credit of eighteen cents per gallon of ethanol produced for ninety-six
23 consecutive months beginning with the first calendar month for which it
24 is eligible to receive such credit and ending not later than June 30,
25 2012, if the facility is defined by subdivision (b)(i) of this
26 subsection, and for forty-eight consecutive months beginning with the
27 first calendar month for which it is eligible to receive such credit and
28 ending not later than June 30, 2008, if the facility is defined by
29 subdivision (b)(ii) of this subsection. The new ethanol facility shall
30 provide an analysis to the Department of Revenue of samples of the
31 product collected according to procedures specified by the department no

1 later than July 30, 2004, and at least annually thereafter. The analysis
2 shall be prepared by an independent laboratory meeting the International
3 Organization for Standardization standard ISO/IEC 17025:1999. Prior to
4 collecting the samples, the new ethanol facility shall notify the
5 department which may observe the sampling procedures utilized by the new
6 ethanol facility to obtain the samples to be submitted for independent
7 analysis. The minimum rate shall be established for a period of at least
8 thirty days. In this regard, the new ethanol facility must produce at
9 least eight thousand two hundred nineteen gallons of ethanol within a
10 thirty-day period. The ethanol must be finished product which is ready
11 for sale to customers.

12 (b) For purposes of this subsection, new ethanol facility means a
13 facility for the conversion of grain or other raw feedstock into ethanol
14 and other byproducts of ethanol production which (i) is not in production
15 on or before September 1, 2001, or (ii) has not received credits prior to
16 June 1, 1999. A new ethanol facility does not mean an expansion of an
17 existing ethanol plant that does not result in the physical construction
18 of an entire ethanol processing facility or which shares or uses in a
19 significant manner any existing plant's systems or processes and does not
20 include the expansion of production capacity constructed after June 30,
21 2004, of a plant qualifying for credits under this subsection. This
22 definition applies to contracts entered into after April 16, 2004.

23 (c) Not more than fifteen million six hundred twenty-five thousand
24 gallons of ethanol produced annually at an ethanol facility shall be
25 eligible for credits under this subsection. Not more than one hundred
26 twenty-five million gallons of ethanol produced at an ethanol facility by
27 the end of the ninety-six-consecutive-month period or forty-eight-
28 consecutive-month period set forth in this subsection shall be eligible
29 for credits under this subsection.

30 (3) The credits described in this section shall be given only for
31 ethanol produced at a plant in Nebraska at which all fermentation,

1 distillation, and dehydration takes place. No credit shall be given on
2 ethanol produced for or sold for use in the production of beverage
3 alcohol. Not more than ten million gallons of ethanol produced during any
4 twelve-consecutive-month period at an ethanol facility shall be eligible
5 for the credit described in subsection (1) of this section. The credits
6 described in this section shall be in the form of a nonrefundable,
7 transferable motor vehicle fuel tax credit certificate. No transfer of
8 credits will be allowed between the ethanol producer and motor vehicle
9 fuel licensees who are related parties.

10 (4) Ethanol production eligible for credits under this section shall
11 be measured by a device approved by the Division of Weights and Measures
12 of the Department of Agriculture. Confirmation of approval by the
13 division shall be provided by the ethanol facility at the time the
14 initial claim for credits provided under this section is submitted to the
15 Department of Revenue and annually thereafter. Claims submitted by the
16 ethanol producer shall be based on the total number of gallons of ethanol
17 produced, before denaturing, during the reporting period measured in
18 gross gallons.

19 (5) The Department of Revenue shall prescribe an application form
20 and procedures for claiming credits under this section. In order for a
21 claim for credits to be accepted, it must be filed by the ethanol
22 producer within three years of the date the ethanol was produced or by
23 September 30, 2012, whichever occurs first.

24 (6) Every producer of ethanol shall maintain records similar to
25 those required by section 66-487. The ethanol producer must maintain
26 invoices, meter readings, load-out sheets or documents, inventory
27 records, including work-in-progress, finished goods, and denaturant, and
28 other memoranda requested by the Department of Revenue relevant to the
29 production of ethanol. On an annual basis, the ethanol producer shall
30 also be required to furnish the department with copies of the reports
31 filed with the United States Department of Justice, Bureau of Alcohol,

1 Tobacco, Firearms and Explosives. The maintenance of all of this
2 information in a provable computer format or on microfilm is acceptable
3 in lieu of retention of the original documents. The records must be
4 retained for a period of not less than three years after the claim for
5 ethanol credits is filed.

6 (7) For purposes of ascertaining the correctness of any application
7 for claiming a credit provided in this section, the Tax Commissioner (a)
8 may examine or cause to have examined, by any agent or representative
9 designated by him or her for that purpose, any books, papers, records, or
10 memoranda bearing upon such matters, (b) may by summons require the
11 attendance of the person responsible for rendering the application or
12 other document or any officer or employee of such person or the
13 attendance of any other person having knowledge in the premises, and (c)
14 may take testimony and require proof material for his or her information,
15 with power to administer oaths or affirmations to such person or persons.
16 The time and place of examination pursuant to this subsection shall be
17 such time and place as may be fixed by the Tax Commissioner and as are
18 reasonable under the circumstances. In the case of a summons, the date
19 fixed for appearance before the Tax Commissioner shall not be less than
20 twenty days from the time of service of the summons. No taxpayer shall be
21 subjected to unreasonable or unnecessary examinations or investigations.
22 All records obtained pursuant to this subsection shall be subject to the
23 confidentiality requirements and exceptions thereto as provided in
24 section 77-27,119.

25 (8) To qualify for credits under this section, an ethanol producer
26 shall provide public notice for bids before entering into any contract
27 for the construction of a new ethanol facility. Preference shall be given
28 to a bidder residing in Nebraska when awarding any contract for
29 construction of a new ethanol facility if comparable bids are submitted.
30 For purposes of this subsection, bidder residing in Nebraska means any
31 person, partnership, foreign or domestic limited liability company,

1 association, or corporation authorized to engage in business in the state
2 with employees permanently located in Nebraska. If an ethanol producer
3 enters into a contract for the construction of a new ethanol facility
4 with a bidder who is not a bidder residing in Nebraska, such producer
5 shall demonstrate to the satisfaction of the Department of Revenue in its
6 application for credits that no comparable bid was submitted by a
7 responsible bidder residing in Nebraska. The department shall deny an
8 application for credits if it is determined that the contract was denied
9 to a responsible bidder residing in Nebraska without cause.

10 (9) The pertinent provisions of Chapter 66, article 7, relating to
11 the administration and imposition of motor fuel taxes shall apply to the
12 administration and imposition of assessments made by the Department of
13 Revenue relating to excess credits claimed by ethanol producers under the
14 Ethanol Development Act. These provisions include, but are not limited
15 to, issuance of a deficiency following an examination of records, an
16 assessment becoming final after sixty days absent a written protest,
17 presumptions regarding the burden of proof, issuance of deficiency within
18 three years of original filing, issuance of notice by registered or
19 certified mail, issuance of penalties and waiver thereof, issuance of
20 interest and waiver thereof, and issuance of corporate officer or
21 employee or limited liability company manager or member assessments. For
22 purposes of determining interest and penalties, the due date will be
23 considered to be the date on which the credits were used by the licensees
24 to whom the credits were transferred.

25 (10) If a written protest is filed by the ethanol producer with the
26 department within the sixty-day period in subsection (9) of this section,
27 the protest shall: (a) Identify the ethanol producer; (b) identify the
28 proposed assessment which is being protested; (c) set forth each ground
29 under which a redetermination of the department's position is requested
30 together with facts sufficient to acquaint the department with the exact
31 basis thereof; (d) demand the relief to which the ethanol producer

1 considers itself entitled; and (e) request that an evidentiary hearing be
2 held to determine any issues raised by the protest if the ethanol
3 producer desires such a hearing.

4 (11) For applications received after April 16, 2004, an ethanol
5 facility receiving benefits under the Ethanol Development Act shall not
6 be eligible for benefits under the Employment and Investment Growth Act,
7 the Invest Nebraska Act, the Nebraska Advantage Act, or the Imagine
8 Nebraska Act.

9 **Sec. 286.** Section 66-1504, Revised Statutes Cumulative Supplement,
10 2024, is amended to read:

11 66-1504 Department shall mean the Department of Water, Energy, and
12 Environment ~~Environment and Energy~~.

13 **Sec. 287.** Section 66-1518, Revised Statutes Cumulative Supplement,
14 2024, is amended to read:

15 66-1518 (1) The Environmental Quality Council shall adopt and
16 promulgate rules and regulations governing reimbursements authorized
17 under the Petroleum Release Remedial Action Act. Such rules and
18 regulations shall include:

19 (a) Procedures regarding the form and procedure for application for
20 payment or reimbursement from the fund, including the requirement for
21 timely filing of applications;

22 (b) Procedures for the requirement of submitting cost estimates for
23 phases or stages of remedial actions, procurement requirements to be
24 followed by responsible persons, and requirements for reuse of fixtures
25 and tangible personal property by responsible persons during a remedial
26 action;

27 (c) Procedures for investigation of claims for payment or
28 reimbursement;

29 (d) Procedures for determining the amount and type of costs that are
30 eligible for payment or reimbursement from the fund;

31 (e) Procedures for auditing persons who have received payments from

1 the fund;

2 (f) Procedures for reducing reimbursements made for a remedial
3 action for failure by the responsible person to comply with applicable
4 statutory or regulatory requirements. Reimbursement may be reduced as
5 much as one hundred percent; and

6 (g) Other procedures necessary to carry out the act.

7 (2) The Director of Water, Energy, and Environment ~~Environment and~~
8 ~~Energy~~ shall (a) estimate the cost to complete remedial action at each
9 petroleum contaminated site where the responsible party has been ordered
10 by the department to begin remedial action, and, based on such estimates,
11 determine the total cost that would be incurred in completing all
12 remedial actions ordered; (b) determine the total estimated cost of all
13 approved remedial actions; (c) determine the total dollar amount of all
14 pending claims for payment or reimbursement; (d) determine the total of
15 all funds available for reimbursement of pending claims; and (e) include
16 the determinations made pursuant to this subsection in the department's
17 annual report to the Legislature.

18 (3) The department ~~Department of Environment and Energy~~ shall make
19 available to the public a current schedule of reasonable rates for
20 equipment, services, material, and personnel commonly used for remedial
21 action. The department shall consider the schedule of reasonable rates in
22 reviewing all costs for the remedial action which are submitted in a
23 plan. The rates shall be used to determine the amount of reimbursement
24 for the eligible and reasonable costs of the remedial action, except that
25 (a) the reimbursement for the costs of the remedial action shall not
26 exceed the actual eligible and reasonable costs incurred by the
27 responsible person or his or her designated representative and (b)
28 reimbursement may be made for costs which exceed or are not included on
29 the schedule of reasonable rates if the application for such
30 reimbursement is accompanied by sufficient evidence for the department to
31 determine and the department does determine that such costs are

1 reasonable.

2 **Sec. 288.** Section 66-1529.02, Revised Statutes Cumulative
3 Supplement, 2024, is amended to read:

4 66-1529.02 (1) The department may undertake remedial actions in
5 response to a release first reported after July 17, 1983, and on or
6 before June 30, 2028, with money available in the fund if:

7 (a) The responsible person cannot be identified or located;

8 (b) An identified responsible person cannot or will not comply with
9 the remedial action requirements; or

10 (c) Immediate remedial action is necessary, as determined by the
11 Director of Water, Energy, and Environment ~~Environment and Energy~~, to
12 protect human health or the environment.

13 (2) The department may pay the costs of a third-party claim meeting
14 the requirements of subdivision (2)(f) of section 66-1525 with money
15 available in the fund if the responsible person cannot or will not pay
16 the third-party claim.

17 (3) Reimbursement for any damages caused by the department or a
18 person acting at the department's direction while investigating or
19 inspecting or during remedial action on property other than property on
20 which a release or suspected release has occurred shall be considered as
21 part of the cost of remedial action involving the site where the release
22 or suspected release occurred. The costs shall be reimbursed from money
23 available in the fund. If such reimbursement is deemed inadequate by the
24 party claiming the damages, the party's claim for damages caused by the
25 department shall be filed as provided in section 76-705.

26 (4) All expenses paid from the fund under this section, court costs,
27 and attorney's fees may be recovered in a civil action in the district
28 court of Lancaster County. The action may be brought by the county
29 attorney or Attorney General at the request of the director against the
30 responsible person. All recovered expenses shall be deposited into the
31 fund.

1 **Sec. 289.** Section 66-2001, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 66-2001 (1) The Natural Gas Fuel Board is hereby established to
4 advise the Department of Water, Energy, and Environment ~~Environment and~~
5 ~~Energy~~ regarding the promotion of natural gas as a motor vehicle fuel in
6 Nebraska. The board shall provide recommendations relating to:

7 (a) Distribution, infrastructure, and workforce development for
8 natural gas to be used as a motor vehicle fuel;

9 (b) Loans, grants, and tax incentives to encourage the use of
10 natural gas as a motor vehicle fuel for individuals and public and
11 private fleets; and

12 (c) Such other matters as it deems appropriate.

13 (2) The board shall consist of eight members appointed by the
14 Governor. The Governor shall make the initial appointments by October 1,
15 2012. The board shall include:

16 (a) One member representing a jurisdictional utility as defined in
17 section 66-1802;

18 (b) One member representing a metropolitan utilities district;

19 (c) One member representing the interests of the transportation
20 industry in the state;

21 (d) One member representing the interests of the business community
22 in the state, specifically fueling station owners or operators;

23 (e) One member representing natural gas marketers or pipelines in
24 the state;

25 (f) One member representing automobile dealerships or repair
26 businesses in the state;

27 (g) One member representing labor interests in the state; and

28 (h) One member representing environmental interests in the state,
29 specifically air quality.

30 (3) All appointments shall be subject to the approval of a majority
31 of the members of the Legislature if the Legislature is in session, and

1 if the Legislature is not in session, any appointment to fill a vacancy
2 shall be temporary until the next session of the Legislature, at which
3 time a majority of the members of the Legislature may approve or
4 disapprove such appointment.

5 (4) Members shall be appointed for terms of four years, except that
6 of the initial appointees the terms of the members representing a
7 jurisdictional utility and a metropolitan utilities district shall expire
8 on September 30, 2015, the terms of the members representing the
9 transportation industry, the business community, natural gas marketers or
10 pipelines, and automobile dealerships or repair businesses shall expire
11 on September 30, 2014, and the terms of the members representing labor
12 and environmental interests shall expire on September 30, 2013. Members
13 may be reappointed. A member shall serve until a successor is appointed
14 and qualified.

15 (5) A vacancy on the board shall exist in the event of death,
16 disability, resignation, or removal for cause of a member. Any vacancy on
17 the board arising other than from the expiration of a term shall be
18 filled by appointment for the unexpired portion of the term. An
19 appointment to fill a vacancy shall be made by the Governor with the
20 approval of a majority of the Legislature, and any person so appointed
21 shall have the same qualifications as the person whom he or she succeeds.

22 (6) The board shall meet at least once annually.

23 (7) The members shall not be reimbursed for expenses associated with
24 carrying out their duties as members.

25 (8) The department shall provide administrative support to the board
26 as necessary so that the board may carry out its duties.

27 **Sec. 290.** Section 66-2201, Revised Statutes Cumulative Supplement,
28 2024, is amended to read:

29 66-2201 For purposes of sections 66-2201 to 66-2207:

30 (1) Department means the Department of Water, Energy, and
31 Environment ~~Environment and Energy~~;

1 (2) E-15 means a blend of ethanol and gasoline in which ethanol
2 comprises fifteen percent of the blend by volume;

3 (3) E-85 means a blend of ethanol and gasoline in which ethanol
4 comprises seventy percent or more of the blend by volume;

5 (4) Motor fuel pump means a meter or similar commercial weighing and
6 measuring device used to measure and dispense motor fuel originating from
7 a motor fuel storage tank;

8 (5) Program means the Renewable Fuel Infrastructure Program created
9 in section 66-2202;

10 (6) Retail dealer means a person engaged in the business of storing
11 and dispensing motor fuel from a motor fuel pump for sale on a retail
12 basis; and

13 (7) Retail motor fuel site means a geographic location in this state
14 where a retail dealer sells and dispenses motor fuel from a motor fuel
15 pump on a retail basis.

16 **Sec. 291.** Section 66-2216, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 66-2216 Beginning in 2025, the Department of Revenue and the
19 Department of Water, Energy, and Environment ~~Environment and Energy~~ shall
20 annually issue a joint report that identifies the statewide ethanol blend
21 rate. The statewide ethanol blend rate shall be equal to the average
22 percentage of ethanol contained in each gallon of motor fuel sold in this
23 state. Retail dealers shall provide a quarterly report of the number of
24 gallons of each type of motor fuel sold and the percentage of ethanol in
25 each gallon to the Department of Revenue. Reports to the Department of
26 Revenue shall be submitted on a form and in the manner prescribed by the
27 Department of Revenue.

28 **Sec. 292.** Section 69-2011, Revised Statutes Cumulative Supplement,
29 2024, is amended to read:

30 69-2011 On and after October 1, 1993, a person shall not sell or
31 offer for sale at retail any disposable diaper which is constructed of a

1 material which is not biodegradable or photodegradable if the Director of
2 Water, Energy, and Environment ~~Environment and Energy~~ determines that
3 biodegradable or photodegradable disposable diapers are readily available
4 at a comparable price and quality. The determination of quality shall
5 include a study of the environmental impact and fate of such disposable
6 diapers. The director shall issue his or her determination to the
7 Legislature on or before October 1, 1992. For purposes of this section
8 (1) readily available shall mean available for purchase in sufficient
9 quantities to meet demand through usual retail channels throughout the
10 state and (2) comparable price and quality shall mean at a cost not in
11 excess of five percent above the average price for products of comparable
12 quality which are not biodegradable or photodegradable.

13 **Sec. 293.** Section 69-2502, Revised Statutes Cumulative Supplement,
14 2024, is amended to read:

15 69-2502 For purposes of the Plastic Container Coding Act:

16 (1) Code shall mean a molded, imprinted, or raised symbol on or near
17 the bottom of a plastic bottle or rigid plastic container;

18 (2) Department shall mean the Department of Water, Energy, and
19 Environment ~~Environment and Energy~~;

20 (3) Plastic shall mean any material made of polymeric organic
21 compounds and additives that can be shaped by flow;

22 (4) Plastic bottle shall mean a plastic container intended for a
23 single use that:

24 (a) Has a neck smaller than the body of the container;

25 (b) Is designed for a screw-top, snap cap, or other closure; and

26 (c) Has a capacity of not less than sixteen fluid ounces or more
27 than five gallons; and

28 (5) Rigid plastic container shall mean any formed or molded
29 container intended for a single use, composed predominately of plastic
30 resin, that has a relatively inflexible finite shape or form with a
31 capacity of not less than eight ounces or more than five gallons. Rigid

1 plastic container shall not include a plastic bottle.

2 **Sec. 294.** Section 70-669, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 70-669 No inferior right to the use of the waters of this state
5 shall be acquired by a superior right without just compensation therefor
6 to the inferior user. The just compensation paid to those using water for
7 power purposes shall not be greater than the cost of replacing the power
8 which would be generated in the plant or plants of the power user by the
9 water so acquired. The just compensation to be paid to a holder of an
10 instream-basin-management appropriation that has been changed from a
11 manufacturing of hydropower appropriation pursuant to section 46-290
12 shall be the cost per acre-foot of water subordinated for the hydropower
13 appropriation at the time of approval of the change. The amount of
14 compensation may be adjusted annually, except that any increase shall not
15 exceed the annual change in the Consumer Price Index from the time of
16 approval of the change. If publication of such index is discontinued, a
17 comparable index selected by the Chief Water Officer of the Department of
18 Water, Energy, and Environment ~~Director of Natural Resources~~ shall be
19 used.

20 **Sec. 295.** Section 70-1003, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 70-1003 (1)(a) There is hereby established an independent board to
23 be known as the Nebraska Power Review Board. The board shall consist of
24 five members, including at least one engineer, at least one attorney, and
25 three additional persons. No more than one person who is or who has
26 within four years preceding such person's appointment been either a
27 director, an officer, or an employee of any electric utility or an
28 elective state officer shall serve on the board at the same time. Any
29 board member who previously was either a director, an officer, or an
30 employee of any electric utility within four years preceding such board
31 member's appointment shall refrain from taking any action or making any

1 decision in any proceeding before the board that involves such electric
2 utility for a period of four years after the date such board member
3 ceased being a director, an officer, or an employee of such electric
4 utility.

5 (b) Members of the board shall be appointed by the Governor subject
6 to the approval of the Legislature. Upon expiration of the terms of the
7 members first appointed, the successors shall be appointed for terms of
8 four years. No member of the board shall serve more than three
9 consecutive terms. Any vacancy on the board arising other than from the
10 expiration of a term shall be filled by appointment for the unexpired
11 portion of the term, and any person appointed to fill a vacancy on the
12 board shall be eligible for reappointment for two more consecutive terms.
13 No more than three members of the board shall be registered members of
14 that political party represented by the Governor.

15 (2) Each member of the board shall receive one hundred dollars per
16 day for each day actually and necessarily engaged in the performance of
17 his or her duties, but not to exceed seven thousand dollars in any one
18 year, except for the member designated to represent the board on the
19 Southwest Power Pool Regional State Committee or its equivalent
20 successor, who shall receive two hundred fifty dollars for each day
21 actually and necessarily engaged in the performance of his or her duties,
22 not to exceed thirty-five thousand dollars in any one year. If the member
23 designated to represent the board on the Southwest Power Pool Regional
24 State Committee should for any reason no longer serve in that capacity
25 during a year, the pay received while serving in such capacity shall not
26 be used for purposes of calculating the seven-thousand-dollar limitation
27 for board members not serving in that capacity. When another board member
28 acts as the proxy for the designated Southwest Power Pool Regional State
29 Committee member, he or she shall receive the same pay as the designated
30 member would have for that activity. Pay received while serving as proxy
31 for such designated member shall not be used for purposes of determining

1 whether the seven-thousand-dollar limitation has been met for board
2 members not serving as such designated member. Total pay to board members
3 for activities related to the Southwest Power Pool shall not exceed an
4 aggregate total of forty thousand dollars in any one year. Each member
5 shall be reimbursed for expenses while so engaged as provided in sections
6 81-1174 to 81-1177. The board shall have jurisdiction as provided in
7 Chapter 70, article 10.

8 (3) The board shall elect from their members a chairperson and a
9 vice-chairperson. Decisions of the board shall require the approval of a
10 majority of the members of the board.

11 (4) The board shall employ an executive director and may employ such
12 other staff necessary to carry out the duties pursuant to Chapter 70,
13 article 10. The executive director shall serve at the pleasure of the
14 board and shall be solely responsible to the board. The executive
15 director shall be responsible for the administrative operations of the
16 board and shall perform such other duties as may be delegated or assigned
17 to him or her by the board. The board may obtain the services of experts
18 and consultants necessary to carry out the board's duties pursuant to
19 Chapter 70, article 10.

20 (5) The board shall publish and submit a biennial report with annual
21 data to the Governor, with copies to be filed with the Clerk of the
22 Legislature and with the Department of Water, Energy, and Environment
23 ~~Environment and Energy~~. The report submitted to the Clerk of the
24 Legislature shall be submitted electronically. The department shall
25 consider the information in the Nebraska Power Review Board's report when
26 the department prepares its own reports pursuant to sections 81-1606 and
27 81-1607. The report of the board shall include:

28 (a) The assessments for the fiscal year imposed pursuant to section
29 70-1020;

30 (b) The gross income totals for each category of the industry and
31 the industry total;

1 (c) The number of suppliers against whom the assessment is levied,
2 by category and in total;

3 (d) The projected dollar costs of generation, transmission, and
4 microwave applications, approved and denied;

5 (e) The actual dollar costs of approved applications upon
6 completion, and a summary of an informational hearing concerning any
7 significant divergence between the projected and actual costs;

8 (f) A description of Nebraska's current electric system and
9 information on additions to and retirements from the system during the
10 fiscal year, including microwave facilities;

11 (g) A statistical summary of board activities and an expenditure
12 summary;

13 (h) A roster of power suppliers in Nebraska and the assessment each
14 paid; and

15 (i) Appropriately detailed historical and projected electric supply
16 and demand statistics, including information on the total generating
17 capacity owned by Nebraska suppliers and the total peak load demand of
18 the previous year, along with an indication of how the industry will
19 respond to the projected situation.

20 (6) The board may, in its discretion, hold public hearings
21 concerning the conditions that may indicate that retail competition in
22 the electric industry would benefit Nebraska's citizens and what steps,
23 if any, should be taken to prepare for retail competition in Nebraska's
24 electricity market. In determining whether to hold such hearings, the
25 board shall consider the sufficiency of public interest.

26 (7) The board may, at any time deemed beneficial by the board,
27 submit a report to the Governor with copies to be filed with the Clerk of
28 the Legislature and the Natural Resources Committee of the Legislature.
29 The report filed with the Clerk of the Legislature and the committee
30 shall be filed electronically. The report may include:

31 (a) Whether or not a viable regional transmission organization and

1 adequate transmission exist in Nebraska or in a region which includes
2 Nebraska;

3 (b) Whether or not a viable wholesale electricity market exists in a
4 region which includes Nebraska;

5 (c) To what extent retail rates have been unbundled in Nebraska;

6 (d) A comparison of Nebraska's wholesale electricity prices to the
7 prices in the region; and

8 (e) Any other information the board believes to be beneficial to the
9 Governor, the Legislature, and Nebraska's citizens when considering
10 whether retail electric competition would be beneficial, such as, but not
11 limited to, an update on deregulation activities in other states and an
12 update on federal deregulation legislation.

13 (8) The board may establish working groups of interested parties to
14 assist the board in carrying out the powers set forth in subsections (6)
15 and (7) of this section.

16 **Sec. 296.** Section 71-2433, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 71-2433 A property owner with knowledge of a clandestine drug lab on
19 his or her property shall report such knowledge and location as soon as
20 practicable to the local law enforcement agency or to the Nebraska State
21 Patrol. A law enforcement agency that discovers a clandestine drug lab in
22 the State of Nebraska shall report the location of such lab to the
23 Nebraska State Patrol within thirty days after making such discovery.
24 Such report shall include the date of discovery of such lab, the county
25 where the property containing such lab is located, and a legal
26 description of the property or other description or address of such
27 property sufficient to clearly establish its location. As soon as
28 practicable after such discovery, the appropriate law enforcement agency
29 shall provide the Nebraska State Patrol with a complete list of the
30 chemicals, including methamphetamine, its precursors, solvents, and
31 related reagents, found at or removed from the location of such lab. Upon

1 receipt, the Nebraska State Patrol shall promptly forward a copy of such
2 report and list to the department, the Department of Water, Energy, and
3 Environment ~~Environment and Energy~~, the municipality or county where the
4 lab is located, the director of the local public health department
5 serving such municipality or county, and the property owner or owners.

6 **Sec. 297.** Section 71-3503, Revised Statutes Cumulative Supplement,
7 2024, is amended to read:

8 71-3503 For purposes of the Radiation Control Act, unless the
9 context otherwise requires:

10 (1) Radiation means ionizing radiation and nonionizing radiation as
11 follows:

12 (a) Ionizing radiation means gamma rays, X-rays, alpha and beta
13 particles, high-speed electrons, neutrons, protons, and other atomic or
14 nuclear particles or rays but does not include sound or radio waves or
15 visible, infrared, or ultraviolet light; and

16 (b) Nonionizing radiation means (i) any electromagnetic radiation
17 which can be generated during the operations of electronic products to
18 such energy density levels as to present a biological hazard to
19 occupational and public health and safety and the environment, other than
20 ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or
21 infrasonic waves which are emitted from an electronic product as a result
22 of the operation of an electronic circuit in such product and to such
23 energy density levels as to present a biological hazard to occupational
24 and public health and safety and the environment;

25 (2) Radioactive material means any material, whether solid, liquid,
26 or gas, which emits ionizing radiation spontaneously. Radioactive
27 material includes, but is not limited to, accelerator-produced material,
28 byproduct material, naturally occurring material, source material, and
29 special nuclear material;

30 (3) Radiation-generating equipment means any manufactured product or
31 device, component part of such a product or device, or machine or system

1 which during operation can generate or emit radiation except devices
2 which emit radiation only from radioactive material;

3 (4) Sources of radiation means any radioactive material, any
4 radiation-generating equipment, or any device or equipment emitting or
5 capable of emitting radiation or radioactive material;

6 (5) Undesirable radiation means radiation in such quantity and under
7 such circumstances as determined from time to time by rules and
8 regulations adopted and promulgated by the department;

9 (6) Person means any individual, corporation, partnership, limited
10 liability company, firm, association, trust, estate, public or private
11 institution, group, agency, political subdivision of this state, any
12 other state or political subdivision or agency thereof, and any legal
13 successor, representative, agent, or agency of the foregoing;

14 (7) Registration means registration with the department pursuant to
15 the Radiation Control Act;

16 (8) Department means the Department of Health and Human Services;

17 (9) Administrator means the administrator of radiation control
18 designated pursuant to section 71-3504;

19 (10) Electronic product means any manufactured product, device,
20 assembly, or assemblies of such products or devices which, during
21 operation in an electronic circuit, can generate or emit a physical field
22 of radiation;

23 (11) License means:

24 (a) A general license issued pursuant to rules and regulations
25 adopted and promulgated by the department without the filing of an
26 application with the department or the issuance of licensing documents to
27 particular persons to transfer, acquire, own, possess, or use quantities
28 of or devices or equipment utilizing radioactive materials;

29 (b) A specific license, issued to a named person upon application
30 filed with the department pursuant to the Radiation Control Act and rules
31 and regulations adopted and promulgated pursuant to the act, to use,

1 manufacture, produce, transfer, receive, acquire, own, or possess
2 quantities of or devices or equipment utilizing radioactive materials; or

3 (c) A license issued to a radon measurement specialist, radon
4 mitigation specialist, radon measurement business, or radon mitigation
5 business;

6 (12) Byproduct material means:

7 (a) Any radioactive material, except special nuclear material,
8 yielded in or made radioactive by exposure to the radiation incident to
9 the process of producing or utilizing special nuclear material;

10 (b) The tailings or wastes produced by the extraction or
11 concentration of uranium or thorium from any ore processed primarily for
12 its source material content, including discrete surface wastes resulting
13 from uranium or thorium solution extraction processes. Underground ore
14 bodies depleted by such solution extraction operations do not constitute
15 byproduct material;

16 (c)(i) Any discrete source of radium-226 that is produced,
17 extracted, or converted after extraction for use for a commercial,
18 medical, or research activity; or

19 (ii) Any material that (A) has been made radioactive by use of a
20 particle accelerator and (B) is produced, extracted, or converted after
21 extraction for use for a commercial, medical, or research activity; and

22 (d) Any discrete source of naturally occurring radioactive material,
23 other than source material, that:

24 (i) The United States Nuclear Regulatory Commission, in consultation
25 with the Administrator of the United States Environmental Protection
26 Agency, the United States Secretary of Energy, the United States
27 Secretary of Homeland Security, and the head of any other appropriate
28 federal agency, determines would pose a threat similar to the threat
29 posed by a discrete source of radium-226 to the public health and safety
30 or the common defense and security; and

31 (ii) Is extracted or converted after extraction for use in a

1 commercial, medical, or research activity;

2 (13) Source material means:

3 (a) Uranium or thorium or any combination thereof in any physical or
4 chemical form; or

5 (b) Ores which contain by weight one-twentieth of one percent or
6 more of uranium, thorium, or any combination thereof. Source material
7 does not include special nuclear material;

8 (14) Special nuclear material means:

9 (a) Plutonium, uranium 233, or uranium enriched in the isotope 233
10 or in the isotope 235 and any other material that the United States
11 Nuclear Regulatory Commission pursuant to the provisions of section 51 of
12 the federal Atomic Energy Act of 1954, as amended, determines to be
13 special nuclear material but does not include source material; or

14 (b) Any material artificially enriched by any material listed in
15 subdivision (14)(a) of this section but does not include source material;

16 (15) Users of sources of radiation means:

17 (a) Physicians using radioactive material or radiation-generating
18 equipment for human use;

19 (b) Natural persons using radioactive material or radiation-
20 generating equipment for education, research, or development purposes;

21 (c) Natural persons using radioactive material or radiation-
22 generating equipment for manufacture or distribution purposes;

23 (d) Natural persons using radioactive material or radiation-
24 generating equipment for industrial purposes; and

25 (e) Natural persons using radioactive material or radiation-
26 generating equipment for any other similar purpose;

27 (16) Civil penalty means any monetary penalty levied on a licensee
28 or registrant because of violations of statutes, rules, regulations,
29 licenses, or registration certificates but does not include criminal
30 penalties;

31 (17) Closure means all activities performed at a waste handling,

1 processing, management, or disposal site, such as stabilization and
2 contouring, to assure that the site is in a stable condition so that only
3 minor custodial care, surveillance, and monitoring are necessary at the
4 site following termination of licensed operation;

5 (18) Decommissioning means final operational activities at a
6 facility to dismantle site structures, to decontaminate site surfaces and
7 remaining structures, to stabilize and contain residual radioactive
8 material, and to carry out any other activities to prepare the site for
9 postoperational care;

10 (19) Disposal means the permanent isolation of low-level radioactive
11 waste pursuant to the Radiation Control Act and rules and regulations
12 adopted and promulgated pursuant to such act;

13 (20) Generate means to produce low-level radioactive waste when used
14 in relation to low-level radioactive waste;

15 (21) High-level radioactive waste means:

16 (a) Irradiated reactor fuel;

17 (b) Liquid wastes resulting from the operation of the first cycle
18 solvent extraction system or equivalent and the concentrated wastes from
19 subsequent extraction cycles or the equivalent in a facility for
20 reprocessing irradiated reactor fuel; and

21 (c) Solids into which such liquid wastes have been converted;

22 (22) Low-level radioactive waste means radioactive waste not defined
23 as high-level radioactive waste, spent nuclear fuel, or byproduct
24 material as defined in subdivision (12)(b) of this section;

25 (23) Management of low-level radioactive waste means the handling,
26 processing, storage, reduction in volume, disposal, or isolation of such
27 waste from the biosphere in any manner;

28 (24) Source material mill tailings or mill tailings means the
29 tailings or wastes produced by the extraction or concentration of uranium
30 or thorium from any ore processed primarily for its source material
31 content, including discrete surface wastes resulting from underground

1 solution extraction processes, but not including underground ore bodies
2 depleted by such solution extraction processes;

3 (25) Source material milling means any processing of ore, including
4 underground solution extraction of unmined ore, primarily for the purpose
5 of extracting or concentrating uranium or thorium therefrom and which
6 results in the production of source material and source material mill
7 tailings;

8 (26) Spent nuclear fuel means irradiated nuclear fuel that has
9 undergone at least one year of decay since being used as a source of
10 energy in a power reactor. Spent nuclear fuel includes the special
11 nuclear material, byproduct material, source material, and other
12 radioactive material associated with fuel assemblies;

13 (27) Transuranic waste means radioactive waste material containing
14 alpha-emitting radioactive elements, with radioactive half-lives greater
15 than five years, having an atomic number greater than 92 in
16 concentrations in excess of one hundred nanocuries per gram;

17 (28) Licensed practitioner means a person licensed to practice
18 medicine, dentistry, podiatry, chiropractic, osteopathic medicine and
19 surgery, or as an osteopathic physician;

20 (29) X-ray system means an assemblage of components for the
21 controlled production of X-rays, including, but not limited to, an X-ray
22 high-voltage generator, an X-ray control, a tube housing assembly, a
23 beam-limiting device, and the necessary supporting structures. Additional
24 components which function with the system are considered integral parts
25 of the system; and

26 ~~(30) Licensed facility operator means any person or entity who has~~
27 ~~obtained a license under the Low-Level Radioactive Waste Disposal Act to~~
28 ~~operate a facility, including any person or entity to whom an assignment~~
29 ~~of a license is approved by the Department of Environment and Energy; and~~

30 (30) ~~(31)~~ Deliberate misconduct means an intentional act or omission
31 by a person that (a) would intentionally cause a licensee, registrant, or

1 applicant for a license or registration to be in violation of any rule,
2 regulation, or order of or any term, condition, or limitation of any
3 license or registration issued by the department under the Radiation
4 Control Act or (b) constitutes an intentional violation of a requirement,
5 procedure, instruction, contract, purchase order, or policy under the
6 Radiation Control Act by a licensee, a registrant, an applicant for a
7 license or registration, or a contractor or subcontractor of a licensee,
8 registrant, or applicant for a license or registration.

9 **Sec. 298.** Section 71-3508.04, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 71-3508.04 (1) For licensed activities involving source material
12 milling, source material mill tailings, and management of low-level
13 radioactive waste, the department shall, and for other classes of
14 licensed activities the department may, adopt and promulgate rules and
15 regulations which establish standards and procedures to ensure that the
16 licensee will provide an adequate surety or other financial arrangement
17 to permit the completion of all requirements established by the
18 department for the licensure, regulation, decontamination, closure,
19 decommissioning, and reclamation of sites, structures, and equipment used
20 in conjunction with such licensed activity in case the licensee should
21 default for any reason in performing such requirements. All sureties
22 required which are forfeited shall be paid to the department and remitted
23 to the State Treasurer for credit to the Health and Human Services Cash
24 Fund. Money in such fund remitted pursuant to this subsection shall be
25 expended by the department as necessary to complete the closure and
26 reclamation requirements and shall not be used for normal operating
27 expenses of the department.

28 (2) For licensed activities involving the disposal of source
29 material mill tailings and management of low-level radioactive waste, the
30 department shall, and for other classes of licensed activities when
31 radioactive material which will require surveillance or care is likely to

1 remain at the site after the licensed activities cease the department
2 may, adopt and promulgate rules and regulations which establish standards
3 and procedures to ensure that the licensee, before termination of the
4 license, will make available such funding arrangements as may be
5 necessary to provide for long-term site surveillance and care. All such
6 funds collected from licensees shall be paid to the department and
7 remitted to the State Treasurer for credit to the fund. All funds accrued
8 as interest on money credited to the fund pursuant to this subsection may
9 be expended by the department for the continuing long-term surveillance,
10 maintenance, and other care of facilities from which such funds are
11 collected as necessary for protection of the occupational and public
12 health and safety and the environment. If title to and custody of any
13 radioactive material and its disposal site are transferred to the United
14 States upon termination of any license for which funds have been
15 collected for such long-term care, the collected funds and interest
16 accrued thereon shall be transferred to the United States.

17 (3) The sureties or other financial arrangements and funds required
18 by this section shall be established in amounts sufficient to ensure
19 compliance with standards, if any, established by the department
20 pertaining to licensure, regulation, closure, decommissioning,
21 reclamation, and long-term site surveillance and care of such facilities
22 and sites.

23 (4) To provide for the proper care and surveillance of sites subject
24 to subsection (2) of this section which are not subject to section
25 71-3508.01 or ~~71-3508.02~~, the state may acquire by gift or transfer from
26 another governmental agency or private person any land and appurtenances
27 necessary to fulfill the purposes of this section. Any such gift or
28 transfer shall be subject to approval and acceptance by the Legislature.

29 (5) The department may by contract, agreement, lease, or license
30 with any person, including another state agency, provide for the
31 decontamination, closure, decommissioning, reclamation, surveillance, or

1 other care of a site subject to this section as needed to carry out the
2 purposes of this section.

3 (6) If a person licensed by any governmental agency other than the
4 department desires to transfer a site to the state for the purpose of
5 administering or providing long-term care, a lump-sum deposit shall be
6 made to the department and remitted to the State Treasurer for credit to
7 the Health and Human Services Cash Fund. The amount of such deposit shall
8 be determined by the department taking into account the factors stated in
9 subsections (1) and (2) of this section.

10 **Sec. 299.** Section 71-3524, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 71-3524 For purposes of sections 71-3523 to 71-3528:

13 (1) Department means the Department of Health and Human Services;

14 (2) High-level radioactive waste means (a) irradiated reactor fuel,
15 (b) liquid wastes resulting from the operation of the first cycle solvent
16 extraction system or equivalent and the concentrated wastes from
17 subsequent extraction cycles or equivalent in a facility for reprocessing
18 irradiated reactor fuel, (c) solids into which such liquid wastes have
19 been converted, and (d) other highly radioactive waste material as
20 defined by the United States Nuclear Regulatory Commission High-level
21 radioactive waste has the definition found in section 81-1589; and

22 (3) Transuranic waste means radioactive waste material containing
23 alpha-emitting radioactive elements, with radioactive half-lives greater
24 than five years, having an atomic number greater than 92 in
25 concentrations in excess of one hundred nanocuries per gram.

26 **Sec. 300.** Section 71-5301, Revised Statutes Cumulative Supplement,
27 2024, is amended to read:

28 71-5301 For purposes of the Nebraska Safe Drinking Water Act, unless
29 the context otherwise requires:

30 (1) Council means the Advisory Council on Public Water Supply;

31 (2) Department means the Department of Water, Energy, and

1 ~~Environment Environment and Energy~~;

2 (3) Director means the Director of Water, Energy, and Environment
3 ~~Environment and Energy~~ or his or her authorized representative;

4 (4) Designated agent means any political subdivision or corporate
5 entity having the demonstrated capability and authority to carry out in
6 whole or in part the Nebraska Safe Drinking Water Act and with which the
7 director has consummated a legal and binding contract covering
8 specifically delegated responsibilities;

9 (5) Major construction, extension, or alteration means those
10 structural changes that affect the source of supply, treatment processes,
11 or transmission of water to service areas but does not include the
12 extension of service mains within established service areas;

13 (6) Operator means the individual or individuals responsible for the
14 continued performance of the water supply system or any part of such
15 system during assigned duty hours;

16 (7) Owner means any person owning or operating a public water
17 system;

18 (8) Person means any individual, corporation, firm, partnership,
19 limited liability company, association, company, trust, estate, public or
20 private institution, group, agency, political subdivision, or other
21 entity or any legal successor, representative, agent, or agency of any of
22 such entities;

23 (9) Water supply system means all sources of water and their
24 surroundings under the control of one owner and includes all structures,
25 conduits, and appurtenances by means of which such water is collected,
26 treated, stored, or delivered except service pipes between street mains
27 and buildings and the plumbing within or in connection with the buildings
28 served;

29 (10)(a) Public water system means a system for providing the public
30 with water for human consumption through pipes or other constructed
31 conveyances, if such system has at least fifteen service connections or

1 regularly serves an average of at least twenty-five individuals daily at
2 least sixty days per year. Public water system includes (i) any
3 collection, treatment, storage, and distribution facilities under control
4 of the operator of such system and used primarily in connection with such
5 system and (ii) any collection or pretreatment storage facilities not
6 under such control which are used primarily in connection with such
7 system. Public water system does not include a special irrigation
8 district. A public water system is either a community water system or a
9 noncommunity water system.

10 (b) Service connection does not include a connection to a system
11 that delivers water by a constructed conveyance other than a pipe if (i)
12 the water is used exclusively for purposes other than residential uses,
13 consisting of drinking, bathing, cooking, and other similar uses, (ii)
14 the department determines that alternative water to achieve the
15 equivalent level of public health protection provided by the Nebraska
16 Safe Drinking Water Act and rules and regulations under the act is
17 provided for residential or similar uses for drinking and cooking, or
18 (iii) the department determines that the water provided for residential
19 or similar uses for drinking, cooking, and bathing is centrally treated
20 or treated at the point of entry by the provider, a pass-through entity,
21 or the user to achieve the equivalent level of protection provided by the
22 Nebraska Safe Drinking Water Act and the rules and regulations under the
23 act.

24 (c) Special irrigation district means an irrigation district in
25 existence prior to May 18, 1994, that provides primarily agricultural
26 service through a piped water system with only incidental residential or
27 similar use if the system or the residential or similar users of the
28 system comply with exclusion provisions of subdivision (b)(ii) or (iii)
29 of this subdivision;

30 (11) Drinking water standards means rules and regulations adopted
31 and promulgated pursuant to section 71-5302 which (a) establish maximum

1 levels for harmful materials which, in the judgment of the director, may
2 have an adverse effect on the health of persons and (b) apply only to
3 public water systems;

4 (12) Lead free means (a) not containing more than two-tenths percent
5 lead when used with respect to solder and flux and (b) not containing
6 more than a weighted average of twenty-five hundredths percent lead when
7 used with respect to the wetted surfaces of pipes, pipe fittings,
8 plumbing fittings, and fixtures;

9 (13) Community water system means a public water system that (a)
10 serves at least fifteen service connections used by year-round residents
11 of the area served by the system or (b) regularly serves at least twenty-
12 five year-round residents;

13 (14) Noncommunity water system means a public water system that is
14 not a community water system;

15 (15) Nontransient noncommunity water system means a public water
16 system that is not a community water system and that regularly serves at
17 least twenty-five of the same individuals over six months per year; and

18 (16) Federal Safe Drinking Water Act means the federal Safe Drinking
19 Water Act, 42 U.S.C. 300f et seq., as the act existed on January 1, 2021.

20 **Sec. 301.** Section 71-5316, Revised Statutes Cumulative Supplement,
21 2024, is amended to read:

22 71-5316 For purposes of the Drinking Water State Revolving Fund Act,
23 unless the context otherwise requires:

24 (1) Safe Drinking Water Act means the federal Safe Drinking Water
25 Act, as the act existed on October 23, 2018;

26 (2) Construction means any of the following: Preliminary planning to
27 determine the feasibility of a safe drinking water project for a public
28 water system; engineering, architectural, legal, fiscal, or economic
29 investigations or studies; surveys, designs, plans, working drawings,
30 specifications, procedures, or other necessary preliminary actions;
31 erection, building, acquisition, alteration, remodeling, improvement, or

1 extension of public water systems; or the inspection or supervision of
2 any of such items;

3 (3) Council means the Environmental Quality Council;

4 (4) Department means the Department of Water, Energy, and
5 Environment ~~Environment and Energy~~;

6 (5) Director means the Director of Water, Energy, and Environment
7 ~~Environment and Energy~~;

8 (6) Operate and maintain means all necessary activities, including
9 the normal replacement of equipment or appurtenances, to assure the
10 dependable and economical function of a public water system in accordance
11 with its intended purpose;

12 (7) Owner means any person owning or operating a public water
13 system;

14 (8) Public water system has the definition found in section 71-5301;
15 and

16 (9) Safe drinking water project means the structures, equipment,
17 surroundings, and processes required to establish and operate a public
18 water system.

19 **Sec. 302.** Section 71-5328, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 71-5328 (1) For purposes of this section:

22 (a) Department means the Department of Water, Energy, and
23 Environment ~~Environment and Energy~~;

24 (b) Metropolitan utilities district means a district created
25 pursuant to section 14-2101; and

26 (c) Qualified labor training organization means any job training
27 service provider headquartered in the State of Nebraska with a
28 demonstrated history of providing workforce training relevant to the
29 skilled labor necessary for the removal and replacement of lead service
30 lines.

31 (2) The Lead Service Line Cash Fund is created. The fund shall be

1 administered by the department. The fund shall consist of funds
2 transferred by the Legislature. The fund shall be used for grants under
3 subsections (3) and (4) of this section. Any money in the fund available
4 for investment shall be invested by the state investment officer pursuant
5 to the Nebraska Capital Expansion Act and the Nebraska State Funds
6 Investment Act.

7 (3) The department shall utilize not more than twenty percent of the
8 money in the Lead Service Line Cash Fund for the purpose of providing
9 grants to qualified labor training organizations for the following:

10 (a) Infrastructure expenditures necessary to establish a lead
11 service line training facility or for any expenditures necessary to
12 establish a lead service line training program; or

13 (b) Labor training or any educational programming expenditures
14 necessary to provide the proper trade skills necessary for laborers and
15 plumbers to replace lead service lines.

16 (4) The department shall utilize all remaining money in the Lead
17 Service Line Cash Fund for the purpose of providing grants to
18 metropolitan utilities districts for the following:

19 (a) Removing and replacing lead service lines;

20 (b) Repaying debt incurred for any loan received by the metropolitan
21 utilities district for the purpose of replacing lead service lines,
22 including any loan or loans under the federal Drinking Water State
23 Revolving Fund or any other loan incurred specifically for the purpose of
24 removing lead service lines;

25 (c) Providing information to residents on the benefits of removing
26 lead service lines;

27 (d) Performing necessary construction, assessment, mapping, or any
28 other labor, management, or contracted services required for and
29 associated with removing and replacing lead service lines; or

30 (e) Acquiring any equipment, materials, or supplies necessary to
31 replace lead service lines.

1 (5) The department may adopt and promulgate rules and regulations to
2 carry out this section.

3 **Sec. 303.** Section 71-6406, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 71-6406 (1)(a) Any county, city, or village may enact, administer,
6 or enforce a local building or construction code if or as long as such
7 county, city, or village:

8 (i) Adopts the state building code; or

9 (ii) Adopts a building or construction code that conforms generally
10 with the state building code.

11 (b) If a county, city, or village does not adopt a code as
12 authorized under subdivision (a) of this subsection within two years
13 after an update to the state building code, the state building code shall
14 apply in the county, city, or village, except that such code shall not
15 apply to construction on a farm or for farm purposes.

16 (2) A local building or construction code shall be deemed to conform
17 generally with the state building code if it:

18 (a) Adopts a special or differing building standard by amending,
19 modifying, or deleting any portion of the state building code in order to
20 reduce unnecessary costs of construction, increase safety, durability, or
21 efficiency, establish best building or construction practices within the
22 county, city, or village, or address special local conditions within the
23 county, city, or village;

24 (b) Adopts any supplement, new edition, appendix, or component or
25 combination of components of the state building code;

26 (c) Adopts any of the following:

27 (i) Section 305 or 310 of the 2018 edition of the International
28 Building Code without the exceptions described in subdivision (1)(a) of
29 section 71-6403;

30 (ii) Section 101.4.3 or any portion of chapter 29 of the 2018
31 edition of the International Building Code;

1 (iii) Section R313 or any portion of chapters 25 through 33 of the
2 2018 edition of the International Residential Code; or

3 (iv) Section 809 of the 2018 edition of the International Existing
4 Building Code;

5 (d) Adopts a plumbing code, an electrical code, a fire prevention
6 code, or any other standard code as authorized under section 14-419,
7 15-905, 18-132, or 23-172;

8 (e) Adopts a local energy code as authorized under section 81-1618;
9 or

10 (f) Adopts minimum standards for radon resistant new construction
11 which meet the minimum standards adopted under section 76-3504.

12 (3) A local building or construction code shall not be deemed to
13 conform generally with the state building code if it:

14 (a) Includes a prior edition of any component or combination of
15 components of the state building code; or

16 (b) Does not include minimum standards for radon resistant new
17 construction that meet the minimum standards adopted under section
18 76-3504.

19 (4) A county, city, or village shall notify the Department of Water,
20 Energy, and Environment ~~Environment and Energy~~ if it amends or modifies
21 its local building or construction code in such a way as to delete any
22 portion of (a) chapter 13 of the 2018 edition of the International
23 Building Code or (b) chapter 11 of the 2018 edition of the International
24 Residential Code. The notification shall be made within thirty days after
25 the adoption of such amendment or modification.

26 (5) A county, city, or village shall not adopt or enforce a local
27 building or construction code other than as provided by this section.

28 (6) A county, city, or village which adopts or enforces a local
29 building or construction code under this section shall regularly update
30 its code. For purposes of this section, a code shall be deemed to be
31 regularly updated if the most recently enacted state building code or a

1 code that conforms generally with the state building code is adopted by
2 the county, city, or village within two years after an update to the
3 state building code.

4 (7) A county, city, or village may adopt amendments for the proper
5 administration and enforcement of its local building or construction code
6 including organization of enforcement, qualifications of staff members,
7 examination of plans, inspections, appeals, permits, and fees. Any
8 amendment adopted pursuant to this section shall be published separately
9 from the local building or construction code. Any local building or
10 construction code adopted under subdivision (1)(a) of this section or the
11 state building code if applicable under subdivision (1)(b) of this
12 section shall be the legally applicable code regardless of whether the
13 county, city, or village has provided for the administration or
14 enforcement of its local building or construction code under this
15 subsection.

16 (8) A county, city, or village which adopts one or more standard
17 codes as part of its local building or construction code under this
18 section shall keep at least one copy of each adopted code, or portion
19 thereof, for use and examination by the public in the office of the clerk
20 of the county, city, or village prior to the adoption of the code and as
21 long as such code is in effect.

22 (9) Notwithstanding the provisions of the Building Construction Act,
23 a public building of any political subdivision shall be built in
24 accordance with the applicable local building or construction code. Fees,
25 if any, for services which monitor a builder's application of codes shall
26 be negotiable between the political subdivisions involved, but such fees
27 shall not exceed the actual expenses incurred by the county, city, or
28 village doing the monitoring.

29 **Sec. 304.** Section 72-804, Revised Statutes Cumulative Supplement,
30 2024, is amended to read:

31 72-804 (1) Any new state building shall meet or exceed the

1 requirements of the 2018 International Energy Conservation Code published
2 by the International Code Council.

3 (2) Any new lighting, heating, cooling, ventilating, or water
4 heating equipment or controls in a state-owned building and any new
5 building envelope components installed in a state-owned building shall
6 meet or exceed the requirements of the 2018 International Energy
7 Conservation Code.

8 (3) The State Building Administrator of the Department of
9 Administrative Services, in consultation with the Department of Water,
10 Energy, and Environment ~~Environment and Energy~~, may specify:

11 (a) A more recent edition of the International Energy Conservation
12 Code;

13 (b) Additional energy efficiency or renewable energy requirements
14 for buildings; and

15 (c) Waivers of specific requirements which are demonstrated through
16 life-cycle cost analysis to not be in the state's best interest. The
17 agency receiving the funding shall be required to provide a life-cycle
18 cost analysis to the State Building Administrator.

19 **Sec. 305.** Section 72-805, Revised Statutes Cumulative Supplement,
20 2024, is amended to read:

21 72-805 The 2018 International Energy Conservation Code, published by
22 the International Code Council, applies to all new buildings constructed
23 in whole or in part with state funds after July 1, 2020. The Department
24 of Water, Energy, and Environment ~~Environment and Energy~~ shall review
25 building plans and specifications necessary to determine whether a
26 building will meet the requirements of this section. The department shall
27 provide a copy of its review to the agency receiving funding. The agency
28 receiving the funding shall verify that the building as constructed meets
29 or exceeds the code. The verification shall be provided to the
30 department. The Director of Water, Energy, and Environment ~~Environment~~
31 ~~and Energy~~ may, in consultation with the State Building Administrator of

1 the Department of Administrative Services, adopt and promulgate rules and
2 regulations to carry out this section.

3 **Sec. 306.** Section 76-2,124, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 76-2,124 (1) Any person transferring ownership of real property not
6 inside the corporate limits of a municipality shall complete and provide
7 to the transferee, at or before the closing of the transfer, a water
8 resources update notice acknowledging (a) whether any surface water
9 rights issued pursuant to Chapter 46, article 2, and in the name of any
10 party other than an irrigation district, public power and irrigation
11 district, or mutual irrigation company are attached to the real property,
12 ownership of which is being transferred, and (b) whether there are any
13 water wells, except water wells used solely for domestic purposes and
14 constructed prior to September 9, 1993, on the real property, ownership
15 of which is being transferred. If the water resources update notice
16 discloses the existence of such surface water rights or such water wells,
17 the transferee shall complete the water resources update notice and shall
18 file it with the Department of Water, Energy, and Environment ~~Natural~~
19 ~~Resources~~ within sixty days after recording the deed or other instrument
20 by which the transfer of ownership of real property is made. The
21 department shall use such notice to update ownership of surface water
22 rights and water well registrations as required by sections 46-230 and
23 46-602.

24 (2) The department shall prescribe the form and content of the water
25 resources update notice and shall make such forms available to title
26 insurance companies and other persons as deemed appropriate by the
27 department. The requirement that a water resources update notice be filed
28 with the department or the failure to file such a notice does not affect
29 the recording, legality, or sufficiency of a deed or other instrument
30 evidencing the transfer of ownership of real property.

31 (3) The department shall not collect a fee for the filing of the

1 water resources update notices.

2 **Sec. 307.** Section 76-2602, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 76-2602 In the Uniform Environmental Covenants Act:

5 (1) Activity and use limitations means restrictions or obligations
6 created under the act with respect to real property.

7 (2) Agency means the Department of Water, Energy, and Environment
8 ~~Environment and Energy~~ or any other Nebraska or federal agency that
9 determines or approves the environmental response project pursuant to
10 which the environmental covenant is created.

11 (3) Common interest community means a condominium, cooperative, or
12 other real property with respect to which a person, by virtue of the
13 person's ownership of a parcel of real property, is obligated to pay
14 property taxes or insurance premiums, or for maintenance, or improvement
15 of other real property described in a recorded covenant that creates the
16 common interest community.

17 (4) Environmental covenant means a servitude arising under an
18 environmental response project that imposes activity and use limitations.

19 (5) Environmental response project means a plan or work performed
20 for environmental remediation of real property and conducted:

21 (A) Under a federal or state program governing environmental
22 remediation of real property, including the Petroleum Release Remedial
23 Action Act;

24 (B) Incident to closure of a solid or hazardous waste management
25 unit, if the closure is conducted with approval of an agency; or

26 (C) Under a state voluntary cleanup program authorized by the
27 Remedial Action Plan Monitoring Act.

28 (6) Holder means the grantee of an environmental covenant as
29 specified in subsection (a) of section 76-2603.

30 (7) Person means an individual, corporation, business trust, estate,
31 trust, partnership, limited liability company, association, joint

1 venture, public corporation, government, governmental subdivision,
2 agency, or instrumentality, or any other legal or commercial entity.

3 (8) Record, used as a noun, means information that is inscribed on a
4 tangible medium or that is stored in an electronic or other medium and is
5 retrievable in perceivable form.

6 (9) State means a state of the United States, the District of
7 Columbia, Puerto Rico, the United States Virgin Islands, or any territory
8 or insular possession subject to the jurisdiction of the United States.

9 **Sec. 308.** Section 76-2608, Revised Statutes Cumulative Supplement,
10 2024, is amended to read:

11 76-2608 (a) An environmental covenant, any amendment or termination
12 of the covenant under section 76-2609 or 76-2610, and any subordination
13 agreement must be recorded in every county in which any portion of the
14 real property subject to the covenant is located. For purposes of
15 indexing, a holder shall be treated as a grantee.

16 (b) Except as otherwise provided in subsection (c) of section
17 76-2609, an environmental covenant is subject to the laws of this state
18 governing recording and priority of interests in real property.

19 (c) A copy of a document recorded under subsection (a) of this
20 section shall also be provided to the Department of Water, Energy, and
21 Environment ~~Environment and Energy~~ if the department has not signed the
22 covenant.

23 (d) The department shall make available to the public a listing of
24 all documents under subsection (a) of this section or documents under
25 subsection (c) of this section which have been provided to the
26 department.

27 **Sec. 309.** Section 77-3,112, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 77-3,112 ~~(1) Notwithstanding any provision of law, the Tax~~
30 ~~Commissioner shall not approve or grant to any person or taxpayer any tax~~
31 ~~credit or exemption for the construction of a facility or the employment~~

1 of people for the disposal in Nebraska of low-level radioactive waste for
2 which a license is required pursuant to the Low-Level Radioactive Waste
3 Disposal Act.

4 (2) Notwithstanding any provision of law, the Tax Commissioner shall
5 not approve or grant to any person any tax credit, exemption, or refund
6 for the employment of any person who has been removed from the United
7 States pursuant to proceedings initiated by the United States Immigration
8 and Customs Enforcement, or other competent authority, or who has been
9 convicted in a criminal court proceeding for offenses related to illegal
10 immigration. Any benefits that were received prior to the removal or
11 conviction will be recaptured to the extent the benefits were received
12 based on the employment of such persons.

13 **Sec. 310.** Section 77-27,150, Revised Statutes Cumulative Supplement,
14 2024, is amended to read:

15 77-27,150 (1) An application for a refund of Nebraska sales and use
16 taxes paid for any air or water pollution control facility may be filed
17 with the Tax Commissioner by the owner of such facility in such manner
18 and in such form as may be prescribed by the commissioner. The
19 application for a refund shall contain: (a) Plans and specifications of
20 such facility including all materials incorporated therein; (b) a
21 descriptive list of all equipment acquired by the applicant for the
22 purpose of industrial or agricultural waste pollution control; (c) the
23 proposed operating procedure for the facility; (d) the acquisition cost
24 of the facility for which a refund is claimed; and (e) a copy of the
25 final findings of the Department of Water, Energy, and Environment
26 ~~Environment and Energy~~ issued pursuant to section 77-27,151.

27 (2) The Tax Commissioner shall offer an applicant a hearing upon
28 request of such applicant. The hearing shall not affect the authority of
29 the Department of Water, Energy, and Environment ~~Environment and Energy~~
30 to determine whether or not industrial or agricultural waste pollution
31 control exists within the meaning of the Air and Water Pollution Control

1 Tax Refund Act.

2 (3) A claim for refund received without a copy of the final findings
3 of the Department of Water, Energy, and Environment ~~Environment and~~
4 ~~Energy~~ issued pursuant to section 77-27,151 shall not be considered a
5 valid claim and shall be returned to the applicant.

6 (4) Notice of the Tax Commissioner's refusal to issue a refund shall
7 be mailed to the applicant.

8 **Sec. 311.** Section 77-27,151, Revised Statutes Cumulative Supplement,
9 2024, is amended to read:

10 77-27,151 If the Department of Water, Energy, and Environment
11 ~~Environment and Energy~~ finds that a facility or multiple facilities at a
12 single location are designed and operated primarily for control, capture,
13 abatement, or removal of industrial or agricultural waste from air or
14 water and are suitable, are reasonably adequate, and meet the intent and
15 purposes of the Environmental Protection Act, the Department of Water,
16 Energy, and Environment ~~Environment and Energy~~ shall so notify the owner
17 of the facility in writing of its findings that the facility, multiple
18 facilities, or the specified portions of any facility are approved. The
19 Department of Water, Energy, and Environment ~~Environment and Energy~~ shall
20 also notify the Tax Commissioner of its findings and the extent of
21 commercial or productive value derived from any materials captured or
22 recovered by the facility.

23 **Sec. 312.** Section 77-27,152, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 77-27,152 (1) The Tax Commissioner, after giving notice by mail to
26 the applicant and giving an opportunity for a hearing, shall modify or
27 revoke the refund whenever the following appears: (a) The refund was
28 obtained by fraud or misrepresentation regarding the payment of tax on
29 materials incorporated into the facility or facilities; or (b) the
30 Department of Water, Energy, and Environment ~~Environment and Energy~~ has
31 modified its findings regarding the facility covered by the refund.

1 (2) The Department of Water, Energy, and Environment ~~Environment and~~
2 ~~Energy~~ may modify its findings when it determines any of the following:
3 (a) The refund was obtained by fraud or misrepresentation regarding the
4 facility or planned operation of the facility; (b) the applicant has
5 failed substantially to operate the facility for the purpose and degree
6 of control specified in the application or an amended application; or (c)
7 the facility covered by the refund is no longer used for the primary
8 purpose of pollution control.

9 (3) On the mailing to the refund applicant of notice of the action
10 of the Tax Commissioner modifying or revoking the refund, the refund
11 shall cease to be in force or shall remain in force only as modified.
12 When a refund is revoked because a refund was obtained by fraud or
13 misrepresentation, all taxes which would have been payable if no
14 certificate had been issued shall be immediately due and payable with the
15 maximum interest and penalties prescribed by the Nebraska Revenue Act of
16 1967. No statute of limitations shall operate in the event of fraud or
17 misrepresentation.

18 **Sec. 313.** Section 77-27,153, Revised Statutes Cumulative Supplement,
19 2024, is amended to read:

20 77-27,153 (1) A party aggrieved by the issuance, refusal to issue,
21 revocation, or modification of a pollution control tax refund may appeal
22 from the finding and order of the Tax Commissioner. The finding and order
23 shall not affect the authority of the Department of Water, Energy, and
24 Environment ~~Environment and Energy~~ to determine whether or not industrial
25 or agricultural waste pollution control exists within the meaning of the
26 Air and Water Pollution Control Tax Refund Act. The appeal shall be in
27 accordance with the Administrative Procedure Act.

28 (2) The Department of Water, Energy, and Environment ~~Environment and~~
29 ~~Energy~~ shall make its findings for the Air and Water Pollution Control
30 Tax Refund Act in accordance with its normal administrative procedures.
31 Nothing in the act is intended to affect the department's authority to

1 make findings and to determine whether or not industrial or agricultural
2 waste pollution control exists within the meaning of the act.

3 **Sec. 314.** Section 77-27,154, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 77-27,154 The Tax Commissioner may adopt and promulgate rules and
6 regulations that are necessary for the administration of the Air and
7 Water Pollution Control Tax Refund Act. Such rules and regulations shall
8 not abridge the authority of the Department of Water, Energy, and
9 Environment ~~Environment and Energy~~ to determine whether or not industrial
10 or agricultural waste pollution control exists within the meaning of the
11 act.

12 **Sec. 315.** Section 77-27,187.01, Revised Statutes Cumulative
13 Supplement, 2024, is amended to read:

14 77-27,187.01 For purposes of the Nebraska Advantage Rural
15 Development Act, unless the context otherwise requires:

16 (1) Any term has the same meaning as used in the Nebraska Revenue
17 Act of 1967;

18 (2) Equivalent employees means the number of employees computed by
19 dividing the total hours paid in a year to employees by the product of
20 forty times the number of weeks in a year;

21 (3) Livestock means all animals, including cattle, horses, sheep,
22 goats, hogs, dairy animals, chickens, turkeys, and other species of game
23 birds and animals raised and produced subject to permit and regulation by
24 the Game and Parks Commission or the Department of Agriculture;

25 (4) Livestock modernization or expansion means the construction,
26 improvement, or acquisition of buildings, facilities, or equipment for
27 livestock housing, confinement, feeding, production, and waste
28 management. Livestock modernization or expansion does not include any
29 improvements made to correct a violation of the Environmental Protection
30 Act, the Integrated Solid Waste Management Act, the Livestock Waste
31 Management Act, a rule or regulation adopted and promulgated pursuant to

1 such acts, or any order of the Department of Water, Energy, and
2 Environment ~~Environment and Energy~~ undertaken within five years after a
3 complaint issued from the Director of Water, Energy, and Environment
4 ~~Environment and Energy~~ under section 81-1507;

5 (5) Livestock production means the active use, management, and
6 operation of real and personal property (a) for the commercial production
7 of livestock, (b) for the commercial breeding, training, showing, or
8 racing of horses or for the use of horses in a recreational or tourism
9 enterprise, and (c) for the commercial production of dairy and eggs. The
10 activity will be considered commercial if the gross income derived from
11 an activity for two or more of the taxable years in the period of seven
12 consecutive taxable years which ends with the taxable year exceeds the
13 deductions attributable to such activity or, if the operation has been in
14 existence for less than seven years, if the activity is engaged in for
15 the purpose of generating a profit;

16 (6) Qualified employee leasing company means a company which places
17 all employees of a client-lessee on its payroll and leases such employees
18 to the client-lessee on an ongoing basis for a fee and, by written
19 agreement between the employee leasing company and a client-lessee,
20 grants to the client-lessee input into the hiring and firing of the
21 employees leased to the client-lessee;

22 (7) Related taxpayers includes any corporations that are part of a
23 unitary business under the Nebraska Revenue Act of 1967 but are not part
24 of the same corporate taxpayer, any business entities that are not
25 corporations but which would be a part of the unitary business if they
26 were corporations, and any business entities if at least fifty percent of
27 such entities are owned by the same persons or related taxpayers and
28 family members as defined in the ownership attribution rules of the
29 Internal Revenue Code of 1986, as amended;

30 (8) Taxpayer means a corporate taxpayer or other person subject to
31 either an income tax imposed by the Nebraska Revenue Act of 1967 or a

1 franchise tax under Chapter 77, article 38, or a partnership, limited
2 liability company, subchapter S corporation, cooperative, including a
3 cooperative exempt under section 521 of the Internal Revenue Code of
4 1986, as amended, limited cooperative association, or joint venture that
5 is or would otherwise be a member of the same unitary group if
6 incorporated, which is, or whose partners, members, or owners
7 representing an ownership interest of at least ninety percent of the
8 control of such entity are, subject to or exempt from such taxes, and any
9 other partnership, limited liability company, subchapter S corporation,
10 cooperative, including a cooperative exempt under section 521 of the
11 Internal Revenue Code of 1986, as amended, limited cooperative
12 association, or joint venture when the partners, members, or owners
13 representing an ownership interest of at least ninety percent of the
14 control of such entity are subject to or exempt from such taxes; and

15 (9) Year means the taxable year of the taxpayer.

16 **Sec. 316.** Section 77-27,236, Revised Statutes Cumulative Supplement,
17 2024, is amended to read:

18 77-27,236 (1) A taxpayer who makes an investment after January 1,
19 2008, and prior to January 1, 2015, in a biodiesel facility shall receive
20 a nonrefundable income tax credit as provided in this section.

21 (2) The credit provided in subsection (1) of this section shall be
22 equal to thirty percent of the amount invested by the taxpayer in a
23 biodiesel facility. The credit shall be taken over at least four taxable
24 years subject to the following conditions:

25 (a) No more than ten percent of the credit provided for in
26 subsection (1) of this section shall be taken in each of the first two
27 taxable years the biodiesel facility produces B100 and no more than fifty
28 percent of the credit provided for in subsection (1) of this section
29 shall be taken in the third taxable year the biodiesel facility produces
30 B100. The credit allowed under subsection (1) of this section shall not
31 exceed fifty percent of the taxpayer's liability in any tax year;

1 (b) Any amount of credit not allowed because of the limitations in
2 this section may be carried forward for up to fifteen taxable years after
3 the taxable year in which the investment was made. The aggregate maximum
4 income tax credit a taxpayer may obtain is two hundred fifty thousand
5 dollars;

6 (c) The investment shall be at risk in the biodiesel facility. The
7 investment shall be in the form of a purchase of an ownership interest or
8 the right to receive payment of dividends from the biodiesel facility and
9 shall remain in the business for at least three years. The Tax
10 Commissioner may recapture any credits used if the investment does not
11 remain invested for the three-year period. An investment placed in escrow
12 does not qualify under this subdivision;

13 (d) The entire amount of the investment shall be expended by the
14 biodiesel facility for plant, equipment, research and development,
15 marketing and sales activity, or working capital;

16 (e) A partnership, a subchapter S corporation, a limited liability
17 company that for tax purposes is treated like a partnership, a
18 cooperative, including a cooperative exempt under section 521 of the
19 Internal Revenue Code of 1986, as amended, or any other pass-through
20 entity that invests in a biodiesel facility shall be considered to be the
21 taxpayer for purposes of the credit limitations. Except for the
22 limitation under subdivision (2)(a) of this section, the amount of the
23 credit allowed to a pass-through entity shall be determined at the
24 partnership, corporate, cooperative, or other organizational level. The
25 amount of the credit determined at the partnership, corporate,
26 cooperative, or other organizational level shall be allowed to the
27 partners, members, or other owners in proportion to their respective
28 ownership interests in the pass-through entity;

29 (f) The credit shall be taken only if (i) the biodiesel facility
30 produces B100, (ii) the biodiesel facility in which the investment was
31 made produces at a rate of at least seventy percent of its rated capacity

1 continuously for at least one week during the first taxable year the
2 credit is taken and produces at a rate of at least seventy percent of its
3 rated capacity over a six-month period during each of the next two
4 taxable years the credit is taken, (iii) all processing takes place at
5 the biodiesel facility in which the investment was made and which is
6 located in Nebraska, and (iv) at least fifty-one percent of the ownership
7 interest of the biodiesel facility is held by Nebraska resident
8 individuals or Nebraska entities; and

9 (g) The biodiesel facility shall provide the Department of Revenue
10 written evidence substantiating that the biodiesel facility has received
11 the requisite authority from the Department of Water, Energy, and
12 Environment ~~Environment and Energy~~ and from the United States Department
13 of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. The
14 biodiesel facility shall annually provide an analysis to the Department
15 of Revenue of samples of the product collected according to procedures
16 specified by the department. The analysis shall be prepared by an
17 independent laboratory meeting standards of the International
18 Organization for Standardization. Prior to collecting the samples, the
19 biodiesel facility shall notify the department which may observe the
20 sampling procedures utilized by the biodiesel facility to obtain the
21 samples to be submitted for independent analysis.

22 (3) Any biodiesel facility for which credits are granted shall,
23 whenever possible, employ workers who are residents of the State of
24 Nebraska.

25 (4) Trade secrets, academic and scientific research work, and other
26 proprietary or commercial information which may be filed with the Tax
27 Commissioner shall not be considered to be public records as defined in
28 section 84-712.01 if the release of such trade secrets, work, or
29 information would give advantage to business competitors and serve no
30 public purpose. Any person seeking release of the trade secrets, work, or
31 information as a public record shall demonstrate to the satisfaction of

1 the department that the release would not violate this section.

2 (5) For purposes of this section:

3 (a) Biodiesel facility means a plant or facility related to the
4 processing, marketing, or distribution of biodiesel; and

5 (b) B100 means pure biodiesel containing mono-alkyl esters of long
6 chain fatty acids derived from vegetable oils or animal fats, designated
7 as B100, and meeting the American Society for Testing and Materials
8 standard, ASTM D6751.

9 **Sec. 317.** Section 77-3442, Revised Statutes Cumulative Supplement,
10 2024, is amended to read:

11 77-3442 (1) Property tax levies for the support of local governments
12 for fiscal years beginning on or after July 1, 1998, shall be limited to
13 the amounts set forth in this section except as provided in section
14 77-3444.

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

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

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

1 community.

2 (d) Excluded from the limitations in subdivisions (2)(a) and (2)(c)
3 of this section are (i) amounts levied to pay for current and future sums
4 agreed to be paid by a school district to certificated employees in
5 exchange for a voluntary termination of employment occurring prior to
6 September 1, 2017, (ii) amounts levied by a school district otherwise at
7 the maximum levy pursuant to subdivision (2)(a) of this section to pay
8 for current and future qualified voluntary termination incentives for
9 certificated teachers pursuant to subsection (3) of section 79-8,142 that
10 are not otherwise included in an exclusion pursuant to subdivision (2)(d)
11 of this section, (iii) amounts levied by a school district otherwise at
12 the maximum levy pursuant to subdivision (2)(a) of this section to pay
13 for seventy-five percent of the current and future sums agreed to be paid
14 to certificated employees in exchange for a voluntary termination of
15 employment occurring between September 1, 2017, and August 31, 2018, as a
16 result of a collective-bargaining agreement in force and effect on
17 September 1, 2017, that are not otherwise included in an exclusion
18 pursuant to subdivision (2)(d) of this section, (iv) amounts levied by a
19 school district otherwise at the maximum levy pursuant to subdivision (2)
20 (a) of this section to pay for fifty percent of the current and future
21 sums agreed to be paid to certificated employees in exchange for a
22 voluntary termination of employment occurring between September 1, 2018,
23 and August 31, 2019, as a result of a collective-bargaining agreement in
24 force and effect on September 1, 2017, that are not otherwise included in
25 an exclusion pursuant to subdivision (2)(d) of this section, (v) amounts
26 levied by a school district otherwise at the maximum levy pursuant to
27 subdivision (2)(a) of this section to pay for twenty-five percent of the
28 current and future sums agreed to be paid to certificated employees in
29 exchange for a voluntary termination of employment occurring between
30 September 1, 2019, and August 31, 2020, as a result of a collective-
31 bargaining agreement in force and effect on September 1, 2017, that are

1 not otherwise included in an exclusion pursuant to subdivision (2)(d) of
2 this section, (vi) amounts levied in compliance with sections 79-10,110
3 and 79-10,110.02, and (vii) amounts levied to pay for special building
4 funds and sinking funds established for projects commenced prior to April
5 1, 1996, for construction, expansion, or alteration of school district
6 buildings. For purposes of this subsection, commenced means any action
7 taken by the school board on the record which commits the board to expend
8 district funds in planning, constructing, or carrying out the project.

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

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

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

1 (3) For each fiscal year through fiscal year 2023-24, community
2 college areas may levy the levies provided in subdivisions (2)(a) through
3 (c) of section 85-1517, in accordance with the provisions of such
4 subdivisions. For fiscal year 2024-25 and each fiscal year thereafter,
5 community college areas may levy the levies provided in subdivisions (2)
6 (a) and (b) of section 85-1517, in accordance with the provisions of such
7 subdivisions. A community college area may exceed the levy provided in
8 subdivision (2)(a) of section 85-1517 by the amount necessary to generate
9 sufficient revenue as described in section 85-1543 or 85-2238. A
10 community college area may exceed the levy provided in subdivision (2)(b)
11 of section 85-1517 by the amount necessary to retire general obligation
12 bonds assumed by the community college area or issued pursuant to section
13 85-1515 according to the terms of such bonds or for any obligation
14 pursuant to section 85-1535 entered into prior to January 1, 1997.

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

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

27 (c) In addition, natural resources districts located in a river
28 basin, subbasin, or reach that has been determined to be fully
29 appropriated pursuant to section 46-714 or designated as overappropriated
30 pursuant to section 46-713 by the Department of Water, Energy, and
31 Environment ~~Natural Resources~~ shall also have the power and authority to

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

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

14 (6)(a) Incorporated cities and villages which are not within the
15 boundaries of a municipal county may levy a maximum levy of forty-five
16 cents per one hundred dollars of taxable valuation of property subject to
17 the levy plus an additional five cents per one hundred dollars of taxable
18 valuation to provide financing for the municipality's share of revenue
19 required under an agreement or agreements executed pursuant to the
20 Interlocal Cooperation Act or the Joint Public Agency Act. The maximum
21 levy shall include amounts levied to pay for sums to support a library
22 pursuant to section 51-201, museum pursuant to section 51-501, visiting
23 community nurse, home health nurse, or home health agency pursuant to
24 section 71-1637, or statue, memorial, or monument pursuant to section
25 80-202.

26 (b) Incorporated cities and villages which are within the boundaries
27 of a municipal county may levy a maximum levy of ninety cents per one
28 hundred dollars of taxable valuation of property subject to the levy. The
29 maximum levy shall include amounts paid to a municipal county for county
30 services, amounts levied to pay for sums to support a library pursuant to
31 section 51-201, a museum pursuant to section 51-501, a visiting community

1 nurse, home health nurse, or home health agency pursuant to section
2 71-1637, or a statue, memorial, or monument pursuant to section 80-202.

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

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

1 or agreements executed pursuant to the Interlocal Cooperation Act or the
2 Joint Public Agency Act. If an allocation by a county would cause another
3 county to exceed its levy authority under this section, the second county
4 may exceed the levy authority in order to levy the amount allocated.

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

10 (10) Beginning July 1, 2016, rural and suburban fire protection
11 districts may levy a maximum levy of ten and one-half cents per one
12 hundred dollars of taxable valuation of property subject to the levy if
13 (a) such district is located in a county that had a levy pursuant to
14 subsection (8) of this section in the previous year of at least forty
15 cents per one hundred dollars of taxable valuation of property subject to
16 the levy or (b) such district had a levy request pursuant to section
17 77-3443 in any of the three previous years and the county board of the
18 county in which the greatest portion of the valuation of such district is
19 located did not authorize any levy authority to such district in such
20 year.

21 (11) A regional metropolitan transit authority may levy a maximum
22 levy of ten cents per one hundred dollars of taxable valuation of
23 property subject to the levy for each fiscal year that commences on the
24 January 1 that follows the effective date of the conversion of the
25 transit authority established under the Transit Authority Law into the
26 regional metropolitan transit authority.

27 (12) Property tax levies (a) for judgments, except judgments or
28 orders from the Commission of Industrial Relations, obtained against a
29 political subdivision which require or obligate a political subdivision
30 to pay such judgment, to the extent such judgment is not paid by
31 liability insurance coverage of a political subdivision, (b) for

1 preexisting lease-purchase contracts approved prior to July 1, 1998, (c)
2 for bonds as defined in section 10-134 approved according to law and
3 secured by a levy on property except as provided in section 44-4317 for
4 bonded indebtedness issued by educational service units and school
5 districts, (d) for payments by a public airport to retire interest-free
6 loans from the Division of Aeronautics of the Department of
7 Transportation in lieu of bonded indebtedness at a lower cost to the
8 public airport, and (e) to pay for cancer benefits provided on or after
9 January 1, 2022, pursuant to the Firefighter Cancer Benefits Act are not
10 included in the levy limits established by this section.

11 (13) The limitations on tax levies provided in this section are to
12 include all other general or special levies provided by law.
13 Notwithstanding other provisions of law, the only exceptions to the
14 limits in this section are those provided by or authorized by sections
15 77-3442 to 77-3444.

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

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

22 (16) For school districts that file a binding resolution on or
23 before May 9, 2008, with the county assessors, county clerks, and county
24 treasurers for all counties in which the school district has territory
25 pursuant to subsection (7) of section 79-458, if the combined levies,
26 except levies for bonded indebtedness approved by the voters of the
27 school district and levies for the refinancing of such bonded
28 indebtedness, are in excess of the greater of (a) one dollar and twenty
29 cents per one hundred dollars of taxable valuation of property subject to
30 the levy or (b) the maximum levy authorized by a vote pursuant to section
31 77-3444, all school district levies, except levies for bonded

1 indebtedness approved by the voters of the school district and levies for
2 the refinancing of such bonded indebtedness, shall be considered
3 unauthorized levies under section 77-1606.

4 **Sec. 318.** Section 81-101, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 81-101 The civil administration of the laws of the state is vested
7 in the Governor. For the purpose of aiding the Governor in the execution
8 and administration of the laws, the executive and administrative work
9 shall be divided into the following agencies: (1) Department of
10 Agriculture; (2) Department of Labor; (3) Department of Transportation;
11 (4) Department of Water, Energy, and Environment ~~Natural Resources~~; (5)
12 Department of Banking and Finance; (6) Department of Insurance; (7)
13 Department of Motor Vehicles; (8) Department of Administrative Services;
14 (9) Department of Economic Development; (10) Department of Correctional
15 Services; (11) Nebraska State Patrol; and (12) Department of Health and
16 Human Services.

17 **Sec. 319.** Section 81-102, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 81-102 The Governor shall appoint heads for the various agencies
20 listed in section 81-101, subject to confirmation by a majority vote of
21 the members elected to the Legislature. Such appointments shall be
22 submitted to the Legislature within sixty calendar days following the
23 first Thursday after the first Tuesday in each odd-numbered year. The
24 officers shall be designated as follows: (1) The Director of Agriculture
25 for the Department of Agriculture; (2) the Commissioner of Labor for the
26 Department of Labor; (3) the Director-State Engineer for the Department
27 of Transportation; (4) the Director of Water, Energy, and Environment ~~for~~
28 ~~the Department of Water, Energy, and Environment Natural Resources~~ ~~for~~
29 ~~the Department of Natural Resources~~; (5) the Director of Banking and
30 Finance for the Department of Banking and Finance; (6) the Director of
31 Insurance for the Department of Insurance; (7) the Director of Motor

1 Vehicles for the Department of Motor Vehicles; (8) the Director of
2 Administrative Services for the Department of Administrative Services;
3 (9) the Director of Correctional Services for the Department of
4 Correctional Services; (10) the Director of Economic Development for the
5 Department of Economic Development; (11) the Superintendent of Law
6 Enforcement and Public Safety for the Nebraska State Patrol; (12) the
7 Property Tax Administrator as the chief administrative officer of the
8 property assessment division of the Department of Revenue; and (13) the
9 chief executive officer for the Department of Health and Human Services.
10 Whoever shall be so nominated by the Governor and shall fail to receive
11 the number of votes requisite for confirmation, shall not be subject to
12 nomination or appointment for this or any other appointive state office
13 requiring confirmation by the Legislature during the period for which his
14 or her appointment was sought. In case of a vacancy in any of such
15 offices during the recess of the Legislature, the Governor shall make a
16 temporary appointment until the next meeting of the Legislature, when he
17 or she shall nominate some person to fill such office. Any person so
18 nominated who is confirmed by the Legislature, shall hold his or her
19 office during the remainder of the term if a specific term has been
20 provided by law, otherwise during the pleasure of the Governor subject to
21 the provisions of this section; except any such officers may be removed
22 by the Governor pursuant to Article IV of the Constitution of Nebraska.

23 **Sec. 320.** Section 81-2,294, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 81-2,294 (1) The Director of Agriculture shall appoint a committee
26 of experts, not to exceed ten persons, to advise the Department of
27 Agriculture on the development of the assessment matrix described in
28 subsection (2) of this section. Experts shall include representation from
29 county board members, county zoning administrators, livestock production
30 agriculture, the University of Nebraska, and other experts as may be
31 determined by the director. The committee shall review the matrix

1 annually and recommend to the department changes as needed.

2 (2) The Department of Agriculture shall, in consultation with the
3 committee created under subsection (1) of this section, develop an
4 assessment matrix which may be used by county officials to determine
5 whether to approve or disapprove a conditional use permit or special
6 exception application. The matrix shall be developed within one year
7 after August 30, 2015. In the development of the assessment matrix, the
8 department shall:

9 (a) Consider matrices already developed by the counties and other
10 states;

11 (b) Design the matrix to produce quantifiable results based on the
12 scoring of objective criteria according to an established value scale.
13 Each criterion shall be assigned points corresponding to the value scale.
14 The matrix shall consider risks and factors mitigating risks if the
15 livestock operation were constructed according to the application;

16 (c) Assure the matrix is a practical tool for use by persons when
17 completing permit applications and by county officials when scoring
18 conditional use permit or special exception applications. To every extent
19 feasible, the matrix shall include criteria that may be readily scored
20 according to ascertainable data and upon which reasonable persons
21 familiar with the location of a proposed construction site would not
22 ordinarily disagree; and

23 (d) Provide for definite point selections for all criteria included
24 in the matrix and provide for a minimum threshold total score required to
25 receive approval by county officials.

26 (3) The Department of Agriculture may develop criteria in the matrix
27 which include factors referencing the following:

28 (a) Size of operation;

29 (b) Type of operation;

30 (c) Whether the operation has received or is in the process of
31 applying for a permit from the Department of Water, Energy, and

1 Environment ~~Environment and Energy~~, if required by law;

2 (d) Environmental practices adopted by the operation operator which
3 may exceed those required by the Department of Water, Energy, and
4 Environment ~~Environment and Energy~~;

5 (e) Odor control practices;

6 (f) Consideration of proximity of a livestock operation to
7 neighboring residences, public use areas, and critical public areas;

8 (g) Community support and communication with neighbors and other
9 community members;

10 (h) Manure storage and land application sites and practices;

11 (i) Traffic;

12 (j) Economic impact to the community; and

13 (k) Landscape and aesthetic appearance.

14 (4) In developing the matrix, the Department of Agriculture shall
15 consider whether the proposed criteria are:

16 (a) Protective of public health or safety;

17 (b) Practical and workable;

18 (c) Cost effective;

19 (d) Objective;

20 (e) Based on available scientific information that has been
21 subjected to peer review;

22 (f) Designed to promote the growth and viability of animal
23 agriculture in this state;

24 (g) Designed to balance the economic viability of farm operations
25 with protecting natural resources and other community interests; and

26 (h) Usable by county officials.

27 **Sec. 321.** Section 81-502, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 81-502 (1) It shall be the duty of the State Fire Marshal, under
30 authority of the Governor:

31 (a) To enforce all laws of the state relating to the suppression of

- 1 arson and investigation of the cause, origin, and circumstances of fires;
- 2 (b) To promote safety and reduce loss by fire; and
- 3 (c) To make an investigation for fire safety of the premises and
4 facilities of:
- 5 (i) Liquor establishments for which a license or renewal of a
6 license is sought, upon request of the Nebraska Liquor Control
7 Commission, pursuant to section 53-119.01;
- 8 (ii) Licensed foster care facilities or applicants for licenses for
9 foster care facilities, upon request by the Department of Health and
10 Human Services, pursuant to section 71-1903;
- 11 (iii) Upon request of the Department of Health and Human Services,
12 licensed providers of programs or applicants for licenses to provide such
13 programs pursuant to section 71-1913 and licensed residential child-
14 caring agencies or applicants for such licensure pursuant to section
15 71-1934. The State Fire Marshal shall report the results of the
16 investigation to the department within thirty days after receipt of the
17 request from the department;
- 18 (iv) Licensed hospitals, skilled nursing facilities, intermediate
19 care facilities, or other health care facilities which are licensed under
20 the Health Care Facility Licensure Act or applicants for licenses for
21 such facilities or institutions, upon request by the Department of Health
22 and Human Services, pursuant to section 71-441; and
- 23 (v) Mobile home parks for which a license or renewal of a license is
24 sought, upon request of the Department of Water, Energy, and Environment
25 ~~Environment and Energy~~, pursuant to section 81-15,291.
- 26 (2) The State Fire Marshal may enter into contracts with private
27 individuals or other agencies, boards, commissions, or governmental
28 bodies for the purpose of carrying out his or her duties and
29 responsibilities pursuant to the Arson Reporting Immunity Act, the
30 Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to
31 81-538, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

1 (3) The State Fire Marshal may delegate the authority set forth in
2 this section and section 81-503.01 to qualified local fire prevention
3 personnel. The State Fire Marshal may overrule a decision, act, or policy
4 of the local fire prevention personnel. Such delegation of authority may
5 be revoked by the State Fire Marshal for cause upon thirty days' notice
6 after a hearing.

7 (4) The State Fire Marshal, first assistant fire marshal, and
8 deputies shall have such other powers and perform such other duties as
9 are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157
10 and as may be conferred and imposed by law.

11 **Sec. 322.** Section 81-829.05, Reissue Revised Statutes of Nebraska,
12 is amended to read:

13 81-829.05 (1) For purposes of this section:

14 (a) Chemical facility has the same meaning as in 6 C.F.R. 27.105;

15 (b) Federal agency means the Cybersecurity and Infrastructure
16 Security Agency of the United States Department of Homeland Security;

17 (c) Federal standards means the federal Chemical Facility Anti-
18 Terrorism Standards under 6 C.F.R. part 27, as such standards existed on
19 July 1, 2023; and

20 (d) Program means the voluntary and publicly available chemical
21 security program provided by the federal agency as an alternative to the
22 federal standards.

23 (2) The Legislature finds that:

24 (a) The federal standards were created after the September 11, 2001,
25 terrorist attacks to identify and regulate high-risk chemical facilities
26 to ensure security measures are in place to reduce the risk of certain
27 dangerous chemicals being weaponized by terrorists;

28 (b) The United States Congress allowed the statutory authority for
29 continuing regulation of the federal standards to expire on July 27,
30 2023;

31 (c) With the expiration of such statutory authority and without

1 reauthorization by Congress, the federal agency can no longer enforce
2 compliance with the federal standards;

3 (d) The lack of enforcement means that chemical facilities will no
4 longer be required to report their chemicals of interest, submit to
5 inspections, provide compliance assistance, or implement any security
6 plan or program; and

7 (e) The federal agency has encouraged chemical facilities to
8 maintain security measures and offers a voluntary and publicly available
9 alternative chemical security program that provides facilities that
10 possess dangerous chemicals no-cost services and tools to identify risks
11 and improve chemical security.

12 (3) Beginning on July 19, 2024, a chemical facility shall utilize
13 the federal agency's program if such chemical facility was required on or
14 before July 27, 2023, to have a chemical facility security program
15 pursuant to 6 C.F.R. 27.200 et seq., as such regulations existed on such
16 date.

17 (4) The Nebraska Emergency Management Agency and the Department of
18 Water, Energy, and Environment ~~Environment and Energy~~ shall publish the
19 requirements of this section and post a link to the program on their
20 agency websites.

21 (5) This section is preempted when the federal standards are in
22 effect if Congress reauthorizes such federal standards.

23 **Sec. 323.** Section 81-1108.55, Reissue Revised Statutes of Nebraska,
24 is amended to read:

25 81-1108.55 All purchases, leases, or contracts which by law are
26 required to be based on competitive bids pursuant to section 81-1108.16
27 shall be made to the lowest responsible bidder, taking into consideration
28 the best interests of the state, the quality or performance of the
29 property proposed to be supplied, its conformity with specifications, the
30 purposes for which required, and the times of delivery. In determining
31 the lowest responsible bidder, in addition to price, the following

1 elements shall be given consideration:

2 (1) The ability, capacity, and skill of the bidder to perform the
3 contract required;

4 (2) The character, integrity, reputation, judgment, experience, and
5 efficiency of the bidder;

6 (3) Whether the bidder can perform the contract within the time
7 specified;

8 (4) The quality of performance of previous contracts;

9 (5) The previous and existing compliance by the bidder with laws
10 relating to the contract;

11 (6) The life-cost of the property in relation to the purchase price
12 and specific use of the item;

13 (7) The performance of the property, taking into consideration any
14 commonly accepted tests and standards of product usability and user
15 requirements;

16 (8) Energy efficiency ratio as stated by the bidder for alternative
17 choices of appliances or equipment;

18 (9) The information furnished by each bidder, when deemed applicable
19 by the State Building Administrator, concerning life-cycle costs between
20 alternatives for all classes of equipment, evidence of expected life,
21 repair and maintenance costs, and energy consumption on a per-year basis;
22 and

23 (10) Such other information as may be secured having a bearing on
24 the decision to award the contract.

25 Reports regarding procurements made pursuant to this section shall
26 be provided to the Department of Water, Energy, and Environment
27 ~~Environment and Energy~~. Such reports shall be in the form and contain
28 such information as the Department of Water, Energy, and Environment
29 ~~Environment and Energy~~ may require.

30 All political subdivisions may follow the procurement principles set
31 forth in this section if they are deemed applicable by the official

1 authorized to make purchases for such political subdivision.

2 **Sec. 324.** Section 81-1316, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-1316 (1) All agencies and personnel of state government shall be
5 covered by sections 81-1301 to 81-1319 and shall be considered subject to
6 the State Personnel System, except the following:

- 7 (a) All personnel of the office of the Governor;
- 8 (b) All personnel of the office of the Lieutenant Governor;
- 9 (c) All personnel of the office of the Secretary of State;
- 10 (d) All personnel of the office of the State Treasurer;
- 11 (e) All personnel of the office of the Attorney General;
- 12 (f) All personnel of the office of the Auditor of Public Accounts;
- 13 (g) All personnel of the Legislature;
- 14 (h) All personnel of the court systems;
- 15 (i) All personnel of the Board of Educational Lands and Funds;
- 16 (j) All personnel of the Public Service Commission;
- 17 (k) All personnel of the Nebraska Brand Committee;
- 18 (l) All personnel of the Commission of Industrial Relations;
- 19 (m) All personnel of the State Department of Education;
- 20 (n) All personnel of the Nebraska state colleges and the Board of
21 Trustees of the Nebraska State Colleges;
- 22 (o) All personnel of the University of Nebraska;
- 23 (p) All personnel of the Coordinating Commission for Postsecondary
24 Education;
- 25 (q) All personnel of the Governor's Policy Research Office;
- 26 (r) All personnel of the Commission on Public Advocacy;
- 27 (s) All agency heads;
- 28 (t)(i) The Director of Behavioral Health of the Division of
29 Behavioral Health; (ii) the Director of Children and Family Services of
30 the Division of Children and Family Services; (iii) the Director of
31 Developmental Disabilities of the Division of Developmental Disabilities;

1 (iv) the Director of Medicaid and Long-Term Care of the Division of
2 Medicaid and Long-Term Care; and (v) the Director of Public Health of the
3 Division of Public Health;

4 (u) The chief medical officer established under section 81-3115, the
5 Administrator of the Office of Juvenile Services, and the chief executive
6 officers of the Beatrice State Developmental Center, Lincoln Regional
7 Center, Norfolk Regional Center, Hastings Regional Center, Central
8 Nebraska Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska
9 Veterans' Home, Western Nebraska Veterans' Home, and each youth
10 rehabilitation and treatment center;

11 (v) The chief executive officers of all facilities operated by the
12 Department of Correctional Services and the medical director for the
13 department appointed pursuant to section 83-4,156;

14 (w) All personnel employed as pharmacists, physicians,
15 psychiatrists, or psychologists by the Department of Correctional
16 Services;

17 (x) All personnel employed as pharmacists, physicians,
18 psychiatrists, psychologists, service area administrators, or facility
19 operating officers of the Department of Health and Human Services or the
20 Department of Veterans' Affairs;

21 (y) Deputies and examiners of the Department of Banking and Finance
22 and the Department of Insurance as set forth in sections 8-105 and
23 44-119, except for those deputies and examiners who remain in the State
24 Personnel System;

25 (z) All personnel of the Tax Equalization and Review Commission;

26 (aa) The associate director of the Conservation Division of the
27 Nebraska State Historical Society and all personnel employed as a
28 Conservator I or Conservator II of the Conservation Division of the
29 Nebraska State Historical Society; ~~and~~

30 (bb) Assistant directors and deputies of the Nebraska Public
31 Employees Retirement Systems; and -

1 (cc) Assistant directors and deputies of the Department of Water,
2 Energy, and Environment.

3 (2) At each agency head's discretion, up to the following number of
4 additional positions may be exempted from the State Personnel System,
5 based on the following agency size categories:

6	Number of Agency	Number of Noncovered
7	Employees	Positions
8	less than 25	0
9	25 to 100	1
10	101 to 250	2
11	251 to 500	3
12	501 to 1000	4
13	1001 to 2000	5
14	2001 to 3000	8
15	3001 to 4000	11
16	4001 to 5000	40
17	over 5000	50

18 The purpose of having such noncovered positions shall be to allow
19 agency heads the opportunity to recruit, hire, and supervise critical,
20 confidential, or policymaking personnel without restrictions from
21 selection procedures, compensation rules, career protections, and
22 grievance privileges. Persons holding the noncovered positions shall
23 serve at the pleasure of the agency head and shall be paid salaries set
24 by the agency head. An agency with over five thousand employees shall
25 provide notice in writing to the Health and Human Services Committee of
26 the Legislature when forty noncovered positions have been filled by the
27 agency head pursuant to this subsection.

28 (3) No changes to this section or to the number of noncovered
29 positions within an agency shall affect the status of personnel employed
30 on the date the changes become operative without their prior written
31 agreement. A state employee's career protections or coverage by personnel

1 rules and regulations shall not be revoked by redesignation of the
2 employee's position as a noncovered position without the prior written
3 agreement of such employee.

4 **Sec. 325.** Section 81-1502, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 81-1502 For purposes of the Environmental Protection Act, unless the
7 context otherwise requires:

8 (1) Air contaminant or air contamination shall mean the presence in
9 the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, other
10 gaseous fluid, or particulate substance differing in composition from or
11 exceeding in concentration the natural components of the atmosphere;

12 (2) Air pollution shall mean the presence in the outdoor atmosphere
13 of one or more air contaminants or combinations thereof in such
14 quantities and of such duration as are or may tend to be injurious to
15 human, plant, or animal life, property, or the conduct of business;

16 (3) Chairperson shall mean the chairperson of the Environmental
17 Quality Council and council shall mean the Environmental Quality Council;

18 (4) Complaint shall mean any charge, however informal, to or by the
19 council, that any person or agency, private or public, is polluting the
20 air, land, or water or is violating the Environmental Protection Act or
21 any rule or regulation of the department in respect thereof;

22 (5) Control and controlling shall include prohibition and
23 prohibiting as related to air, land, or water pollution;

24 (6) Department shall mean the Department of Water, Energy, and
25 Environment ~~Environment and Energy~~, which department is hereby created;

26 (7) Director shall mean the Director of Water, Energy, and
27 Environment ~~Environment and Energy~~, which position is hereby established;

28 (8) Disposal system shall mean a system for disposing of wastes,
29 including hazardous wastes, either by surface or underground methods, and
30 includes sewerage systems and treatment works, disposal wells and fields,
31 and other systems;

1 (9) Emissions shall mean releases or discharges into the outdoor
2 atmosphere of any air contaminant or combination thereof;

3 (10) Person shall mean any: Individual; partnership; limited
4 liability company; association; public or private corporation; trustee;
5 receiver; assignee; agent; municipality or other governmental
6 subdivision; public agency; other legal entity; or any officer or
7 governing or managing body of any public or private corporation,
8 municipality, governmental subdivision, public agency, or other legal
9 entity;

10 (11) Rule or regulation shall mean any rule or regulation of the
11 department;

12 (12) Sewerage system shall mean pipelines, conduits, pumping
13 stations, force mains, and all other constructions, devices,
14 appurtenances, and facilities used for collecting or conducting wastes to
15 an ultimate point for treatment or disposal;

16 (13) Treatment works shall mean any plant or other works used for
17 the purpose of treating, stabilizing, or holding wastes;

18 (14) Wastes shall mean sewage, industrial waste, and all other
19 liquid, gaseous, solid, radioactive, or other substances which may
20 pollute or tend to pollute any air, land, or waters of the state;

21 (15) Refuse shall mean putrescible and nonputrescible solid wastes,
22 except body wastes, and includes garbage, rubbish, ashes, incinerator
23 ash, incinerator residue, street cleanings, and solid market and
24 industrial wastes;

25 (16) Garbage shall mean rejected food wastes, including waste
26 accumulation of animal, fruit, or vegetable matter used or intended for
27 food or that attend the preparation, use, cooking, dealing in, or storing
28 of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by
29 rendering plants;

30 (17) Rubbish shall mean nonputrescible solid wastes, excluding
31 ashes, consisting of both combustible and noncombustible wastes, such as

1 paper, cardboard, tin cans, yard clippings, wood, glass, bedding,
2 crockery, or litter of any kind that will be a detriment to the public
3 health and safety;

4 (18) Junk shall mean old scrap, copper, brass, iron, steel, rope,
5 rags, batteries, paper, trash, rubber debris, waste, dismantled or
6 wrecked automobiles, or parts thereof, and other old or scrap ferrous or
7 nonferrous material;

8 (19) Land pollution shall mean the presence upon or within the land
9 resources of the state of one or more contaminants or combinations of
10 contaminants, including, but not limited to, refuse, garbage, rubbish, or
11 junk, in such quantities and of such quality as will or are likely to (a)
12 create a nuisance, (b) be harmful, detrimental, or injurious to public
13 health, safety, or welfare, (c) be injurious to plant and animal life and
14 property, or (d) be detrimental to the economic and social development,
15 the scenic beauty, or the enjoyment of the natural attractions of the
16 state;

17 (20) Water pollution shall mean the manmade or man-induced
18 alteration of the chemical, physical, biological, or radiological
19 integrity of water;

20 (21) Waters of the state shall mean all waters within the
21 jurisdiction of this state, including all streams, lakes, ponds,
22 impounding reservoirs, marshes, wetlands, watercourses, waterways, wells,
23 springs, irrigation systems, drainage systems, and all other bodies or
24 accumulations of water, surface or underground, natural or artificial,
25 public or private, situated wholly or partly within or bordering upon the
26 state;

27 (22) Point source shall mean any discernible confined and discrete
28 conveyance, including, but not limited to, any pipe, ditch, channel,
29 tunnel, conduit, well, discrete fissure, container, rolling stock, or
30 vessel or other floating craft from which pollutants are or may be
31 discharged;

1 (23) Effluent limitation shall mean any restriction, including a
2 schedule of compliance, established by the council on quantities, rates,
3 and concentrations of chemical, physical, biological, and other
4 constituents which are discharged from point sources into waters of the
5 state;

6 (24) Schedule of compliance shall mean a schedule of remedial
7 measures including an enforceable sequence of actions or operations
8 leading to compliance with an effluent limitation, other limitation,
9 prohibition, or standard;

10 (25) Hazardous waste shall mean a solid waste, or combination of
11 solid wastes, which because of its quantity, concentration, or physical,
12 chemical, or infectious characteristics may (a) cause or significantly
13 contribute to an increase in mortality or an increase in serious
14 irreversible, or incapacitating reversible, illness or (b) pose a
15 substantial present or potential hazard to human or animal health or the
16 environment when improperly treated, stored, transported, disposed of, or
17 otherwise managed;

18 (26) Solid waste shall mean any garbage, refuse, or sludge from a
19 waste treatment plant, water supply treatment plant, or air pollution
20 control facility and other discarded material, including solid, liquid,
21 semisolid, or contained gaseous material resulting from industrial,
22 commercial, and mining operations and from community activities. Solid
23 waste shall not include slag, a product that is a result of the steel
24 manufacturing process and is managed as an item of value in a controlled
25 manner and not as a discarded material; solid or dissolved materials in
26 irrigation return flows or industrial discharges which are point sources
27 subject to permits under section 402 of the Clean Water Act, as amended,
28 33 U.S.C. 1251 et seq.; or source, special nuclear, or byproduct material
29 as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011
30 et seq.;

31 (27) Storage, when used in connection with hazardous waste, shall

1 mean the containment of hazardous waste, either on a temporary basis or
2 for a period of years, in such manner as not to constitute disposal of
3 such hazardous waste;

4 (28) Manifest shall mean the form used for identifying the quantity,
5 composition, origin, routing, and destination of hazardous waste during
6 its transportation from the point of generation to the point of disposal,
7 treatment, or storage;

8 (29) Processing shall mean to treat, detoxify, neutralize,
9 incinerate, biodegrade, or otherwise process a hazardous waste to remove
10 such waste's harmful properties or characteristics for disposal in
11 accordance with regulations established by the council;

12 (30) Well shall mean a bored, drilled, or driven shaft or a dug
13 hole, the depth of which is greater than the largest surface dimension of
14 such shaft or hole;

15 (31) Injection well shall mean a well into which fluids are
16 injected;

17 (32) Fluid shall mean a material or substance which flows or moves
18 whether in a semisolid, liquid, sludge, gas, or other form or state;

19 (33) Mineral production well shall mean a well drilled to promote
20 extraction of mineral resources or energy, including, but not limited to,
21 a well designed for (a) mining of sulfur by the Frasch process, (b)
22 solution mining of sodium chloride, potash, phosphate, copper, uranium,
23 or any other mineral which can be mined by this process, (c) in situ
24 combustion of coal, tar sands, oil shale, or any other fossil fuel, or
25 (d) recovery of geothermal energy for the production of electric power.
26 Mineral production well shall not include any well designed for
27 conventional oil or gas production, for use of fluids to promote enhanced
28 recovery of oil or natural gas, or for injection of hydrocarbons for
29 storage purposes;

30 (34) Mineral exploration hole shall mean a hole bored, drilled,
31 driven, or dug in the act of exploring for a mineral other than oil and

1 gas;

2 (35) Solution mining shall mean the use of an injection well and
3 fluids to promote the extraction of mineral resources;

4 (36) Uranium shall mean tri-uranium oct-oxide;

5 (37) Solid waste management facility shall mean a facility as
6 defined in section 13-2010; and

7 (38) Livestock waste control facility shall have the same meaning as
8 in section 54-2417.

9 **Sec. 326.** Section 81-1503, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 81-1503 (1) The Environmental Quality Council is hereby created. The
12 council shall consist of seventeen members to be appointed by the
13 Governor with the advice and consent of the Legislature as follows:

14 (a) One representative of the food products manufacturing industry;

15 (b) One representative of conservation;

16 (c) One representative of the agricultural processing industry;

17 (d) One representative of the automotive or petroleum industry;

18 (e) One representative of the chemical industry;

19 (f) One representative of heavy industry;

20 (g) One representative of the power generating industry;

21 (h) One representative of agriculture actively engaged in crop
22 production;

23 (i) One representative of labor;

24 (j) One professional engineer experienced in control of air and
25 water pollution and solid wastes;

26 (k) One physician knowledgeable in the health aspects of air, water,
27 and land pollution;

28 (l) One representative from county government;

29 (m) Two representatives from municipal government, one of whom shall
30 represent cities other than those of the primary or metropolitan class;

31 (n) One representative of the livestock industry;

1 (o) One representative of minority populations; and

2 (p) One biologist.

3 (2) Members shall serve for terms of four years. All appointments
4 shall be subject to confirmation by the Legislature when initially made.
5 As the term of an appointee to the council expires, the succeeding
6 appointee shall be a representative of the same segment of the public as
7 the previous appointee. In the case of appointees to vacancies occurring
8 from unexpired terms, each successor shall serve out the term of his or
9 her predecessor. Members whose terms have expired shall continue to serve
10 until their successors have been appointed. All members shall be citizens
11 and residents of the State of Nebraska.

12 (3) Members may be removed by the Governor for inefficiency, neglect
13 of duty, or misconduct in office but only after delivering to the member
14 a copy of the charges and affording him or her an opportunity to be
15 publicly heard in person or by counsel, in his or her own defense, upon
16 not less than ten days' notice. Such hearing shall be held before the
17 Governor. When a member is removed, the Governor shall file, in the
18 office of the Secretary of State, a complete statement of all charges
19 made against such member and the findings thereon, together with a
20 complete record of the proceedings.

21 (4) The council shall elect from its members a chairperson and a
22 vice-chairperson, who shall hold office at the pleasure of the council.
23 The vice-chairperson shall serve as chairperson in case of the absence or
24 disability of the chairperson. The director shall serve as secretary of
25 the council and shall keep all records of meetings of and actions taken
26 by the council. He or she shall be promptly advised as to such actions by
27 the chairperson.

28 (5) The members of the council, while engaged in the performance of
29 their official duties, shall receive a per diem of forty dollars while so
30 serving, including travel time. In addition, members of the council shall
31 receive reimbursement for expenses as provided in sections 81-1174 to

1 81-1177.

2 (6) The council shall hold at least two regular meetings each year,
3 at a time and place fixed by the council and shall keep a record of its
4 proceedings which shall be open to the public for inspection. Special
5 meetings may be called by the chairperson. Such special meetings must be
6 called by him or her upon receipt of a written request signed by two or
7 more members of the council. Written notice of the time and place of all
8 meetings shall be mailed in advance to the office of each member of the
9 council by the secretary. A majority of the members of the council shall
10 constitute a quorum.

11 ~~(7) The council shall submit to the Governor a list of names from~~
12 ~~which he or she shall appoint the Director of Water, Energy, and~~
13 ~~Environment ~~Environment and Energy~~ who shall be experienced in air,~~
14 ~~water, and land pollution control and who may be otherwise an employee of~~
15 ~~state government. The director shall be responsible for administration of~~
16 ~~the department and all standards, rules, and regulations adopted pursuant~~
17 ~~to Chapter 81, article 15, the Integrated Solid Waste Management Act, and~~
18 ~~the Livestock Waste Management Act. All such standards, rules, and~~
19 ~~regulations shall be adopted by the council after consideration of the~~
20 ~~recommendations of the director. All grants to political subdivisions~~
21 ~~under the control of the department shall be made by the director in~~
22 ~~accordance with priorities established by the council, unless otherwise~~
23 ~~directed by statute. A majority of the members of the council shall~~
24 ~~constitute a quorum for the transaction of business. The affirmative vote~~
25 ~~of a majority of all members of the council shall be necessary for the~~
26 ~~adoption of standards, rules, and regulations.~~

27 (8) Before the director enters upon the duties of his or her office,
28 he or she shall take and subscribe to the constitutional oath of office
29 and shall, in addition thereto, swear and affirm that he or she holds no
30 other public office nor any position under any political committee or
31 party, that he or she has not during the two years immediately prior to

1 his or her appointment received a significant portion of his or her
2 income directly or indirectly from permitholders or applicants for a
3 permit under the Environmental Protection Act, and that he or she will
4 not receive such income during his or her term as director, except that
5 such requirements regarding income prior to the term of office shall not
6 apply to employees of any agency of the State of Nebraska or any
7 political subdivision which may be a permitholder under the Environmental
8 Protection Act. Such oath and affirmation shall be filed with the
9 Secretary of State.

10 **Sec. 327.** Section 81-1537, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 81-1537 Department shall mean the Department of Water, Energy, and
13 Environment ~~Environment and Energy~~.

14 **Sec. 328.** Section 81-1540, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-1540 Director shall mean the Director of Water, Energy, and
17 Environment ~~Environment and Energy~~.

18 **Sec. 329.** Section 81-1561, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-1561 (1) The Tax Commissioner shall deduct and withhold from the
21 litter fee collected a fee sufficient to reimburse himself or herself for
22 the cost of collecting and administering the litter fee and shall deposit
23 such collection fee in the Litter Fee Collection Fund which is hereby
24 created. The Litter Fee Collection Fund shall be appropriated to the
25 Department of Revenue. Any money in the Litter Fee Collection Fund
26 available for investment shall be invested by the state investment
27 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
28 State Funds Investment Act.

29 (2) The Tax Commissioner shall remit the balance of the litter fee
30 collections to the Department of Water, Energy, and Environment
31 ~~Environment and Energy~~. The department shall allocate and distribute

1 funds from the Nebraska Litter Reduction and Recycling Fund in percentage
2 amounts to be determined by the council on an annual basis, after a
3 public hearing on a date to be determined by the council, for the
4 following activities:

5 (a) Programs of public education, motivation, and participation
6 aimed at creating an ethic conducive to the reduction of litter,
7 establishing an attitude against littering and a desire for a clean
8 environment, and securing greater awareness of and compliance with
9 antilitter laws. Such programs shall include:

10 (i) The distribution of informative materials to elementary and
11 secondary schools;

12 (ii) The purchase and erection of roadside signs;

13 (iii) The organization and operation of cleanup drives conducted by
14 local agencies and organizations using volunteer help;

15 (iv) Grants to state and local government units and agencies and
16 private organizations for developing and conducting antilitter programs;
17 and

18 (v) Any other public information method selected by the department,
19 including the use of media;

20 (b) Cleanup of public highways, waterways, recreation lands, urban
21 areas, and public places within the state, including, but not limited to:

22 (i) Grants to cities and counties for payment of personnel employed
23 in the pickup of litter;

24 (ii) Grants for programs aimed at increasing the use of youth and
25 unemployed persons in seasonal and part-time litter pickup programs and
26 to establish work release and other programs to carry out the purposes of
27 the Nebraska Litter Reduction and Recycling Act;

28 (iii) Grants to public and private agencies and persons to conduct
29 surveys of amounts and composition of litter and rates of littering; and

30 (iv) Grants to public and private agencies and persons for research
31 and development in the fields of litter reduction, removal, and disposal,

1 including the evaluation of behavioral science techniques in litter
2 control and the development of new equipment, and to implement such
3 research and development when appropriate; and

4 (c) New or improved community recycling and source separation
5 programs, including, but not limited to:

6 (i) Expansion of existing and creation of new community recycling
7 centers;

8 (ii) Expansion of existing and creation of new source separation
9 programs;

10 (iii) Research and evaluation of markets for the materials and
11 products recovered in source separation and recycling programs; and

12 (iv) Providing advice and assistance on matters relating to
13 recycling and source separation, including information and consultation
14 on available technology, operating procedures, organizational
15 arrangements, markets for materials and products recovered in recycling
16 and source separation, transportation alternatives, and publicity
17 techniques.

18 **Sec. 330.** Section 81-1566, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-1566 The Nebraska Litter Reduction and Recycling Act shall
21 terminate on September 30, 2027 ~~2025~~, unless extended by the Legislature.
22 In order to determine whether such extension shall occur, the department
23 shall review and evaluate the extent to which the purposes of the act
24 have been and are being achieved and the need for continuation of the
25 program and requirements established by the act. Such review and
26 evaluation shall be completed at least six months prior to the date
27 established by this section for termination of the act.

28 **Sec. 331.** Section 81-15,118, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 81-15,118 The Legislature finds that the number of leaking
31 underground storage tanks throughout the state is increasing and that

1 there exists a serious threat to the health and safety of citizens
2 because substances contained in leaking storage tanks are often potential
3 ground water contaminants and major fire and explosive hazards.

4 For the reasons stated in this section, the Legislature deems it
5 necessary to provide a program of storage tank registration and
6 inspection as a preventative measure and a comprehensive leak cleanup
7 program as a responsive measure. Primary responsibility for the Petroleum
8 Products and Hazardous Substances Storage and Handling Act shall be with
9 the Department of Water, Energy, and Environment ~~Environment and Energy~~.
10 However, preventative measures described in such act shall also be
11 carried out by the State Fire Marshal. The State Fire Marshal's actions
12 shall be pursuant to an interagency agreement with the department.

13 **Sec. 332.** Section 81-15,120, Reissue Revised Statutes of Nebraska,
14 is amended to read:

15 81-15,120 Any farm or residential tank or tank used for storing
16 heating oil as defined in subdivisions (10)(a) and (b) of section
17 81-15,119 shall be registered with the State Fire Marshal. The
18 registration shall be accompanied by a one-time fee of five dollars and
19 shall be valid until the State Fire Marshal is notified that a tank so
20 registered has been permanently closed. Such registration shall specify
21 the ownership of, location of, and substance stored in the tank to be
22 registered. The State Fire Marshal shall remit the fee to the State
23 Treasurer for credit to the Petroleum Products and Hazardous Substances
24 Storage and Handling Fund which is hereby created as a cash fund. The
25 fund shall also consist of any money appropriated to the fund by the
26 state. The fund shall be administered by the Department of Water, Energy,
27 and Environment ~~Environment and Energy~~ to carry out the purposes of the
28 Petroleum Products and Hazardous Substances Storage and Handling Act,
29 including the provision of matching funds required by Public Law 99-499
30 for actions otherwise authorized by the act. Any money in such fund
31 available for investment shall be invested by the state investment

1 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
2 State Funds Investment Act.

3 **Sec. 333.** Section 81-15,124, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 81-15,124 Any reported or suspected release of a regulated substance
6 from any tank shall be investigated consistent with principles of risk-
7 based corrective action by the State Fire Marshal and the Department of
8 Water, Energy, and Environment ~~Environment and Energy~~. In the event that
9 the State Fire Marshal or the department finds an adverse effect caused
10 by a release of a regulated substance from a tank:

11 (1) The State Fire Marshal shall (a) determine the immediate danger
12 presented by the release, (b) take all steps necessary to assure
13 immediate public safety, and (c) assist the department in determining the
14 source of the release and taking all steps necessary to ensure that the
15 release is halted;

16 (2) By order of the department, the owner or operator of the tank
17 causing the release shall, after securing the source of the release,
18 develop a plan for remedial action to be approved by the department. The
19 department shall inform the owner or operator of its approval or
20 disapproval of a plan for remedial action within one hundred twenty days
21 after receipt of a remedial action plan which contains all required
22 information. If after one hundred twenty days the department fails to
23 either deny, approve, or amend the remedial action plan submitted, the
24 proposed plan shall be deemed approved; and

25 (3) The approved remedial action plan shall then be carried out by
26 the owner or operator of the tank causing the release. All expenses
27 incurred during the remedial action shall be paid by the owner or
28 operator subject to reimbursement pursuant to the Petroleum Release
29 Remedial Action Act.

30 If it is determined that the source of the release is unknown or
31 that the owner or operator of the facility causing the release is unknown

1 or unavailable, a remedial action plan shall be developed by or under the
2 direction of the department. Such remedial action plan shall be developed
3 and carried out by the department with money from the Petroleum Products
4 and Hazardous Substances Storage and Handling Fund if funds are
5 available. If at a later date the owner or operator of the facility which
6 caused the release is determined, he or she shall be responsible for
7 remedial action costs incurred on his or her behalf subject to
8 reimbursement pursuant to the Petroleum Release Remedial Action Act. Any
9 money received from such person shall be deposited in the Petroleum
10 Products and Hazardous Substances Storage and Handling Fund.

11 **Sec. 334.** Section 81-15,124.04, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-15,124.04 The Department of Water, Energy, and Environment
14 ~~Environment and Energy~~ shall provide briefing on the use by the
15 department of risk-based corrective action. The briefing shall be
16 directed toward comprehension and knowledge of the use by the department
17 of risk-based corrective action, and a fee may be charged for attending
18 the briefing which shall be remitted to the State Treasurer for credit to
19 the Petroleum Release Remedial Action Cash Fund. The department may
20 contract for providing such briefing and shall maintain and make
21 available to the public a list of attendees.

22 **Sec. 335.** Section 81-15,124.05, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 81-15,124.05 (1) If a remedial action plan submitted by a
25 responsible person as defined in section 66-1514 is approved or deemed to
26 be approved by the Department of Water, Energy, and Environment
27 ~~Environment and Energy~~ pursuant to subdivision (2) of section 81-15,124
28 and has been carried out, the department may issue to the responsible
29 person a certificate of completion stating that no further remedial
30 action needs to be taken at the site relating to any contamination for
31 which remedial action has already been taken in accordance with the

1 approved remedial action plan. The department shall condition the
2 certificate of completion upon compliance with any monitoring,
3 institutional, or technological controls that may be necessary and which
4 were relied upon by the responsible person to demonstrate compliance with
5 the remedial action plan. Any certificate of completion issued pursuant
6 to this section shall be in a form which can be filed for record in the
7 real estate records of the county in which the remedial action took
8 place. The responsible person shall file the certificate of completion
9 and notify the department within ten days after issuance as to the date
10 and location of the real estate filing. If the department issues a
11 certificate of completion to a responsible person under this section, a
12 covenant not to sue shall arise by operation of law subject to subsection
13 (2) of this section. The covenant not to sue releases the responsible
14 person from liability to the state and from liability to perform
15 additional environmental assessment, remedial activity, or response
16 action with regard to the release of a petroleum product for which the
17 responsible person has complied with the requirements of this subsection.
18 The covenant not to sue shall be voided if the responsible person fails
19 to conduct additional remedial action as required under subsection (2) of
20 this section, if a certificate of completion is revoked by the department
21 under subsection (3) of this section, or if the responsible person fails
22 to comply with the monitoring, institutional, or technological controls,
23 if any, upon which the certificate of completion is conditioned.

24 (2) A certificate of completion issued by the department under
25 subsection (1) of this section shall require the responsible person to
26 conduct additional remedial action in the event that any monitoring
27 conducted at or near the real property or other circumstances indicate
28 that (a) contamination is reoccurring, (b) additional contamination is
29 present for which remedial action was not taken according to the remedial
30 action plan, or (c) contamination from the site presents a threat to
31 human health or the environment and was not addressed in the remedial

1 action plan.

2 (3) A certificate of completion shall be revoked if the department
3 demonstrates by a preponderance of the evidence that any approval
4 provided under this section was obtained by fraud or material
5 misrepresentation, knowing failure to disclose material information, or
6 false certification to the department. The department shall file a copy
7 of the notice of revocation of any certificate of completion in the real
8 estate records of the county in which the remedial action took place
9 within ten days after such revocation.

10 (4) If a responsible person transfers property to an affiliate in
11 order for that affiliate to obtain a benefit to which the transferor
12 would not otherwise be eligible under this section or to avoid an
13 obligation under this section, the affiliate shall be subject to the same
14 obligations and obtain the same level of benefits as those available to
15 the transferor under this section.

16 (5)(a) A covenant not to sue arising under subsection (1) of this
17 section, unless voided pursuant to such subsection, shall bar suit
18 against any person who acquires title to property to which a certificate
19 of completion applies for all claims of the state or any other person in
20 connection with petroleum products which were the subject of an approved
21 remedial action plan and (b) a person who purchased a site before May 31,
22 2001, is released, upon the issuance of a certificate of completion under
23 this section or upon the issuance of a no further action letter on or
24 after May 31, 2001, pursuant to section 81-15,186, from all liability to
25 the state for cleanup of contamination that was released at the site
26 covered by the certificate of completion or the no further action letter
27 before the purchase date, except as provided in subsection (4) of this
28 section, for releases or consequences that the person contributed to or
29 caused, for failure by such person to comply with the monitoring,
30 institutional, or technological controls, if any, upon which the
31 certificate of completion is conditioned, or in the event the certificate

1 of completion is revoked by the department under subsection (3) of this
2 section.

3 (6) Any person entitled to the protections of the covenant not to
4 sue or eligible to be released from liability pursuant to the issuance of
5 a certificate of completion or a no further action letter under
6 subsection (5) of this section who is ordered by the department to take
7 remedial action shall be eligible for reimbursement as a responsible
8 person pursuant to section 66-1525 and shall not be required to pay the
9 first cost or percent of the remaining cost as provided in subsection (1)
10 of section 66-1523 unless such person contributed to or caused the
11 release or failed to comply with the monitoring, institutional, or
12 technological controls, if any, imposed under subsection (1) of this
13 section.

14 **Sec. 336.** Section 81-15,125, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 81-15,125 Any person violating the Petroleum Products and Hazardous
17 Substances Storage and Handling Act or the rules, regulations, or orders
18 of the State Fire Marshal or the Department of Water, Energy, and
19 Environment ~~Environment and Energy~~ adopted and promulgated or issued
20 pursuant to such act shall be subject to a civil fine of not more than
21 five thousand dollars for each offense and, in the case of a continuing
22 violation, each day of violation shall constitute a separate offense. In
23 assessing the amount of the fine, the court shall consider the size of
24 the operation and the degree and extent of the pollution.

25 **Sec. 337.** Section 81-15,126, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 81-15,126 The Department of Water, Energy, and Environment
28 ~~Environment and Energy~~ or the State Fire Marshal may apply to the
29 district court of the county where the violation is occurring or about to
30 occur for a restraining order, a temporary or permanent injunction, or a
31 mandatory injunction against any person violating or threatening to

1 violate the Petroleum Products and Hazardous Substances Storage and
2 Handling Act or the rules, regulations, or orders adopted and promulgated
3 under the act. The court shall have jurisdiction to grant relief upon
4 good cause shown. Relief may be granted notwithstanding the existence of
5 any other remedy at law and shall be granted without bond.

6 **Sec. 338.** Section 81-15,127, Reissue Revised Statutes of Nebraska,
7 is amended to read:

8 81-15,127 (1) Any person who deposits regulated substances in a tank
9 shall reasonably notify the owner or operator of such tank of the owner's
10 or operator's registration requirements pursuant to the Petroleum
11 Products and Hazardous Substances Storage and Handling Act.

12 (2) The Department of Water, Energy, and Environment ~~Environment and~~
13 ~~Energy~~ shall design and make available a printed notice of registration
14 for owners of tanks to any person who deposits regulated substances in a
15 tank.

16 **Sec. 339.** Section 81-15,129, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 81-15,129 As used in the Wastewater Treatment Operator Certification
19 Act, unless the context otherwise requires:

20 (1) Certificate shall mean a certificate of competency issued by the
21 director or his or her duly authorized representative certifying that the
22 operator has met the requirements for the specified operator
23 classification of the certification program;

24 (2) Council shall mean the Environmental Quality Council;

25 (3) Department shall mean the Department of Water, Energy, and
26 Environment ~~Environment and Energy~~;

27 (4) Director shall mean the Director of Water, Energy, and
28 Environment ~~Environment and Energy~~;

29 (5) Nationally recognized association of certification authorities
30 shall mean an organization or organizations selected by the director
31 which (a) serve as an information center for certification activities,

1 (b) recommend minimum standards and guidelines for classification of
2 wastewater treatment facilities and certification of operators, (c)
3 facilitate reciprocity between state programs, (d) assist authorities in
4 establishing new certification programs and updating existing ones, and
5 (e) provide testing services;

6 (6) Operator shall mean any person who regularly makes
7 recommendations or is responsible for process control decisions at a
8 wastewater treatment facility. Operator shall not include a person whose
9 duties are limited solely to laboratory testing or maintenance or who
10 exercises general or indirect supervision only;

11 (7) Voluntarily certified operator shall mean an operator who holds
12 a certificate of competency described in section 81-15,133; and

13 (8) Wastewater treatment facility shall mean the structures,
14 equipment, and processes required to collect, transport, and treat
15 domestic or industrial wastes and to dispose of the effluent and sludge.

16 **Sec. 340.** Section 81-15,149, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 81-15,149 As used in the Wastewater Treatment Facilities
19 Construction Assistance Act, unless the context otherwise requires:

20 (1) Clean Water Act means the federal Clean Water Act, as amended,
21 33 U.S.C. 1251 et seq.;

22 (2) Construction means any of the following: Preliminary planning to
23 determine the feasibility of wastewater treatment works or nonpoint
24 source control systems; engineering, architectural, legal, fiscal, or
25 economic investigations or studies; surveys, designs, plans, working
26 drawings, specifications, procedures, or other necessary preliminary
27 actions; erection, building, acquisition, alteration, remodeling,
28 improvement, or extension of wastewater treatment works or nonpoint
29 source control systems; or the inspection or supervision of any of the
30 foregoing items;

31 (3) Council means the Environmental Quality Council;

1 (4) County means any county authorized to construct a sewerage
2 disposal system and plant or plants pursuant to the County Industrial
3 Sewer Construction Act;

4 (5) Department means the Department of Water, Energy, and
5 Environment ~~Environment and Energy~~;

6 (6) Director means the Director of Water, Energy, and Environment
7 ~~Environment and Energy~~;

8 (7) Eligible financial institution means a bank that agrees to
9 participate in the linked deposit program and which is chartered to
10 conduct banking in this state pursuant to the Nebraska Banking Act, is
11 chartered to conduct banking by another state and authorized to do
12 business in this state, or is a national bank authorized to do business
13 in this state;

14 (8) Fund means the Wastewater Treatment Facilities Construction Loan
15 Fund;

16 (9) Linked deposit program means the Wastewater Treatment Facilities
17 Construction Assistance Act Linked Deposit Program established in
18 accordance with section 81-15,151.03;

19 (10) Municipality means any city, town, village, district,
20 association, or other public body created by or pursuant to state law and
21 having jurisdiction over disposal of sewage, industrial wastes, or other
22 wastes;

23 (11) Nonpoint source control systems means projects which establish
24 the use of methods, measures, or practices to control the pollution of
25 surface waters and ground water that occurs as pollutants are transported
26 by water from diffuse or scattered sources. Such projects include, but
27 are not limited to, structural and nonstructural controls and operation
28 and maintenance procedures applied before, during, and after pollution-
29 producing activities. Sources of nonpoint source pollution may include,
30 but are not limited to, agricultural, forestry, and urban lands,
31 transportation corridors, stream channels, mining and construction

1 activities, animal feeding operations, septic tank systems, underground
2 storage tanks, landfills, and atmospheric deposition;

3 (12) Operate and maintain means all necessary activities including
4 the normal replacement of equipment or appurtenances to assure the
5 dependable and economical function of a wastewater treatment works or
6 nonpoint source control systems in accordance with its intended purpose;
7 and

8 (13) Wastewater treatment works means the structures, equipment,
9 processes, and land required to collect, transport, and treat domestic or
10 industrial wastes and to dispose of the effluent and sludges.

11 **Sec. 341.** Section 81-15,159, Reissue Revised Statutes of Nebraska,
12 is amended to read:

13 81-15,159 (1) The Legislature hereby finds and declares that:

14 (a) Some landfills operating with or without a permit in Nebraska
15 exhibit numerous operational and management practices which are
16 inconsistent with proper landfill management and permit requirements, and
17 the owners and operators of such landfills should be encouraged to
18 cooperate and work with the Department of Water, Energy, and Environment
19 ~~Environment and Energy~~ to ensure that the air, land, and water of this
20 state are not polluted;

21 (b) Some landfills in Nebraska are reaching capacity and the siting
22 of a new location can be a financially expensive and socially disruptive
23 process, and because of this situation all Nebraska citizens and
24 businesses are encouraged to implement waste reduction measures that will
25 result in a reduction of waste entering landfills by at least twenty-five
26 percent;

27 (c) Recycling and waste reduction are necessary components of any
28 well-managed waste management system and can extend the lifespan of a
29 landfill and provide alternative waste management options; and

30 (d) The state can encourage recycling by the example of its own
31 purchase and use of recycled and recyclable materials. The state can also

1 encourage recycling and waste reduction by the creation of funding grants
2 which support existing and future waste management systems.

3 (2) It is the intent of the Legislature that the state, as a major
4 consumer and an example for others, should assist resource recovery by
5 making a concerted effort to use recyclable and recycled products and
6 encourage other levels of government and the private sector to follow its
7 example. When purchasing products, materials, or supplies for use by the
8 State of Nebraska, the Department of Administrative Services, the
9 University of Nebraska, and any other state agency making such purchases
10 shall give preference to and purchase products, materials, and supplies
11 which are manufactured or produced from recycled material or which can be
12 readily reused or recycled after their normal use. Preference shall also
13 be given to the purchase of corn-based biodegradable plastics and road
14 deicers, depending on the availability and suitability of such products.
15 Such preference shall not operate when it would result in the purchase of
16 products, materials, or supplies which are of inadequate quality or
17 substantially higher cost.

18 **Sec. 342.** Section 81-15,159.01, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-15,159.01 (1) The Department of Water, Energy, and Environment
21 ~~Environment and Energy~~ shall conduct a study to examine the status of
22 solid waste management programs operated by the department and make
23 recommendations to modernize and revise such programs. The study shall
24 include, but not be limited to: (a) whether existing state programs
25 regarding litter and waste reduction and recycling should be amended or
26 merged; (b) a needs assessment of the recycling and composting programs
27 in the state, including the need for infrastructure development operating
28 standards, market development, coordinated public education resulting in
29 behavior change, and incentives to increase recycling and composting; (c)
30 methods to partner with political subdivisions, private industry, and
31 private, nonprofit organizations to most successfully address waste

1 management issues in the state; (d) recommendations regarding existing
2 funding sources and possible new revenue sources at the state and local
3 level to address existing and emerging solid waste management issues; and
4 (e) revisions to existing grant programs to address solid waste
5 management issues in a proactive manner.

6 (2) The Director of Water, Energy, and Environment ~~Environment and~~
7 ~~Energy~~ shall establish an advisory committee to advise the department
8 regarding the study described in this section. The members of the
9 advisory committee shall be appointed by the director and shall include
10 no more than nine members. The director shall designate a chairperson of
11 the advisory committee. The members shall receive no compensation for
12 their services.

13 (3) In addition to the advisory committee, the department may hire
14 consultants and special experts to assist in the study described in this
15 section. After completion of the study, the department shall submit a
16 report, including recommendations, to the Executive Board of the
17 Legislative Council and the chairpersons of the Natural Resources
18 Committee, the Urban Affairs Committee, and the Appropriations Committee
19 of the Legislature no later than December 15, 2017. The report shall be
20 submitted electronically.

21 **Sec. 343.** Section 81-15,159.02, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-15,159.02 For purposes of the Waste Reduction and Recycling
24 Incentive Act:

25 (1) Council means the Environmental Quality Council;

26 (2) Department means the Department of Water, Energy, and
27 Environment ~~Environment and Energy~~;

28 (3) Director means the Director of Water, Energy, and Environment
29 ~~Environment and Energy~~;

30 (4) Scrap tire or waste tire means a tire that is no longer suitable
31 for its original intended purpose because of wear, damage, or defect;

1 (5) Tire means any tire made of rubber or other resilient material
2 and normally used on any vehicle;

3 (6) Tire-derived product means the usable product produced from a
4 scrap tire. Tire-derived product does not include crumb rubber or chipped
5 tires not intended for a direct end use and does not include baled tires
6 or tire-derived fuel; and

7 (7) Tire retailer means a person, business, or other entity which
8 engages in the retail sale of tires in any quantity for any use or
9 purpose by the purchaser other than for resale.

10 **Sec. 344.** Section 81-15,166, Reissue Revised Statutes of Nebraska,
11 is amended to read:

12 81-15,166 The Department of Water, Energy, and Environment
13 ~~Environment and Energy~~, with the advice and consent of the Environmental
14 Quality Council, shall contract for the preparation of a comprehensive
15 solid waste management plan. Such plan shall be contracted for and
16 prepared on or before December 15, 1991.

17 It is the intent of the Legislature that in preparation of the plan
18 the state consider the following hierarchy of criteria: (1) Volume
19 reduction at the source; (2) recycling, reuse, and vegetative waste
20 composting; (3) incineration with energy resource recovery; (4)
21 incineration for volume reduction; and (5) land disposal.

22 It is the intent of the Legislature that the plan be used as a guide
23 to assist political subdivisions in the planning and implementation of
24 their individual, joint, or regional solid waste management systems. The
25 comprehensive solid waste management plan shall not supersede or impair
26 plans, agreements, or contracts initiated by political subdivisions prior
27 to December 15, 1991.

28 The Environmental Quality Council shall adopt and promulgate rules
29 and regulations for solid waste management options which comply with
30 Environmental Protection Agency rules and guidelines, including rules and
31 guidelines promulgated pursuant to the 1984 Hazardous and Solid Waste

1 Amendments to Subtitle D of the federal Resource Conservation and
2 Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.

3 **Sec. 345.** Section 81-15,170, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 81-15,170 The Nebraska Environmental Trust Board is hereby created
6 as an entity of the executive branch. The board shall consist of the
7 Director of Water, Energy, and Environment ~~Environment and Energy~~, the
8 ~~Director of Natural Resources~~, the Director of Agriculture, the secretary
9 of the Game and Parks Commission, the chief executive officer of the
10 Department of Health and Human Services or his or her designee, and nine
11 citizens appointed by the Governor with the approval of a majority of the
12 Legislature. The citizen members shall begin serving immediately
13 following notice of nomination and prior to approval by the Legislature.
14 The citizen members shall represent the general public and shall have
15 demonstrated competence, experience, and interest in the environment of
16 the state. Two of the citizen appointees shall also have experience with
17 private financing of public-purpose projects. Three appointees shall be
18 chosen from each of the three congressional districts. The board shall
19 hire an executive director who shall hire and supervise other staff
20 members as may be authorized by the board. The executive director shall
21 serve at the pleasure of the board and be solely responsible to it. The
22 Game and Parks Commission shall provide administrative support,
23 including, but not limited to, payroll and accounting functions, to the
24 board.

25 **Sec. 346.** Section 81-15,175, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 81-15,175 (1) The board may make an annual allocation each fiscal
28 year from the Nebraska Environmental Trust Fund to the Nebraska
29 Environmental Endowment Fund as provided in section 81-15,174.01. The
30 board shall make annual allocations from the Nebraska Environmental Trust
31 Fund and may make annual allocations each fiscal year from the Nebraska

1 Environmental Endowment Fund for projects which conform to the
2 environmental categories of the board established pursuant to section
3 81-15,176 and to the extent the board determines those projects to have
4 merit. The board shall establish a calendar annually for receiving and
5 evaluating proposals and awarding grants. To evaluate the economic,
6 financial, and technical feasibility of proposals, the board may
7 establish subcommittees, request or contract for assistance, or establish
8 advisory groups. Private citizens serving on advisory groups shall be
9 reimbursed for expenses pursuant to sections 81-1174 to 81-1177.

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

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

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

17 (c) Encouragement of public-private partnerships;

18 (d) Geographic mix of projects over time;

19 (e) Cost-effectiveness and economic impact;

20 (f) Direct environmental impact;

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

23 (h) Applications ~~recommended by the Director of Natural Resources~~
24 ~~and~~ submitted by the Department of Water, Energy, and Environment ~~Natural~~
25 ~~Resources~~ pursuant to subsection (7) of section 61-218 shall be awarded
26 fifty priority points in the ranking process for the 2011 grant
27 application if the Legislature has authorized annual transfers of three
28 million three hundred thousand dollars to the Water Resources Cash Fund
29 for each of fiscal years 2011-12 and 2012-13 and has stated its intent to
30 transfer three million three hundred thousand dollars to the Water
31 Resources Cash Fund in fiscal year 2013-14. Priority points shall be

1 awarded if the proposed programs set forth in the grant application are
2 consistent with the purposes of reducing consumptive uses of water,
3 enhancing streamflows, recharging ground water, or supporting wildlife
4 habitat in any river basin determined to be fully appropriated pursuant
5 to section 46-714 or designated as overappropriated pursuant to section
6 46-713.

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

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

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

17 (c) The third three million three hundred thousand dollar
18 installment shall be remitted to the State Treasurer for credit to the
19 Water Resources Cash Fund no later than May 15, 2014, if the Legislature
20 has authorized a transfer of three million three hundred thousand dollars
21 from the General Fund to the Water Resources Cash Fund for fiscal year
22 2013-14.

23 (4) It is the intent of the Legislature that the Department of
24 Water, Energy, and Environment ~~Natural Resources~~ apply for an additional
25 three-year grant from the Nebraska Environmental Trust Fund that would
26 begin in fiscal year 2014-15, a three-year grant that would begin in
27 fiscal year 2017-18, and a three-year grant that would begin in fiscal
28 year 2020-21 and such application shall be awarded fifty priority points
29 in the ranking process as set forth in subdivision (2)(h) of this section
30 if the following criteria are met:

31 (a) The Natural Resources Committee of the Legislature has examined

1 options for water funding and has submitted a report electronically to
2 the Clerk of the Legislature and the Governor by December 1, 2012,
3 setting forth:

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

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

11 (iii) Recommendations for legislation;

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

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

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

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

31 (iii) All other projects and activities funded by the department

1 through grants from the Nebraska Environmental Trust Fund under this
2 section were matched not less than forty percent of the project or
3 activity cost by other funding sources.

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

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

19 (7) The board shall adopt and promulgate rules and regulations and
20 publish guidelines governing allocations from the fund. The board shall
21 conduct annual reviews of existing projects for compliance with project
22 goals and grant requirements.

23 (8) Every five years the board may evaluate the long-term effects of
24 the projects it funds. The evaluation may assess a sample of such
25 projects. The board may hire an independent consultant to conduct the
26 evaluation and may report the evaluation findings to the Legislature and
27 the Governor. The report submitted to the Legislature shall be submitted
28 electronically.

29 **Sec. 347.** Section 81-15,177, Reissue Revised Statutes of Nebraska,
30 is amended to read:

31 81-15,177 (1) There is hereby established the Solid Waste Landfill

1 Closure Assistance Fund which shall be a cash fund administered by the
2 Department of Water, Energy, and Environment ~~Environment and Energy~~. The
3 fund shall be used:

4 (a) To provide grants for landfill site closing assessment, closure,
5 monitoring, and remediation costs related to landfills existing or
6 already closed on July 15, 1992; and

7 (b) To provide funds to the department for expenses incurred in
8 carrying out its duties under sections 81-15,178 and 81-15,179.

9 Any money in the fund available for investment shall be invested by
10 the state investment officer pursuant to the Nebraska Capital Expansion
11 Act and the Nebraska State Funds Investment Act.

12 (2) The Environmental Quality Council shall adopt and promulgate
13 rules and regulations regarding the form and procedure for applications
14 for grants from the fund, procedures for determining claims for payment
15 or reimbursement, procedures for determining the amount and type of costs
16 that are eligible for payment or reimbursement from the fund, procedures
17 for determining priority among applicants, procedures for auditing
18 persons who have received payments from the fund, and other provisions
19 necessary to carry out sections 81-15,178 and 81-15,179.

20 **Sec. 348.** Section 81-15,178, Reissue Revised Statutes of Nebraska,
21 is amended to read:

22 81-15,178 In order for an applicant to receive funding from the
23 Solid Waste Landfill Closure Assistance Fund, the applicant shall:

24 (1) Agree to use the funds for landfill site closing assessment,
25 closure, monitoring, or remediation costs relating to landfills existing
26 or already closed on July 15, 1992;

27 (2) Provide the Department of Water, Energy, and Environment
28 ~~Environment and Energy~~ with documentation regarding the landfill closure
29 site, including, when appropriate, information indicating that the
30 applicant holds or can acquire title to all lands or has the necessary
31 easements and rights-of-way for the project and related lands;

1 (3) Provide a plan for the proposed project, including appropriate
2 engineering, economic, and financial feasibility data and other data and
3 information, including estimated costs, as may be required by the
4 department; and

5 (4) Demonstrate the anticipated environmental and ecological
6 benefits resulting from the proposed project.

7 **Sec. 349.** Section 81-15,179, Reissue Revised Statutes of Nebraska,
8 is amended to read:

9 81-15,179 Upon receipt of an application for funds from the Solid
10 Waste Landfill Closure Assistance Fund, the Department of Water, Energy,
11 and Environment ~~Environment and Energy~~ shall evaluate and investigate all
12 aspects of the proposed project and the proposed schedule for completion,
13 determine eligibility and priority of the project for funding, and make
14 appropriate grants from the fund pursuant to rules and regulations
15 adopted and promulgated by the Environmental Quality Council. If the
16 department determines that an application is unsatisfactory or does not
17 contain adequate information, the department shall return the application
18 to the applicant and may make recommendations to the applicant which the
19 department considers necessary to make the plan or the application
20 satisfactory.

21 **Sec. 350.** Section 81-15,180, Reissue Revised Statutes of Nebraska,
22 is amended to read:

23 81-15,180 The Superfund Cost Share Cash Fund is created. The
24 Department of Water, Energy, and Environment ~~Environment and Energy~~ shall
25 remit grants and gifts received by the department for purposes of
26 providing cost share for remediation of superfund sites to the State
27 Treasurer for credit to the fund. The department shall administer the
28 Superfund Cost Share Cash Fund to pay for nonfederal costs, including
29 costs for in-kind services, required as cost share for remediation of
30 superfund sites. Transfers may be made from the fund to the General Fund
31 at the direction of the Legislature. Any money in the Superfund Cost

1 Share Cash Fund available for investment shall be invested by the state
2 investment officer pursuant to the Nebraska Capital Expansion Act and the
3 Nebraska State Funds Investment Act.

4 **Sec. 351.** Section 81-15,183, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 81-15,183 (1) The Remedial Action Plan Monitoring Fund is created.
7 The fund shall be administered by the Department of Water, Energy, and
8 Environment ~~Environment and Energy~~. Revenue from the following sources
9 shall be credited to the fund:

10 (a) Application fees collected under the Remedial Action Plan
11 Monitoring Act;

12 (b) Deposits for costs associated with administration of the act,
13 including review, oversight, and guidance;

14 (c) Gifts, grants, reimbursements, or appropriations from any source
15 intended to be used for purposes of the act; and

16 (d) Investment interest attributable to the fund.

17 (2) The fund shall be used by the department to:

18 (a) Review applications and provide technical review, oversight,
19 guidance, and other activities associated with remedial action plans for
20 land pollution or water pollution;

21 (b) Fund activities performed by the department to address immediate
22 or emergency threats to human health and the environment related to
23 property under the act; and

24 (c) Administer and enforce the act.

25 (3) Any money in the fund available for investment shall be invested
26 by the state investment officer pursuant to the Nebraska Capital
27 Expansion Act and the Nebraska State Funds Investment Act.

28 **Sec. 352.** Section 81-15,184, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 81-15,184 (1) Any entity which voluntarily chooses to make
31 application for monitoring of remedial action plans for property where

1 land pollution or water pollution exists shall:

2 (a) Submit an application on a form approved by the Department of
3 Water, Energy, and Environment ~~Environment and Energy~~;

4 (b) Provide the department with a nonrefundable application fee of
5 two thousand dollars; and

6 (c) Execute a written agreement to provide reimbursement of all
7 department direct and indirect costs related to technical review,
8 oversight, guidance, and other activities associated with the remedial
9 action plan. As part of the voluntary agreement, the department shall
10 require the applicant to post a deposit of three thousand dollars to be
11 used by the department to cover all costs. The department shall not
12 commence technical review, oversight, guidance, or other activities
13 associated with the remedial action plan until the voluntary agreement is
14 executed and a complete remedial action plan has been submitted. If the
15 costs of the department exceed the initial deposit, an additional amount
16 agreed upon by the department and the applicant may be required prior to
17 proceeding. After the mutual termination of the voluntary agreement, any
18 balance of funds paid under this subdivision shall be refunded.

19 (2) The department shall review and approve or deny all applications
20 and notify the applicant in writing. If the application is denied, the
21 notification shall state the reason for the denial. If the department
22 determines that an application does not contain adequate information, the
23 department shall return the application to the applicant. The applicant
24 has sixty days to resubmit the required information or the application
25 will be deemed denied.

26 (3) Within ninety days of approval of the application and voluntary
27 agreement, the applicant shall provide a complete remedial action plan
28 for the proposed project that conforms to all federal and state
29 environmental standards and substantive requirements, including:

30 (a) Documentation regarding the investigation of land pollution or
31 water pollution including, when appropriate, information indicating that

1 the applicant holds or can acquire title to all lands or has the
2 necessary easements and rights-of-way for the project and related lands;

3 (b) A remedial action work plan which describes the remedial action
4 measures to be taken to address the land or water pollution; and

5 (c) Project monitoring reports, appropriate engineering, scientific,
6 and financial feasibility data, and other data and information as may be
7 required by the department.

8 **Sec. 353.** Section 81-15,185, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 81-15,185 Upon receipt of a voluntary remedial action plan for land
11 pollution or water pollution pursuant to section 81-15,184, the
12 Department of Water, Energy, and Environment ~~Environment and Energy~~ shall
13 review and approve or disapprove the plan and notify the applicant in
14 writing. If the plan is disapproved, the notification shall state the
15 reason for the disapproval and provide a reasonable opportunity to
16 resubmit the plan.

17 **Sec. 354.** Section 81-15,185.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-15,185.01 The Department of Water, Energy, and Environment
20 ~~Environment and Energy~~ shall issue public notice of its intent to approve
21 a voluntary remedial action plan pursuant to section 81-15,185 in a local
22 newspaper of general circulation in the area affected and make the
23 remedial action plan available to the public. The public shall have
24 thirty days from the date of publication during which any person may
25 submit written comments to the department regarding the proposed remedial
26 action. Such person may also request or petition the Director of Water,
27 Energy, and Environment ~~Environment and Energy~~, in writing, for a hearing
28 and state the nature of the issues to be raised. The director shall hold
29 a public hearing if the comments, request, or petition raise legal,
30 policy, or discretionary questions of general application and significant
31 public interest exists.

1 **Sec. 355.** Section 81-15,185.02, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-15,185.02 (1) The applicant may unilaterally terminate a
4 voluntary remedial action plan approved pursuant to section 81-15,185
5 prior to completion of investigative and remedial activities if the
6 applicant leaves the property in no worse condition, from a human health
7 and environment perspective, than when the applicant initiated voluntary
8 remedial action and the applicant reimburses the Department of Water,
9 Energy, and Environment ~~Environment and Energy~~ for all outstanding costs.

10 (2) The department may terminate a voluntary remedial action plan if
11 the applicant:

12 (a) Violates any terms or conditions of the plan or fails to fulfill
13 any obligations of the plan, including submission of an acceptable
14 remedial action plan within a reasonable period of time;

15 (b) Fails to address an immediate and significant risk of harm to
16 public health and the environment in a timely and effective manner; or

17 (c) Fails to initiate the plan within six months after approval by
18 the department or to complete the plan within twenty-four months after
19 approval by the department, excluding long-term operation, maintenance,
20 and monitoring, unless the department grants an extension of time.

21 (3) The department shall notify the applicant in writing of the
22 intention to terminate the voluntary remedial action plan and include the
23 reason for the termination and a summary of any unreimbursed costs of the
24 department that are due.

25 **Sec. 356.** Section 81-15,185.03, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 81-15,185.03 (1) Within sixty days after completion of a voluntary
28 remedial action plan approved pursuant to section 81-15,185, the
29 applicant shall provide the Department of Water, Energy, and Environment
30 ~~Environment and Energy~~ with a final remedial action report and assurance
31 that the plan has been fully implemented. Department approval of a

1 voluntary remedial action plan shall be void upon failure to comply with
2 the approved plan or willful submission of false, inaccurate, or
3 misleading information by the applicant.

4 (2) Voluntary remedial action plans approved under section 81-15,185
5 are not enforceable unless the department can demonstrate that the
6 applicant has failed to fully implement the approved plan. The department
7 may require further action if such action is authorized by other state
8 statutes administered by the department.

9 **Sec. 357.** Section 81-15,186, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 81-15,186 If the requirements of the Remedial Action Plan Monitoring
12 Act are met and the applicant has remitted all applicable fees, the
13 Department of Water, Energy, and Environment ~~Environment and Energy~~ may
14 issue to the applicant a letter stating that no further action need be
15 taken at the site related to any contamination for which remedial action
16 has been taken in accordance with the approved remedial action plan. Such
17 letter shall provide that the department may require the person to
18 conduct additional remedial action in the event that any monitoring
19 conducted at or near the real property or other circumstances indicate
20 that (1) contamination is reoccurring, (2) additional contamination is
21 present which was not identified pursuant to section 81-15,184, or (3)
22 additional contamination is present for which remedial action was not
23 taken according to the remedial action plan. As a condition of issuance,
24 the department may require payment of ongoing direct and indirect costs
25 of oversight of any ongoing long-term operation, maintenance, and
26 monitoring.

27 **Sec. 358.** Section 81-15,213, Reissue Revised Statutes of Nebraska,
28 is amended to read:

29 81-15,213 (1) The Nebraska Emergency Management Agency shall
30 supervise and coordinate emergency planning and training under section
31 305 of Title III and shall oversee and distribute all funds received

1 under section 305 of Title III and section 81-15,214.

2 (2) The Department of Water, Energy, and Environment ~~Environment and~~
3 ~~Energy~~ shall receive emergency notification and facility reports and
4 establish procedures for receiving and processing requests from the
5 public for information as required to be provided under the Nebraska
6 Emergency Planning and Community Right to Know Act. The director or his
7 or her designee shall serve as commission coordinator for information.

8 **Sec. 359.** Section 81-15,229, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 81-15,229 (1) Each emergency plan, material safety data sheet, list
11 of chemicals, inventory form, toxic chemical release form, and followup
12 emergency notice shall be made available to the general public,
13 consistent with section 322 of Title III, during normal working hours at
14 the location or locations designated by the Department of Water, Energy,
15 and Environment ~~Environment and Energy~~, the commission, or a local
16 emergency planning committee, as appropriate. Upon request by an owner or
17 operator of a facility subject to the requirements of section 81-15,224,
18 the Department of Water, Energy, and Environment ~~Environment and Energy~~,
19 the commission, or the appropriate committee shall withhold from
20 disclosure under this section the location of any specific chemical
21 required by section 81-15,225 to be contained in an inventory form as
22 tier II information.

23 (2) Each local emergency planning committee shall annually publish a
24 notice in local newspapers that the emergency plan, material safety data
25 sheets, and inventory forms have been submitted under this section. The
26 notice shall state that followup emergency notices may subsequently be
27 issued. Such notice shall announce that members of the public who wish to
28 review any such plan, sheet, form, or followup notice may do so at the
29 location designated under subsection (1) of this section.

30 **Sec. 360.** Section 81-15,235, Reissue Revised Statutes of Nebraska,
31 is amended to read:

1 81-15,235 The Nebraska Emergency Management Agency shall as
2 necessary adopt and promulgate rules and regulations to carry out its
3 responsibilities under the Nebraska Emergency Planning and Community
4 Right to Know Act. The Environmental Quality Council shall adopt and
5 promulgate rules and regulations necessary for the Department of Water,
6 Energy, and Environment ~~Environment and Energy~~ to carry out its
7 responsibilities under the act.

8 **Sec. 361.** Section 81-15,242, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 81-15,242 Department means the Department of Water, Energy, and
11 Environment ~~Environment and Energy~~.

12 **Sec. 362.** Section 81-15,243, Reissue Revised Statutes of Nebraska,
13 is amended to read:

14 81-15,243 Director means the Director of Water, Energy, and
15 Environment ~~Environment and Energy~~.

16 **Sec. 363.** Section 81-15,260, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 81-15,260 The Volkswagen Settlement Cash Fund is created. The fund
19 shall be administered by the Department of Water, Energy, and Environment
20 ~~Environment and Energy~~. All sums of money received from the Volkswagen
21 Settlement shall be deposited in the fund. The department shall expend
22 the fund in accordance with the department use plan. Any money in the
23 fund available for investment shall be invested by the state investment
24 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
25 State Funds Investment Act. The balance of any account established to
26 receive and expend revenue from the Volkswagen Settlement shall be
27 transferred to the Volkswagen Settlement Cash Fund.

28 **Sec. 364.** Section 81-15,262, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 81-15,262 The Legislature finds that:

31 (1) Best practices in environmental safety and protection recognize

1 that the regulation of water supply and disposal infrastructure are
2 connected;

3 (2) The proper design, construction, and monitoring of water and
4 wastewater uses is critical for the safety and sustainability of
5 communities in the State of Nebraska;

6 (3) The regulation of mobile homes, recreation camps, and swimming
7 pools provide fundamental environmental safety for persons who use them;
8 and

9 (4) Consolidating the administration of state environmental safety
10 programs and the environmental and water programs of the United States
11 Environmental Protection Agency delegated to the State of Nebraska into
12 the Department of Water, Energy, and Environment ~~Environment and Energy~~
13 will better serve the communities in the State of Nebraska.

14 **Sec. 365.** Section 81-15,263, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 81-15,263 For purposes of the Environmental Safety Act:

17 (1) Department means the Department of Water, Energy, and
18 Environment ~~Environment and Energy~~; and

19 (2) Director means the Director of Water, Energy, and Environment
20 ~~Environment and Energy~~.

21 **Sec. 366.** Section 81-15,292, Reissue Revised Statutes of Nebraska,
22 is amended to read:

23 81-15,292 (1) The department shall collect a fee of not less than
24 sixty nor more than one hundred dollars, as determined by regulation, for
25 each inspection of private water supply or private sewage disposal
26 facilities requested of and made by the department in order for the
27 person requesting the inspection to qualify for any type of commercial
28 loan, guarantee, or other type of payment or benefit from any commercial
29 agency or enterprise to the person applying for or receiving the same or
30 to meet the requirements of any federal governmental agency, including,
31 but not limited to, the Rural Development Agency of the United States

1 Department of Agriculture, the Federal Housing Administration, and the
2 United States Department of Veterans Affairs, that such an inspection be
3 conducted as a condition of applying for or receiving any type of grant,
4 loan, guarantee, or other type of payment or benefit from such agency to
5 the person applying for or receiving the same. All fees collected under
6 this subsection shall be remitted to the State Treasurer for credit to
7 the Environmental Safety Cash Fund.

8 (2) The Director of Water, Energy, and Environment ~~Environment and~~
9 ~~Energy~~ shall adopt and promulgate rules and regulations determining the
10 fee required pursuant to this section.

11 (3) All rules and regulations adopted and promulgated prior to July
12 1, 2021, under this section shall continue to be effective to the extent
13 not in conflict with the changes made by Laws 2021, LB148, until amended
14 or repealed by the department.

15 **Sec. 367.** Section 81-15,299, Reissue Revised Statutes of Nebraska,
16 is amended to read:

17 81-15,299 There is hereby created the Environmental Safety Cash Fund
18 which shall be used to pay the expenses of the Department of Water,
19 Energy, and Environment ~~Environment and Energy~~ related to issuance and
20 renewal of licenses and permits and annual inspections, including
21 sections 81-15,268, 81-15,272, 81-15,282, and 81-15,292. Any money in the
22 fund available for investment shall be invested by the state investment
23 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
24 State Funds Investment Act. The State Treasurer shall transfer any money
25 in the Health and Human Services Cash Fund pursuant to sections
26 81-15,268, 81-15,272, 81-15,282, and 81-15,292, as such sections existed
27 prior to July 1, 2021, to the Environmental Safety Cash Fund on July 1,
28 2021.

29 **Sec. 368.** Section 81-15,300, Reissue Revised Statutes of Nebraska,
30 is amended to read:

31 81-15,300 There is hereby created the Engineering Plan Review Cash

1 Fund which shall be used to pay the expenses of the Department of Water,
2 Energy, and Environment ~~Environment and Energy~~ related to engineering
3 reviews of plans and specifications, including those under subsection (3)
4 of section 81-15,268 and subsection (2) of section 81-15,282. Any money
5 in the fund available for investment shall be invested by the state
6 investment officer pursuant to the Nebraska Capital Expansion Act and the
7 Nebraska State Funds Investment Act. The State Treasurer shall transfer
8 any money in the Health and Human Services Cash Fund pursuant to
9 subsection (3) of section 81-15,268 and subsection (2) of section
10 81-15,282, as such sections existed prior to July 1, 2021, to the
11 Engineering Plan Review Cash Fund on July 1, 2021.

12 **Sec. 369.** Section 81-15,302, Reissue Revised Statutes of Nebraska,
13 is amended to read:

14 81-15,302 For purposes of the Nebraska Environmental Response Act:

15 (1) Cleanup means all actions necessary to contain, collect, secure,
16 control, identify, prevent, mitigate, analyze, treat, disperse, remove,
17 or dispose of a pollutant necessary to restore the environment to the
18 extent practicable and to minimize the harmful effects from the release
19 in conformance with applicable federal and state environmental standards
20 and substantive requirements;

21 (2) Cleanup costs means all costs incurred by the state, a political
22 subdivision of the state, an agent of the state, or any other person
23 participating, with the approval of the department, in the prevention,
24 mitigation, or cleanup of a release of a pollutant, including a
25 proportionate share of those costs necessary to maintain the services
26 authorized in the act. Costs include oversight of the cleanup, staff
27 time, and materials and supplies used to secure and mitigate the release
28 of pollutants;

29 (3) Department means the Department of Water, Energy, and
30 Environment ~~Environment and Energy~~;

31 (4) Director means the Director of Water, Energy, and Environment

1 ~~Environment and Energy;~~

2 (5) Environmental lien means a lien for cleanup costs;

3 (6) Person has the same meaning as provided in section 81-1502;

4 (7) Pollutant means one or more substances or combinations of
5 substances that alter the natural physical, chemical, or biological
6 properties of any air, land, or waters of the state in such quantities
7 that are harmful, detrimental, or injurious to plant or animal life,
8 property, or the public health, safety, or welfare;

9 (8) Release means any emission, discharge, spill, leak, pumping,
10 pouring, escaping, emptying, or dumping of a pollutant into or onto the
11 air, land, or waters of the state, except when performed in compliance
12 with the conditions of a federal or state environmental permit; and

13 (9) Waters of the state has the same meaning as provided in section
14 81-1502.

15 **Sec. 370.** Section 81-15,312, Reissue Revised Statutes of Nebraska,
16 is amended to read:

17 81-15,312 It is the intent of the Legislature to appropriate one
18 million dollars for fiscal year 2024-25 from the General Fund to the
19 Department of Water, Energy, and Environment ~~Environment and Energy~~ to
20 fund the installation of real-time nitrate sensors in monitoring wells
21 statewide to prioritize nitrate management and reduction.

22 **Sec. 371.** Section 81-1604, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 81-1604 (1) The Legislature finds that:

25 (a) Comprehensive planning enables the state to address its energy
26 needs, challenges, and opportunities and enhances the state's ability to
27 prioritize energy-related policies, activities, and programs; and

28 (b) Meeting the state's need for clean, affordable, and reliable
29 energy in the future will require a diverse energy portfolio and a
30 strategic approach, requiring engagement of all energy stakeholders in a
31 comprehensive planning process.

1 (2) The Department of Water, Energy, and Environment ~~Environment and~~
2 ~~Energy~~ shall develop an integrated and comprehensive strategic state
3 energy plan and review such plan periodically as the department deems
4 necessary. The department may organize technical committees of
5 individuals with expertise in energy development for purposes of
6 developing the plan. If the department forms an advisory committee
7 pursuant to subdivision (58) of section 81-1504 for purposes of such
8 plan, the chairperson of the Appropriations Committee of the Legislature,
9 the chairperson of the Natural Resources Committee of the Legislature,
10 and three members of the Legislature selected by the Executive Board of
11 the Legislative Council shall be nonvoting, ex officio members of such
12 advisory committee.

13 (3) The strategic state energy plan shall include short-term and
14 long-term objectives that will ensure a secure, reliable, and resilient
15 energy system for the state's residents and businesses; a cost-
16 competitive energy supply and access to affordable energy; the promotion
17 of sustainable economic growth, job creation, and economic development;
18 and a means for the state's energy policy to adapt to changing
19 circumstances.

20 (4) The strategic state energy plan shall include, but not be
21 limited to:

22 (a) A comprehensive analysis of the state's energy profile,
23 including all energy resources, end-use sectors, and supply and demand
24 projections;

25 (b) An analysis of other state energy plans and regional energy
26 activities which identifies opportunities for streamlining and
27 partnerships; and

28 (c) An identification of goals and recommendations related to:

29 (i) The diversification of the state's energy portfolio in a way
30 that balances the lowest practicable environmental cost with maximum
31 economic benefits;

1 (ii) The encouragement of state and local government coordination
2 and public-private partnerships for future economic and investment
3 decisions;

4 (iii) The incorporation of new technologies and opportunities for
5 energy diversification that will maximize Nebraska resources and support
6 local economic development;

7 (iv) The interstate and intrastate promotion and marketing of the
8 state's renewable energy resources;

9 (v) A consistent method of working with and marketing to energy-
10 related businesses and developers;

11 (vi) The advancement of transportation technologies, alternative
12 fuels, and infrastructure;

13 (vii) The development and enhancement of oil, natural gas, and
14 electricity production and distribution;

15 (viii) The development of a communications process between energy
16 utilities and the department for responding to and preparing for
17 regulations having a statewide impact; and

18 (ix) The development of a mechanism to measure the plan's progress.

19 **Sec. 372.** Section 81-1606, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 81-1606 The Department of Water, Energy, and Environment ~~Environment~~
22 ~~and Energy~~ shall develop and maintain a program of collection,
23 compilation, and analysis of energy statistics and information. Existing
24 information reporting requests, maintained at the state and federal
25 levels, shall be utilized whenever possible in any data collection
26 required regarding state energy policy pursuant to this section,
27 subdivisions (35) through (58) of section 81-1504, or section 81-1604 or
28 81-1607. A central state repository of energy data shall be developed and
29 coordinated with other governmental data-collection and record-keeping
30 programs. The department shall, on at least an annual basis, with monthly
31 compilations, submit to the Governor and the Clerk of the Legislature a

1 report identifying state energy consumption by fuel type and by use to
2 the extent that such information is available. The report submitted to
3 the Clerk of the Legislature shall be submitted electronically. Nothing
4 in this section shall be construed as permitting or authorizing the
5 revealing of confidential information. For purposes of this section
6 confidential information shall mean any process, formula, pattern,
7 decision, or compilation of information which is used, directly or
8 indirectly, in the business of the producer, refiner, distributor,
9 transporter, or vendor, and which gives such producer, refiner,
10 distributor, transporter, or vendor an advantage or an opportunity to
11 obtain an advantage over competitors who do not know or use it.

12 **Sec. 373.** Section 81-1607, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-1607 (1) On or before February 15 of each year, the Director of
15 Water, Energy, and Environment ~~Environment and Energy~~ shall transmit to
16 the Governor and the Clerk of the Legislature a comprehensive report
17 designed to identify emerging trends related to energy supply, demand,
18 and conservation and to specify the level of statewide energy need within
19 the following sectors: Agricultural, commercial, residential, industrial,
20 transportation, utilities, government, and any other sector that the
21 director determines to be useful. The report submitted to the Clerk of
22 the Legislature shall be submitted electronically.

23 (2) The report shall include, but not be limited to:

24 (a) An assessment of the state's energy resources, including
25 examination of the current energy supplies and any feasible alternative
26 sources;

27 (b) The estimated reduction in annual energy consumption resulting
28 from various energy conservation measures;

29 (c) The status of the ongoing studies of the Department of Water,
30 Energy, and Environment ~~Environment and Energy~~ pursuant to subdivisions

31 (35) through (58) of section 81-1504;

1 (d) Recommendations to the Governor and the Legislature for
2 administrative and legislative actions to accomplish the purposes of this
3 section and section 81-1606; and

4 (e) The use of funds disbursed during the previous year under
5 sections 81-1635 to 81-1641. The use of such funds shall be reported each
6 year until the funds are completely disbursed and all contractual
7 obligations have expired or otherwise terminated.

8 **Sec. 374.** Section 81-1609, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 81-1609 As used in sections 81-1608 to 81-1626, unless the context
11 otherwise requires:

12 (1) Department means the Department of Water, Energy, and
13 Environment ~~Environment and Energy~~;

14 (2) Contractor means the person or entity responsible for the
15 overall construction of any building or the installation of any component
16 which affects the energy efficiency of the building;

17 (3) Architect or engineer means any person licensed as an architect
18 or professional engineer under the Engineers and Architects Regulation
19 Act;

20 (4) Building means any new structure, renovated building, or
21 addition which is used or intended for supporting or sheltering any use
22 or occupancy, but not including any structure which has a consumption of
23 traditional energy sources for all purposes not exceeding the energy
24 equivalent of three and four-tenths British Thermal Units per hour or one
25 watt per square foot;

26 (5) Residential building means a building three stories or less that
27 is used primarily as one or more dwelling units;

28 (6) Renovation means alterations on an existing building which will
29 cost more than fifty percent of the replacement cost of such building at
30 the time work is commenced or which was not previously heated or cooled,
31 for which a heating or cooling system is now proposed, except that the

1 restoration of historical buildings shall not be included;

2 (7) Addition means an extension or increase in the height,
3 conditioned floor area, or conditioned volume of a building or structure;

4 (8) Floor area means the total area of the floor or floors of a
5 building, expressed in square feet, which is within the exterior faces of
6 the shell of the structure which is heated or cooled;

7 (9) Nebraska Energy Code means the 2018 International Energy
8 Conservation Code published by the International Code Council;

9 (10) Traditional energy sources means electricity, petroleum-based
10 fuels, uranium, coal, and all nonrenewable forms of energy; and

11 (11) Equivalent or equivalent code means standards that meet or
12 exceed the requirements of the Nebraska Energy Code.

13 **Sec. 375.** Section 81-1611, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 81-1611 The Legislature hereby adopts the 2018 International Energy
16 Conservation Code published by the International Code Council as the
17 Nebraska Energy Code. The Director of Water, Energy, and Environment
18 ~~Environment and Energy~~ may adopt regulations specifying alternative
19 standards for building systems, techniques, equipment designs, or
20 building materials that shall be deemed equivalent to the Nebraska Energy
21 Code. Regulations specifying alternative standards may be deemed
22 equivalent to the Nebraska Energy Code and may be approved for general or
23 limited use if the use of such alternative standards would not result in
24 energy consumption greater than would result from the strict application
25 of the Nebraska Energy Code.

26 **Sec. 376.** Section 81-1612, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 81-1612 The Director of Water, Energy, and Environment ~~Environment~~
29 ~~and Energy~~ may adopt and promulgate rules and regulations for
30 implementation and administration of sections 81-1608 to 81-1626. Rules,
31 regulations, or amendments thereto shall be adopted pursuant to the

1 Administrative Procedure Act.

2 **Sec. 377.** Section 81-1625, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-1625 If the Director of Water, Energy, and Environment
5 ~~Environment and Energy~~ or the local code authority finds, within two
6 years from the date a building is first occupied, that the building, at
7 the time of construction, did not comply with the Nebraska Energy Code or
8 equivalent code adopted by a county, city, or village in effect at such
9 time, the director or code authority may order the owner or prime
10 contractor to take those actions necessary to bring the building into
11 compliance. This section does not limit the right of the owner to bring
12 civil action against the contractor, architect, or engineer for the cost
13 of bringing the building into compliance.

14 **Sec. 378.** Section 81-1635, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-1635 There is hereby established in the state treasury a fund, to
17 be known as the Nebraska Energy Settlement Fund and referred to in
18 sections 81-1635 to 81-1641 as the fund, to be administered by the
19 Department of Water, Energy, and Environment ~~Environment and Energy~~ as
20 the representative of the Governor. The fund shall consist of (1) money
21 received by the State of Nebraska after February 15, 1986, from awards or
22 allocations to the State of Nebraska on behalf of consumers of petroleum
23 products as a result of judgments or settlements for overcharges to
24 consumers of petroleum products sold during the period of time in which
25 federal price controls on such products were in effect and (2) any
26 investment interest earned on the fund. The Department of Administrative
27 Services may for accounting purposes create subfunds of the fund to
28 segregate awards or allocations received pursuant to different orders or
29 settlements. Any money in the fund available for investment shall be
30 invested by the state investment officer pursuant to the Nebraska Capital
31 Expansion Act and the Nebraska State Funds Investment Act. No money shall

1 be transferred or disbursed from the fund except pursuant to sections
2 81-1635 to 81-1641.

3 **Sec. 379.** Section 81-1636, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 81-1636 The Governor or the Department of Water, Energy, and
6 Environment ~~Environment and Energy~~ as representative of the Governor
7 shall develop a plan for the disbursement of the money credited to the
8 fund for submission to the United States Department of Energy. The plan
9 shall be in accordance with the specifications and guidelines of the
10 applicable federal court order and any applicable federal law or
11 regulations.

12 **Sec. 380.** Section 81-1637, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-1637 (1) The Governor shall submit electronically a
15 predisbursement plan to the Legislature if in session or the Executive
16 Board of the Legislative Council if the Legislature is not in session.

17 (2) The predisbursement plan shall generally outline the uses and
18 beneficiaries of proposed disbursements from the fund, as well as the
19 expected benefits to the state as a whole.

20 (3) The predisbursement plan shall also include a policy statement
21 which shall indicate (a) a perception of the current and anticipated
22 trends regarding energy availability, costs, and needs in the state, (b)
23 assumptions regarding the impacts on energy needs of the state of current
24 and anticipated state and federal policies and market forces affecting
25 energy use, and (c) generally, how the types of projects to be selected
26 will address those trends and assumptions.

27 (4) The Legislature may hold a public hearing within thirty days
28 after receipt of the predisbursement plan to solicit testimony on such
29 plan. The Legislature may, no later than fifteen days following such
30 hearing, make recommendations to the Department of Water, Energy, and
31 Environment ~~Environment and Energy~~ concerning the plan. No disbursement

1 of or obligation to disburse any money in the fund shall be made after
2 July 9, 1988, until forty-five days after the pre-disbursement plan
3 referring to such disbursement has been submitted to the Legislature or
4 the Executive Board of the Legislative Council, as the case may be.

5 **Sec. 381.** Section 81-1638, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 81-1638 (1) The Department of Water, Energy, and Environment
8 ~~Environment and Energy~~ shall, as the representative of and under the
9 direction of the Governor, be the administrative agency for the selection
10 of projects pursuant to section 81-1636, allocation of funds to the
11 projects, and monitoring of the uses of the funds so allocated.

12 (2) The department shall contract with any and all grantees of funds
13 in and recipients of loans from the fund. The contracts shall include
14 provisions for reporting on and accounting for the use of the funds by
15 the grantee or loan recipient to the department, and any contracts or
16 agreements entered into before appropriations are made by the Legislature
17 shall recite that they are subject to appropriations of the fund by the
18 Legislature.

19 (3) Any political subdivision of this state may apply for, and shall
20 be eligible to receive, a disbursement for a project pursuant to section
21 81-1636, including a disbursement of loan proceeds.

22 **Sec. 382.** Section 81-1640, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 81-1640 The Department of Water, Energy, and Environment ~~Environment~~
25 ~~and Energy~~ shall conduct a public hearing on the proposed uses of the
26 fund in the manner and to the extent required by specifications and
27 guidelines of the applicable federal court order and any applicable
28 federal law or regulations.

29 **Sec. 383.** Section 81-3449, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 81-3449 The provisions of the Engineers and Architects Regulation

1 Act regulating the practice of architecture do not apply to the following
2 activities:

3 (1) The construction, remodeling, alteration, or renovation of a
4 detached single-family through four-family dwelling of less than five
5 thousand square feet of above grade finished space. Any detached or
6 attached sheds, storage buildings, and garages incidental to the dwelling
7 are not included in the tabulation of finished space. Such exemption may
8 be increased by rule and regulation of the board adopted pursuant to the
9 Negotiated Rulemaking Act but shall not exceed the Type V, column B,
10 limitations set forth by the allowable height and building areas table in
11 the state building code adopted in section 71-6403;

12 (2) The construction, remodeling, alteration, or renovation of a
13 one-story commercial or industrial building or structure of less than
14 five thousand square feet of above grade finished space which does not
15 exceed thirty feet in height unless such building or structure, or the
16 remodeling or repairing thereof, provides for the employment, housing, or
17 assembly of twenty or more persons. Any detached or attached sheds,
18 storage buildings, and garages incidental to the building or structure
19 are not included in the tabulation of finished space. Such exemption may
20 be increased by rule and regulation of the board adopted pursuant to the
21 Negotiated Rulemaking Act but shall not exceed the Type V, column B,
22 limitations set forth by the allowable height and building areas table in
23 the state building code adopted in section 71-6403;

24 (3) The construction, remodeling, alteration, or renovation of farm
25 buildings, including barns, silos, sheds, or housing for farm equipment
26 and machinery, livestock, poultry, or storage, if the structures are
27 designed to be occupied by no more than twenty persons. Such exemption
28 may be increased by rule and regulation of the board adopted pursuant to
29 the Negotiated Rulemaking Act but shall not exceed the Type V, column B,
30 limitations set forth by the allowable height and building areas table in
31 the state building code adopted in section 71-6403;

1 (4) Any public works project with contemplated expenditures for a
2 completed project that do not exceed one hundred thousand dollars. The
3 board shall adjust the dollar amount in this subdivision every fifth
4 year. The first such adjustment after August 27, 2011, shall be effective
5 on July 1, 2014. The adjusted amount shall be equal to the then current
6 amount adjusted by the cumulative percentage change in the Consumer Price
7 Index for All Urban Consumers published by the Federal Bureau of Labor
8 Statistics for the five-year period preceding the adjustment date. The
9 amount shall be rounded to the next highest one-thousand-dollar amount;

10 (5) Any alteration, renovation, or remodeling of a building if the
11 alteration, renovation, or remodeling does not affect architectural or
12 engineering safety features of the building;

13 (6) The teaching, including research and service, of architectural
14 subjects in a college or university offering a degree in architecture
15 accredited by the National Architectural Accrediting Board;

16 (7) The preparation of submissions to architects, building
17 officials, or other regulating authorities by the manufacturer, supplier,
18 or installer of any materials, assemblies, components, or equipment that
19 describe or illustrate the use of such items, the preparation of any
20 details or shop drawings required of the contractor by the terms of the
21 construction documents, or the management of construction contracts by
22 persons customarily engaged in contracting work;

23 (8) The preparation of technical submissions or the administration
24 of construction contracts by employees of a person or organization
25 lawfully engaged in the practice of architecture if such employees are
26 acting under the direct supervision of an architect;

27 (9) A public service provider or an organization who employs a
28 licensee performing professional services for itself;

29 (10) A nonresident who holds the certification issued by the
30 National Council of Architectural Registration Boards offering to render
31 the professional services involved in the practice of architecture. The

1 nonresident shall not perform any of the professional services involved
2 in the practice of architecture until licensed as provided in the
3 Engineers and Architects Regulation Act. The nonresident shall notify the
4 board in writing that (a) he or she holds a National Council of
5 Architectural Registration Boards certificate and is not currently
6 licensed in Nebraska but will be present in Nebraska for the purpose of
7 offering to render architectural services, (b) he or she will deliver a
8 copy of the notice to every potential client to whom the applicant offers
9 to render architectural services, and (c) he or she promises to apply
10 immediately to the board for licensure if selected as the architect for
11 the project;

12 (11) The practice by a qualified member of another legally
13 recognized profession who is otherwise licensed or certified by this
14 state or any political subdivision to perform services consistent with
15 the laws of this state, the training, and the code of ethics of the
16 respective profession, if such qualified member does not represent
17 himself or herself to be practicing architecture and does not represent
18 himself or herself to be an architect;

19 (12) Financial institutions making disbursements of funds in
20 connection with construction projects;

21 (13) Earthmoving and related work associated with soil and water
22 conservation practices performed on farmland or any land owned by a
23 political subdivision that is not subject to a permit from the Department
24 of Water, Energy, and Environment ~~Natural Resources~~ or for work related
25 to livestock waste facilities that are not subject to a permit by the
26 Department of Water, Energy, and Environment ~~Environment and Energy~~; and

27 (14) The work of employees and agents of a political subdivision or
28 a nonprofit entity organized for the purpose of furnishing electrical
29 service performing, in accordance with other requirements of law, their
30 customary duties in the administration and enforcement of codes, permit
31 programs, and land-use regulations and their customary duties in utility

1 and public works construction, operation, and maintenance.

2 **Sec. 384.** Section 81-3453, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-3453 The provisions of the Engineers and Architects Regulation
5 Act regulating the practice of engineering do not apply to the following
6 activities:

7 (1) The construction, remodeling, alteration, or renovation of a
8 detached single-family through four-family dwelling of less than five
9 thousand square feet above grade finished space. Any detached or attached
10 sheds, storage buildings, and garages incidental to the dwelling are not
11 included in the tabulation of finished space. Such exemption may be
12 increased by rule and regulation of the board adopted pursuant to the
13 Negotiated Rulemaking Act but shall not exceed the Type V, column B,
14 limitations set forth by the allowable height and building areas table in
15 the state building code adopted in section 71-6403;

16 (2) The construction, remodeling, alteration, or renovation of a
17 one-story commercial or industrial building or structure of less than
18 five thousand square feet above grade finished space which does not
19 exceed thirty feet in height unless such building or structure, or the
20 remodeling or repairing thereof, provides for the employment, housing, or
21 assembly of twenty or more persons. Any detached or attached sheds,
22 storage buildings, and garages incidental to the building or structure
23 are not included in the tabulation of finished space. Such exemption may
24 be increased by rule and regulation of the board adopted pursuant to the
25 Negotiated Rulemaking Act but shall not exceed the Type V, column B,
26 limitations set forth by the allowable height and building areas table in
27 the state building code adopted in section 71-6403;

28 (3) The construction, remodeling, alteration, or renovation of farm
29 buildings, including barns, silos, sheds, or housing for farm equipment
30 and machinery, livestock, poultry, or storage and if the structures are
31 designed to be occupied by no more than twenty persons. Such exemption

1 may be increased by rule and regulation of the board adopted pursuant to
2 the Negotiated Rulemaking Act but shall not exceed the Type V, column B,
3 limitations set forth by the allowable height and building areas table in
4 the state building code adopted in section 71-6403;

5 (4) Any public works project with contemplated expenditures for the
6 completed project that do not exceed one hundred thousand dollars. The
7 board shall adjust the dollar amount in this subdivision every fifth
8 year. The first such adjustment after August 27, 2011, shall be effective
9 on July 1, 2014. The adjusted amount shall be equal to the then current
10 amount adjusted by the cumulative percentage change in the Consumer Price
11 Index for All Urban Consumers published by the Federal Bureau of Labor
12 Statistics for the five-year period preceding the adjustment date. The
13 amount shall be rounded to the next highest one-thousand-dollar amount;

14 (5) Any alteration, renovation, or remodeling of a building if the
15 alteration, renovation, or remodeling does not affect architectural or
16 engineering safety features of the building;

17 (6) The teaching, including research and service, of engineering
18 subjects in a college or university offering an ABET-accredited
19 engineering curriculum of four years or more;

20 (7) A public service provider or an organization who employs a
21 licensee performing professional services for itself;

22 (8) The practice by a qualified member of another legally recognized
23 profession who is otherwise licensed or certified by this state or any
24 political subdivision to perform services consistent with the laws of
25 this state, the training, and the code of ethics of such profession, if
26 such qualified member does not represent himself or herself to be
27 practicing engineering and does not represent himself or herself to be a
28 professional engineer;

29 (9) The work of an employee or a subordinate of a person holding a
30 certificate of licensure or a temporary permit under the Engineers and
31 Architects Regulation Act if the work is done under the direct

1 supervision of a person holding a certificate of licensure or a temporary
2 permit under the act;

3 (10) Those services ordinarily performed by subordinates under
4 direct supervision of a professional engineer or those commonly
5 designated as locomotive, stationary, marine operating engineers, power
6 plant operating engineers, or manufacturers who supervise the operation
7 of or operate machinery or equipment or who supervise construction within
8 their own plant;

9 (11) Financial institutions making disbursements of funds in
10 connection with construction projects;

11 (12) Earthmoving and related work associated with soil and water
12 conservation practices performed on farmland or any land owned by a
13 political subdivision that is not subject to a permit from the Department
14 of Water, Energy, and Environment ~~Natural Resources~~ or for work related
15 to livestock waste facilities that are not subject to a permit by the
16 Department of Water, Energy, and Environment ~~Environment and Energy~~;

17 (13) The work of employees and agents of a political subdivision or
18 a nonprofit entity organized for the purpose of furnishing electrical
19 service performing, in accordance with other requirements of law, their
20 customary duties in the administration and enforcement of codes, permit
21 programs, and land-use regulations and their customary duties in utility
22 and public works construction, operation, and maintenance;

23 (14) Work performed exclusively in the exploration for and
24 development of energy resources and base, precious, and nonprecious
25 minerals, including sand, gravel, and aggregate, which does not have a
26 substantial impact upon public health, safety, and welfare, as determined
27 by the board, or require the submission of reports or documents to public
28 agencies;

29 (15) The construction of water wells as defined in section 46-1212,
30 the installation of pumps and pumping equipment into water wells, and the
31 decommissioning of water wells, unless such construction, installation,

1 or decommissioning is required by the owner thereof to be designed or
2 supervised by an engineer or unless legal requirements are imposed upon
3 the owner of a water well as a part of a public water supply;

4 (16) Work performed in the exploration, development, and production
5 of oil and gas or before the Nebraska Oil and Gas Conservation
6 Commission; and

7 (17) Siting, layout, construction, and reconstruction of a private
8 onsite wastewater treatment system with a maximum flow from the facility
9 of one thousand gallons of domestic wastewater per day if such system
10 meets all of the conditions required pursuant to the Private Onsite
11 Wastewater Treatment System Contractors Certification and System
12 Registration Act unless the siting, layout, construction, or
13 reconstruction by an engineer is required by the Department of Water,
14 Energy, and Environment ~~Environment and Energy~~, mandated by law or rules
15 and regulations imposed upon the owner of the system, or required by the
16 owner.

17 **Sec. 385.** Section 84-166, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 84-166 Pursuant to the proclamation of a vital resource emergency
20 issued as provided in section 84-164, the Governor by executive order
21 may:

22 (1) Regulate the operating hours of vital resource consuming
23 instrumentalities including state government, political subdivisions,
24 private institutions, and business facilities to the extent that the
25 regulation is not hazardous or detrimental to the health, safety, or
26 welfare of the people of this state;

27 (2) Establish a system for the distribution of the supply of energy
28 or vital resource;

29 (3) Curtail, regulate, or direct the public and private
30 transportation and use of the vital resource which is in short supply, to
31 the extent necessary, so long as such regulation is not hazardous or

1 detrimental to the health, safety, or welfare of the people of this
2 state;

3 (4) Delegate any administrative authority vested in him or her to
4 the Department of Water, Energy, and Environment ~~Environment and Energy~~
5 or any other state agency or its respective director; and

6 (5) Provide for the temporary transfer of directors, personnel, or
7 functions of state departments and agencies for the purpose of carrying
8 out any emergency measures taken pursuant to sections 84-162 to 84-167.

9 **Sec. 386.** Section 84-602.04, Reissue Revised Statutes of Nebraska,
10 is amended to read:

11 84-602.04 (1) The State Treasurer shall develop and maintain a
12 single, searchable website with information on state receipts,
13 expenditures of state funds, and contracts which is accessible by the
14 public at no cost to access as provided in this section. The website
15 shall be hosted on a server owned and operated by the State of Nebraska
16 or approved by the Chief Information Officer. The naming convention for
17 the website shall identify the website as a state government website. The
18 website shall not include the treasurer's name, the treasurer's image,
19 the treasurer's seal, or a welcome message.

20 (2)(a) The website established, developed, and maintained by the
21 State Treasurer pursuant to this section shall provide such information
22 as will document the sources of all state receipts and the expenditure of
23 state funds by all state entities.

24 (b) The State Treasurer shall, in appropriate detail, cause to be
25 published on the website:

26 (i) The identity, principal location, and amount of state receipts
27 received or expended by the State of Nebraska and all of its state
28 entities;

29 (ii) The funding or expending state entity;

30 (iii) The budget program source;

31 (iv) The amount, date, purpose, and recipient of all expenditures of

1 state funds; and

2 (v) Such other relevant information as will further the intent of
3 enhancing the transparency of state government financial operations to
4 its citizens and taxpayers. The website shall include data for fiscal
5 year 2008-09 and each fiscal year thereafter, except that for any state
6 entity that becomes subject to this section due to the changes made by
7 Laws 2016, LB851, the website shall include data for such state entity
8 for fiscal year 2016-17 and each fiscal year thereafter.

9 (3) The data shall be available on the website no later than thirty
10 days after the end of the preceding fiscal year.

11 (4)(a) The website described in this section shall include a link to
12 the website of the Department of Administrative Services. The
13 department's website shall contain:

14 (i) A database that includes a copy of each active contract that is
15 a basis for an expenditure of state funds, including any amendment to
16 such contract and any document incorporated by reference in such
17 contract. For purposes of this subdivision, amendment means an agreement
18 to modify a contract which has been reduced to writing and signed by each
19 party to the contract, an agreement to extend the duration of a contract,
20 or an agreement to renew a contract. The database shall be accessible by
21 the public and searchable by vendor, by state entity, and by dollar
22 amount. All state entities shall provide to the Department of
23 Administrative Services, in electronic form, copies of such contracts for
24 inclusion in the database beginning with contracts that are active on and
25 after January 1, 2014, except that for any state entity that becomes
26 subject to this section due to the changes made by Laws 2016, LB851, such
27 state entity shall provide copies of such contracts for inclusion in the
28 database beginning with contracts that are active on and after January 1,
29 2017; and

30 (ii) A database that includes copies of all expired contracts which
31 were previously included in the database described in subdivision (4)(a)

1 (i) of this section and which have not been disposed of pursuant to
2 policies and procedures adopted under subdivision (4)(e) of this section.
3 The database required under this subdivision shall be accessible by the
4 public and searchable by vendor, by state entity, and by dollar amount.

5 (b) The following shall be redacted or withheld from any contract
6 before such contract is included in a database pursuant to subdivision
7 (4)(a) of this section:

8 (i) The social security number or federal tax identification number
9 of any individual or business;

10 (ii) Protected health information as such term is defined under the
11 federal Health Insurance Portability and Accountability Act of 1996, as
12 such act existed on January 1, 2013;

13 (iii) Any information which may be withheld from the public under
14 section 84-712.05; or

15 (iv) Any information that is confidential under state or federal
16 law, rule, or regulation.

17 (c) The following contracts shall be exempt from the requirements of
18 subdivision (4)(a) of this section:

19 (i) Contracts entered into by the Department of Health and Human
20 Services that are letters of agreement for the purpose of providing
21 specific services to a specifically named individual and his or her
22 family;

23 (ii) Contracts entered into by the University of Nebraska or any of
24 the Nebraska state colleges for the purpose of providing specific
25 services or financial assistance to a specifically named individual and
26 his or her family;

27 (iii) Contracts entered into by the Department of Veterans' Affairs
28 under section 80-401 or 80-403 for the purpose of providing aid to a
29 specifically named veteran and his or her family;

30 (iv) Contracts entered into by the Department of Water, Energy, and
31 Environment ~~Environment and Energy~~ for the purpose of providing financing

1 from the Dollar and Energy Saving Loan program;

2 (v) Contracts entered into by the State Department of Education
3 under sections 79-11,121 to 79-11,132 for the purpose of providing
4 specific goods, services, or financial assistance on behalf of or to a
5 specifically named individual;

6 (vi) Contracts entered into by the Commission for the Blind and
7 Visually Impaired under the Commission for the Blind and Visually
8 Impaired Act for the purpose of providing specific goods, services, or
9 financial assistance on behalf of or to a specifically named individual;

10 (vii) Contracts of employment for employees of any state entity. The
11 exemption provided in this subdivision shall not apply to contracts
12 entered into by any state entity to obtain the services of an independent
13 contractor; and

14 (viii) Contracts entered into by the Nebraska Investment Finance
15 Authority for the purpose of providing a specific service or financial
16 assistance, including, but not limited to, a grant or loan, to a
17 specifically named individual and his or her family.

18 (d) No state entity shall structure a contract to avoid any of the
19 requirements of subdivision (4)(a) of this section.

20 (e) The Department of Administrative Services shall adopt policies
21 and procedures regarding the creation, maintenance, and disposal of
22 records pursuant to section 84-1212.02 for the contracts contained in the
23 databases required under this section and the process by which state
24 entities provide copies of the contracts required under this section.

25 (5) All state entities shall provide to the State Treasurer, at such
26 times and in such form as designated by the State Treasurer, such
27 information as is necessary to accomplish the purposes of the Taxpayer
28 Transparency Act.

29 (6) Nothing in this section requires the disclosure of information
30 which is considered confidential under state or federal law or is not a
31 public record under section 84-712.05.

1 **Sec. 387.** Section 85-162.03, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 85-162.03 In carrying out sections 85-162.01 to 85-162.05, the State
4 Forester shall cooperate with (1) any agency or bureau of the United
5 States, including, but not limited to, the Forest Service, the Natural
6 Resources Conservation Service, the Farm Service Agency, the Bureau of
7 Reclamation, the Corps of Engineers, and the Bureau of Outdoor
8 Recreation, (2) any agency or bureau of the State of Nebraska or its
9 political subdivisions, including, but not limited to, the Game and Parks
10 Commission, the Department of Water, Energy, and Environment ~~Natural~~
11 ~~Resources~~, the State Fire Marshal, the Department of Agriculture, the
12 Adjutant General, the Department of Economic Development, and the
13 Conservation and Survey Division of the University of Nebraska, and (3)
14 any incorporated municipality of the state or any political subdivision
15 of the state, including, but not limited to, rural fire districts,
16 natural resources districts, and weed control districts.

17 **Sec. 388.** Section 86-570, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 86-570 (1) The Geographic Information Systems Council is hereby
20 created and shall consist of:

21 (a) The Chief Information Officer or his or her designee, the chief
22 executive officer or designee of the Department of Health and Human
23 Services, and the director or designee of the Department of Water,
24 Energy, and Environment ~~Environment and Energy~~, the Conservation and
25 Survey Division of the University of Nebraska, ~~the Department of Natural~~
26 ~~Resources~~, and the Governor's Policy Research Office;

27 (b) The Director-State Engineer or designee;

28 (c) The State Surveyor or designee;

29 (d) The Clerk of the Legislature or designee;

30 (e) The secretary of the Game and Parks Commission or designee;

31 (f) The Property Tax Administrator or designee;

1 (g) One representative of federal agencies appointed by the
2 Governor;

3 (h) One representative of the natural resources districts nominated
4 by the Nebraska Association of Resources Districts and appointed by the
5 Governor;

6 (i) One representative of the public power districts appointed by
7 the Governor;

8 (j) Two representatives of the counties nominated by the Nebraska
9 Association of County Officials and appointed by the Governor;

10 (k) One representative of the municipalities nominated by the League
11 of Nebraska Municipalities and appointed by the Governor;

12 (l) Two members at large appointed by the Governor; and

13 (m) Such other members as nominated by the Nebraska Information
14 Technology Commission and appointed by the Governor.

15 (2) The appointed members shall serve terms as determined by the
16 Nebraska Information Technology Commission.

17 (3) The members shall be reimbursed for expenses as provided in
18 sections 81-1174 to 81-1177.

19 **Sec. 389.** Section 88-550, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 88-550 The Department of Water, Energy, and Environment ~~Environment~~
22 ~~and Energy~~ and the commission shall, during the course of their regular
23 inspections required by law, inspect warehouses for conditions which are
24 or may be conducive to grain dust explosions. Such conditions shall
25 include, but not be limited to, the presence at the warehouse of
26 excessive grain dust, faulty equipment, or any other condition which
27 could reasonably lead to an explosion if not corrected. The department
28 and commission shall report any such condition to the State Fire Marshal
29 as soon as practicable after each inspection.

30 **Sec. 390.** This act becomes operative on July 1, 2025.

31 **Sec. 391.** Original sections 2-408, 2-969, 2-1501, 2-1504, 2-1508,

1 2-1509, 2-1510, 2-1511, 2-1588, 2-1592, 2-1593, 2-1594, 2-1595, 2-2626,
2 2-3202, 2-3225, 2-3241, 2-3254, 2-3279, 2-3280, 2-4602, 2-4603, 2-4604,
3 2-4901, 13-1701, 13-2008, 13-2009, 13-2042.01, 16-6,106, 25-1062.01,
4 25-1064, 25-1920, 25-2159, 25-2160, 31-415, 31-509, 31-515, 31-516,
5 31-1003, 31-1015, 37-707, 37-708.01, 46-106, 46-122, 46-190, 46-192,
6 46-193, 46-1,155, 46-1,157, 46-205, 46-226.02, 46-226.03, 46-229,
7 46-229.02, 46-229.04, 46-229.06, 46-230, 46-233, 46-233.01, 46-235,
8 46-250, 46-252, 46-254, 46-256, 46-258, 46-261, 46-263.02, 46-273,
9 46-286, 46-288, 46-289, 46-290, 46-291, 46-292, 46-293, 46-294,
10 46-294.01, 46-294.02, 46-294.05, 46-2,104, 46-2,105, 46-2,108, 46-2,109,
11 46-2,110, 46-2,111, 46-2,112, 46-2,113, 46-2,114, 46-2,115, 46-2,116,
12 46-2,116.01, 46-2,117, 46-2,118, 46-2,119, 46-2,120, 46-2,122, 46-2,125,
13 46-2,139, 46-302, 46-303, 46-304, 46-305, 46-312, 46-315, 46-514, 46-583,
14 46-601.01, 46-602, 46-604, 46-606, 46-609, 46-610, 46-613.01, 46-613.02,
15 46-637, 46-638, 46-639, 46-640, 46-641, 46-642, 46-644, 46-645, 46-648,
16 46-649, 46-653, 46-654, 46-655.01, 46-676, 46-677, 46-678, 46-679,
17 46-680, 46-682, 46-683, 46-683.01, 46-684, 46-685, 46-686, 46-686.01,
18 46-688, 46-691, 46-703, 46-704, 46-705, 46-706, 46-707, 46-709, 46-711,
19 46-712, 46-713, 46-714, 46-715, 46-716, 46-717, 46-718, 46-719, 46-720,
20 46-721, 46-722, 46-723, 46-724, 46-725, 46-726, 46-728, 46-729, 46-730,
21 46-731, 46-732, 46-733, 46-736, 46-737, 46-739, 46-740, 46-742, 46-743,
22 46-745, 46-746, 46-748, 46-749, 46-750, 46-751, 46-753, 46-754, 46-801,
23 46-802, 46-803, 46-804, 46-1001, 46-1011, 46-1102, 46-1108, 46-1109,
24 46-1204.01, 46-1207, 46-1217, 46-1222, 46-1224, 46-1235, 46-1301,
25 46-1304, 46-1403, 46-1404, 46-1502, 46-1613, 46-1614, 46-1641, 46-1642,
26 46-1669, 54-2417, 54-2421, 54-2429, 54-2430, 57-1407, 57-1502, 57-1609,
27 57-1614, 57-1619, 58-202, 60-6,363, 60-6,364, 60-6,367, 60-6,368, 61-201,
28 61-202, 61-203, 61-204, 61-205, 61-207, 61-208, 61-209, 61-210, 61-211,
29 61-215, 61-216, 70-669, 71-3508.04, 71-3524, 76-2,124, 77-3,112, 81-101,
30 81-102, 81-2,294, 81-502, 81-829.05, 81-1108.55, 81-1316, 81-1502,
31 81-1503, 81-1537, 81-1540, 81-1561, 81-1566, 81-15,118, 81-15,120,

1 81-15,124, 81-15,124.04, 81-15,124.05, 81-15,125, 81-15,126, 81-15,127,
2 81-15,129, 81-15,149, 81-15,159, 81-15,159.01, 81-15,159.02, 81-15,166,
3 81-15,170, 81-15,175, 81-15,177, 81-15,178, 81-15,179, 81-15,180,
4 81-15,183, 81-15,184, 81-15,185, 81-15,185.01, 81-15,185.02,
5 81-15,185.03, 81-15,186, 81-15,213, 81-15,229, 81-15,235, 81-15,242,
6 81-15,243, 81-15,260, 81-15,262, 81-15,263, 81-15,292, 81-15,299,
7 81-15,300, 81-15,302, 81-15,312, 81-1604, 81-1606, 81-1607, 81-1609,
8 81-1611, 81-1612, 81-1625, 81-1635, 81-1636, 81-1637, 81-1638, 81-1640,
9 81-3449, 81-3453, 84-166, 84-602.04, 85-162.03, 86-570, and 88-550,
10 Reissue Revised Statutes of Nebraska, and sections 2-414, 2-415, 2-416,
11 2-1507, 19-1201, 19-1202, 19-1203, 19-1204, 19-5706, 31-508, 37-806,
12 37-814, 46-1,164, 46-1,165, 46-296, 49-506, 49-617, 54-2940, 58-221,
13 61-206, 61-218, 61-222, 61-224, 61-226, 61-227, 61-228, 61-303, 61-305,
14 61-401, 61-403, 61-404, 61-405, 61-502, 61-520, 66-203, 66-204, 66-301,
15 66-302, 66-303, 66-304, 66-489.02, 66-1004, 66-1009, 66-1105, 66-1344,
16 66-1504, 66-1518, 66-1529.02, 66-2001, 66-2201, 66-2216, 69-2011,
17 69-2502, 70-1003, 71-2433, 71-3503, 71-5301, 71-5316, 71-5328, 71-6406,
18 72-804, 72-805, 76-2602, 76-2608, 77-27,150, 77-27,151, 77-27,152,
19 77-27,153, 77-27,154, 77-27,187.01, 77-27,236, and 77-3442, Revised
20 Statutes Cumulative Supplement, 2024, are repealed.

21 **Sec. 392.** The following sections are outright repealed: Sections
22 2-1596, 2-1597, 2-1598, 2-1599, 2-15,100, 2-15,101, 2-15,103, 2-15,105,
23 2-15,106, 2-3277, 2-3278, 2-4201, 2-4202, 2-4203, 2-4204, 2-4205, 2-4206,
24 2-4207, 2-4208, 2-4209, 2-4210, 2-4211, 2-4212, 2-4213, 2-4214, 2-4215,
25 2-4216, 2-4217, 2-4218, 2-4219, 2-4220, 2-4221, 2-4222, 2-4223, 2-4224,
26 2-4225, 2-4226, 2-4227, 2-4228, 2-4229, 2-4230, 2-4231, 2-4232, 2-4233,
27 2-4234, 2-4235, 2-4236, 2-4237, 2-4238, 2-4239, 2-4240, 2-4241, 2-4242,
28 2-4243, 2-4244, 2-4245, 2-4246, 46-199, 71-3508.02, 81-1578, 81-1579,
29 81-1579.01, 81-1580, 81-1581, 81-1582, 81-1583, 81-1584, 81-1584.01,
30 81-1585, 81-1586, 81-1586.01, 81-1587, 81-1588, 81-1589, 81-1590,
31 81-1590.01, 81-1591, 81-1591.01, 81-1592, 81-1593, 81-1594, 81-1595,

1 81-1596, 81-1597, 81-1598, 81-1599, 81-1599.01, 81-1599.02, 81-15,100,
2 81-15,101, 81-15,101.01, 81-15,101.02, 81-15,101.03, 81-15,101.04,
3 81-15,101.05, 81-15,102, 81-15,102.01, 81-15,102.02, 81-15,102.03,
4 81-15,103, 81-15,104, 81-15,104.01, 81-15,105, 81-15,105.01, 81-15,106,
5 81-15,107, 81-15,108, 81-15,109, 81-15,110, 81-15,111, 81-15,112,
6 81-15,112.01, 81-15,113, 81-15,113.01, 81-15,113.02, 81-15,114,
7 81-15,115, 81-15,116, 81-15,254, 81-15,255, 81-15,256, 81-15,257,
8 81-15,258, 81-15,259, 81-15,293, 81-15,294, 81-15,295, 81-15,296,
9 81-15,297, and 81-15,298, Reissue Revised Statutes of Nebraska.

10 **Sec. 393.** Since an emergency exists, this act takes effect when
11 passed and approved according to law.