

AMENDMENTS TO LB 1234

(Amendments to E & R amendments, AM7251)

1 1. Insert the following new sections:

2 "Sec. 6. Section 46-656.25, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 46-656.25. (1) A district in which a management area has  
5 been designated shall by order adopt one or more of the following  
6 controls for the management area:

7 (a) It may determine the permissible total withdrawal of  
8 ground water for each day, month, or year and allocate such  
9 withdrawal among the ground water users;

10 (b) It may adopt a system of rotation for use of ground  
11 water;

12 (c) It may adopt well-spacing requirements more  
13 restrictive than those found in sections 46-609 and 46-651;

14 (d) It may require the installation of devices for  
15 measuring ground water withdrawals from water wells;

16 (e) It may adopt a system which requires reduction of  
17 irrigated acres pursuant to subsection (2) of section 46-656.26;

18 (f) It may limit or prevent the expansion of irrigated  
19 acres;

20 (g) It may require the use of best management practices;

21 (h) ~~(g)~~ It may require the analysis of water or deep  
22 soils for fertilizer and chemical content;

23 (i) ~~(h)~~ It may provide educational requirements,

1 including mandatory educational requirements, designed to protect  
2 water quality or to stabilize or reduce the incidence of ground  
3 water depletion, conflicts between ground water users and surface  
4 water appropriators, disputes over interstate compacts or decrees,  
5 or difficulties fulfilling the provisions of other formal state  
6 contracts or agreements;

7           (j) ~~(i)~~ It may require water quality monitoring and  
8 reporting of results to the district for all water wells within all  
9 or part of the management area; ~~and~~

10           (k) It may close all or a portion of the management area  
11 to the issuance of additional permits or may condition the issuance  
12 of additional permits on compliance with other rules and  
13 regulations adopted and promulgated by the district to achieve the  
14 purpose or purposes for which the management area was designated.  
15 This subdivision may be implemented whenever the district  
16 determines the impact on surface water supplies or the depletion or  
17 contamination of the ground water supply in the management area or  
18 any portion of the management area cannot be protected through  
19 implementation of reasonable controls specified in subdivisions  
20 (1)(a) through (1)(j) of this section; and

21           (1) ~~(j)~~ It may adopt and promulgate such other reasonable  
22 rules and regulations as are necessary to carry out the purpose for  
23 which a management area was designated.

24           (2) In adopting, amending, or repealing any control  
25 authorized by subsection (1) of this section or sections 46-656.26  
26 and 46-656.27, the district's considerations shall include, but not  
27 be limited to, whether it reasonably appears that such action will

1 mitigate or eliminate the condition which led to designation of the  
2 management area or will improve the administration of the area.

3 (3) Upon request by the district, the Director of Water  
4 Resources shall review and comment on the adoption, amendment, or  
5 repeal of any authorized control in a management area. The  
6 director may hold a public hearing to consider testimony regarding  
7 the control prior to commenting on the adoption, amendment, or  
8 repeal of the control. The director shall consult with the  
9 district and fix a time, place, and date for such hearing. In  
10 reviewing and commenting on an authorized control in a management  
11 area, the director's considerations shall include, but not be  
12 limited to, those enumerated in subsection (2) of this section.

13 (4) If because of varying ground water uses, varying  
14 surface water uses, different irrigation distribution systems, or  
15 varying climatic, hydrologic, geologic, or soil conditions existing  
16 within a management area the uniform application throughout such  
17 area of one or more controls would fail to carry out the intent of  
18 the Nebraska Ground Water Management and Protection Act in a  
19 reasonably effective and equitable manner, the controls adopted by  
20 the district pursuant to this section may contain different  
21 provisions for different categories of ground water use or portions  
22 of the management area which differ from each other because of  
23 varying climatic, hydrologic, geologic, or soil conditions. Any  
24 differences in such provisions shall recognize and be directed  
25 toward such varying ground water uses or varying conditions.  
26 Except as otherwise provided in this section, the provisions of all  
27 controls for different categories of ground water use shall be

1 uniform for all portions of the area which have substantially  
2 similar climatic, hydrologic, geologic, and soil conditions.

3 (5) The district may establish different water  
4 allocations for different irrigation distribution systems, on the  
5 condition that such different water allocations shall be authorized  
6 for no more than five years from the time such allocations are  
7 adopted.

8 (6)(a) The district may establish different provisions  
9 for different hydrologic relationships between ground water and  
10 surface water.

11 (b) For management areas a purpose of which is the  
12 integrated management of hydrologically connected ground water and  
13 surface water, the district may establish different provisions for  
14 water wells constructed before the designation of a management area  
15 for integrated management of hydrologically connected ground water  
16 and surface water and for water wells constructed on or after the  
17 designation date or any other later date or dates established by  
18 the district.

19 (c) The district shall make a replacement water well as  
20 defined in section 46-602, or as further defined in district rules  
21 and regulations, subject to the same provisions as the water well  
22 it replaces.

23 (7) ~~If the district determines, following a public~~  
24 ~~hearing conducted pursuant to section 46-656.19, that the impact on~~  
25 ~~surface water supplies or the depletion or contamination of the~~  
26 ~~ground water supply in the management area or any portion of the~~  
27 ~~management area is so excessive that the public interest cannot be~~

1 protected solely through implementation of reasonable controls  
2 adopted pursuant to subsection (1) of this section, it may close  
3 all or a portion of the management area to the issuance of any  
4 additional permits for a period of not more than five calendar  
5 years. The area may be further closed thereafter by a similar  
6 procedure for additional time periods of the same length. Any such  
7 area may be reopened at any time the district determines that  
8 conditions warrant new permits at which time the district shall  
9 consider all previously submitted applications for permits in the  
10 order in which they were received.

11 ~~(8)~~ Whenever a management area designated under section  
12 46-656.39 or 46-656.52 encompasses portions of two or more  
13 districts, the responsibilities and authorities delegated in this  
14 section and sections 46-656.26 and 46-656.27 shall be exercised  
15 jointly and uniformly by agreement of the respective boards of all  
16 districts so affected. Whenever management areas designated by two  
17 or more districts adjoin each other, the districts are encouraged  
18 to exercise the responsibilities and authorities jointly and  
19 uniformly by agreement of the respective boards.

20 (8) ~~(9)~~ For the purpose of determining whether conflicts  
21 exist between ground water users and surface water appropriators,  
22 surface water appropriators under the Nebraska Ground Water  
23 Management and Protection Act does not include holders of instream  
24 flow appropriations under sections 46-2,107 to 46-2,119.

25 Sec. 7. Section 46-656.26, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 46-656.26. (1) If allocation is adopted for use of

1 ground water for irrigation purposes in a management area, the  
2 permissible withdrawal of ground water shall be allocated equally  
3 per irrigated acre except as permitted by subsections (4) through  
4 (6) of section 46-656.25. Such allocation shall specify the total  
5 number of acre-inches that are allocated per irrigated acre per  
6 year, except that the district may allow a ground water user to  
7 average his or her allocation over any reasonable period of time.  
8 ~~not to exceed five years.~~ A ground water user may use his or her  
9 allocation on all or any part of the irrigated acres to which the  
10 allocation applies or in any other manner approved by the district.

11 (2) If annual rotation or reduction of irrigated acres is  
12 adopted for use of ground water for irrigation purposes in a  
13 management area, the nonuse of irrigated acres shall be a uniform  
14 percentage reduction of each landowner's irrigated acres within the  
15 management area or a subarea of the management area. Such uniform  
16 reduction may be adjusted for each landowner based upon crops grown  
17 on his or her land to reflect the varying consumptive requirements  
18 between crops.

19 Sec. 8. Section 46-656.27, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 46-656.27. A district may ~~annually and shall at least~~  
22 ~~once every three years~~ review any allocation, rotation, or  
23 reduction control imposed in a management area and shall adjust  
24 allocations, rotations, or reductions to accommodate new or  
25 additional uses or otherwise reflect findings of such review,  
26 consistent with the ground water management objectives. Such  
27 review shall consider new development or additional ground water

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1 uses within the area, more accurate data or information that was  
2 not available at the time of the allocation, rotation, or reduction  
3 order, the availability of supplemental water supplies, any changes  
4 in ground water recharge, and such other factors as the district  
5 deems appropriate.

6           Sec. 9. Original sections 46-656.25, 46-656.26, and  
7 46-656.27, Reissue Revised Statutes of Nebraska, are repealed.".

8           2. Insert underscoring in sections 1 to 5.