

LEGISLATIVE BILL 900

Approved by the Governor March 22, 2000

Introduced by Natural Resources Committee: Schrock, 38, Chairperson;
 Bromm, 23; Bruning, 3; Hudkins, 21; Jones, 43; Kremer, 34;
 Preister, 5; Stuhr, 24; at the request of the Governor

AN ACT relating to natural resources; to amend sections 2-1502, 2-1503.01 to 2-1504, 2-1505, 2-1568, 2-1575, 2-1577, 2-1578, 2-1579, 2-1585, 2-1587, 2-1589, 2-1590, 2-1592 to 2-1595, 2-1597, 2-1598, 2-15,100, 2-15,101, 2-15,103, 2-15,105, 2-15,106, 2-15,122, 2-15,123, 2-2626, 2-3208, 2-3210, 2-3211, 2-3212, 2-3240, 2-3257, 2-3276, 2-3277, 2-4215, 16-6,106, 25-1062.01, 25-1064, 25-2159, 25-2160, 31-415, 31-508, 31-509, 31-515, 31-516, 31-1003, 31-1008, 31-1015, 31-1017 to 31-1023, 33-105, 46-106, 46-122, 46-190, 46-192, 46-193, 46-199, 46-1,155, 46-1,157, 46-205, 46-208 to 46-210, 46-212, 46-212.01, 46-213, 46-215 to 46-219, 46-226, 46-226.03, 46-227, 46-229, 46-229.01, 46-229.04, 46-229.05, 46-230, 46-231, 46-233, 46-233.01, 46-234, 46-235, 46-235.02 to 46-238, 46-240.01 to 46-242, 46-250, 46-252, 46-254, 46-256 to 46-258, 46-261, 46-263.02, 46-270, 46-273, 46-277, 46-278, 46-288 to 46-296, 46-2,101, 46-2,105, 46-2,108 to 46-2,115, 46-2,116.01 to 46-2,120, 46-2,122 to 46-2,125, 46-2,128, 46-2,130, 46-302 to 46-305, 46-312, 46-315, 46-514, 46-516, 46-541, 46-583, 46-604, 46-610, 46-613.01, 46-613.02, 46-637 to 46-642, 46-644 to 46-646, 46-648, 46-649, 46-653, 46-654, 46-656.05, 46-656.07, 46-656.12, 46-656.14 to 46-656.16, 46-656.19, 46-656.25, 46-656.28, 46-656.30, 46-656.31, 46-656.33, 46-656.38, 46-656.40, 46-656.50 to 46-656.63, 46-656.65 to 46-656.67, 46-676, 46-678.01, 46-686.01, 46-691, 46-692, 46-701 to 46-704, 46-801 to 46-804, 46-1001, 46-1004, 46-1005, 46-1011, 46-1023, 46-1204.01, 46-1217, 46-1401, 46-1403, 46-1404, 56-101, 66-1105, 81-15,170, 81-2304, 81-2602, 81-3449, 81-3453, and 85-162.03, Reissue Revised Statutes of Nebraska, sections 2-1570, 2-1588, and 2-3202, Revised Statutes Supplement, 1998, and sections 2-1503, 2-1547, 2-1584, 2-1596, 2-3222, 2-3254, 2-4901, 25-1920, 46-602, 46-606, 46-1224, 49-506, 49-617, 54-2404.02, 54-2412, 81-101, and 81-102, Revised Statutes Supplement, 1999; to merge the Department of Water Resources and the Nebraska Natural Resources Commission; to transfer, provide, change, and eliminate powers and duties; to change provisions relating to the appropriation of water; to change provisions relating to a cost-share program; to eliminate a fund, an advisory committee, and obsolete provisions; to harmonize provisions; to provide an operative date; to repeal the original sections; to outright repeal sections 2-1504.02, 2-1504.03, 2-1506, 2-1506.01, 2-1507, 2-15,104, 2-15,121, 2-3203.02, and 46-212.02, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. Section 46-701, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-701.~~ The Director of ~~Water~~ Natural Resources shall be qualified by training and business experience to manage and supervise the ~~department.~~ He or she Department of Natural Resources. The director shall be a professional engineer as provided in the Engineers and Architects Regulation Act and have had at least five years' experience in a position of responsibility in irrigation work.

Sec. 2. Section 46-702, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-702.~~ The Director of ~~Water~~ Natural Resources ~~shall have authority to~~ may employ such personnel, including legal and technical advisors, as ~~may~~ be necessary to carry out the duties required of ~~him~~ the director.

Sec. 3. Section 46-703, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-703.~~ The Director of ~~Water~~ Natural Resources shall adopt a seal. Copies of all records or other instruments in the Department of ~~Water~~ Natural Resources when certified by the department as true copies and bearing the seal thereof shall be received in any court as prima facie evidence of the original record or instruments.

Sec. 4. Section 46-704, Reissue Revised Statutes of Nebraska, is

amended to read:

~~46-704.~~ (1) The Director of Water Natural Resources ~~is empowered to prescribe~~ may adopt and promulgate rules and regulations for the Department of Water Natural Resources ~~except to the extent such power is statutorily granted to the Nebraska Natural Resources Commission. The director shall administer rules and regulations adopted and promulgated by the commission.~~

(2) The rules, regulations, and orders of the Director of Water Resources, the Department of Water Resources, and the Nebraska Natural Resources Commission shall remain in effect unless changed or eliminated by the Director of Natural Resources or the Department of Natural Resources or by the commission to the extent such power is statutorily granted to the commission.

Sec. 5. Section 46-208, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-208.~~ The Department of Water Natural Resources shall exercise the powers and perform the duties ~~formerly assigned to the state board of irrigation, highways and drainage~~ Department of Water Resources prior to the operative date of this act. The Department of Natural Resources shall exercise the powers and perform the duties assigned to the Nebraska Natural Resources Commission prior to the operative date of this act except as otherwise specifically provided.

The Director of Water Natural Resources and his or her duly authorized assistants shall have access at all reasonable times to all dams, reservoirs, hydroelectric plants, and headgates, and other devices for diverting water, for the purpose of performing the duties assigned to the department.

Sec. 6. Section 46-209, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-209.~~ (1) The Department of Water Natural Resources is given jurisdiction over all matters pertaining to water rights for irrigation, power, or other useful purposes except as such jurisdiction is specifically limited by statute. Such department shall adopt and promulgate rules and regulations governing matters coming before it. It may refuse to allow any water to be used by claimants until their rights have been determined and made of record. It may request information relative to irrigation and water power works from any county, irrigation, or power officers and from any other persons. It shall have public hearings on complaints, petitions, or applications in connection with any of ~~the above~~ such matters. Such hearings may be had at the time and place designated by the department. The department shall have power to certify official acts, compel attendance of witnesses, take testimony by deposition as in suits at law, and examine books, papers, documents, and records of any county, party, or parties interested in any of the matters mentioned in this section or have such examinations made by its qualified representative and shall make and preserve a true and complete transcript of its proceedings and hearings. If a decision is made without a hearing, a hearing shall be held at the request of any party to the proceeding if the request is made within fifteen days after the decision is rendered. If a hearing is held at the request of one or more parties, the department may require each such requesting party and each person who requests to be made a party to such hearing to pay the proportional share of the cost of such transcript. Upon any hearing, the department shall receive any evidence relevant to the matter under investigation and the burden of proof shall be upon the person making the complaint, petition, and application. After such hearing and investigation, the department shall render a decision in the premises in writing and shall issue such order or orders duly certified as it may deem necessary.

(2) The department shall serve as the official agency of the state in connection with water resources development, soil and water conservation, flood prevention, watershed protection, and flood control.

(3) The department shall:

(a) Offer assistance as appropriate to the supervisors or directors of any subdivision of government with responsibilities in the area of natural resources conservation, development, and use in the carrying out of any of their powers and programs;

(b) Keep the supervisors or directors of each such subdivision informed of the activities and experience of all other such subdivisions and facilitate cooperation and an interchange of advice and experience between such subdivisions;

(c) Coordinate the programs of such subdivisions so far as this may be done by advice and consultation;

(d) Secure the cooperation and assistance of the United States, any of its agencies, and agencies of this state in the work of such subdivisions;

(e) Disseminate information throughout the state concerning the activities and programs of such subdivisions;

(f) Plan, develop, and promote the implementation of a comprehensive program of resource development, conservation, and utilization for the soil and water resources of this state in cooperation with other local, state, and federal agencies and organizations;

(g) When necessary for the proper administration of the functions of the department, rent or lease space outside the State Capitol; and

(h) Assist such local governmental organizations as villages, cities, counties, and natural resources districts in securing, planning, and developing information on flood plains to be used in developing regulations and ordinances on proper use of these flood plains.

Sec. 7. Section 46-210, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-210.~~ If any county, party, or parties interested in irrigation or water power work affected thereby are dissatisfied with the decision or with any order adopted, such dissatisfied county, party, or parties may appeal to the Court of Appeals to reverse, vacate, or modify the order complained of. The procedure to obtain such reversal, modification, or vacation of any such decision or order upon which a hearing has been had before the Department of ~~Water~~ Natural Resources shall be governed by the same provisions in force with reference to appeals and error proceedings from the district court. The evidence presented before the department as reported by its official stenographer and reduced to writing, together with a transcript of the record and pleadings upon which the decision is based, duly certified in such case under the seal of the department, shall constitute the complete record and the evidence upon which the case shall be presented to the appellate court. The time for perfecting such appeal shall be limited to thirty days after the rendition of such decision or order, and the appellate court shall advance such appeal to the head of its docket.

Sec. 8. Section 46-212, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-212.~~ The Department of ~~Water~~ Natural Resources may make surveys of streams showing location of possible water power developments and irrigation projects.

Sec. 9. Section 46-212.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-212.01.~~ The Department of ~~Water~~ Natural Resources may conduct special projects for water data collection on behalf of other state agencies, political subdivisions, or federal agencies. Such data shall be public information. The department may charge a fee to cover in whole or in part the costs of collecting, analyzing, and publishing the data and such fees shall be deposited in the Department of ~~Water~~ Natural Resources Cash Fund. ~~created pursuant to section 46-212.02.~~

Sec. 10. Section 2-1547, Revised Statutes Supplement, 1999, is amended to read:

~~2-1547.~~ ~~The State Treasurer is hereby directed to create and establish the Nebraska Department of Natural Resources Commission~~ Cash Fund is ~~created.~~ The State Treasurer shall credit to such fund such money as is specifically appropriated or reappropriated by the Legislature. The State Treasurer shall also credit such fund with payments, if any, accepted for services rendered ~~pursuant to section 2-1506 by the department and fees collected pursuant to subdivision (10) of section 33-105 and section 9 of this act.~~ The funds made available to the ~~Nebraska Department of Natural Resources Commission~~ by the United States, through the Natural Resources Conservation Service of the Department of Agriculture or through any other agencies, shall be credited to the fund by the State Treasurer. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. ~~The commission~~ Department of Natural Resources shall allocate money from the fund to pay costs of the programs or activities ~~for which the money has been appropriated, reappropriated, or collected of the department.~~ The Director of Administrative Services, upon receipt of proper vouchers approved by the ~~commission~~ department, shall issue warrants on the fund, and the State Treasurer shall countersign and pay from, but never in excess of, the amounts to the credit of the fund. The State Treasurer shall transfer any money in the Department of Water Resources Cash Fund and in the Nebraska Natural Resources Commission Cash Fund on the operative date of this act to the Department of Natural Resources Cash Fund.

Sec. 11. Section 46-213, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-213.~~ The Department of ~~Water~~ Natural Resources may direct

managers or operators of interstate ditches to construct and maintain suitable measuring devices at or near the state line in Nebraska. A manager or operator shall within thirty days after receipt of notice from the department construct and complete installation of such a measuring device and shall furnish daily gauge height reports to the department from the beginning to the end of the irrigation season, in such form and manner as ~~shall be~~ recommended by the department. Failure of any manager or operator of an interstate ditch to comply with this section shall be a Class V misdemeanor.

Sec. 12. Section 46-215, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-215.~~ The State of Nebraska is hereby divided into two water divisions, denominated water division No. 1 and water division No. 2, respectively.

Sec. 13. Section 46-216, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-216.~~ Water division No. 1 shall consist of (1) all the lands of the state drained by the Platte Rivers and their tributaries lying west of the mouth of the Loup River, and ~~also~~ (2) all other lands lying south of the Platte and South Platte Rivers that may be watered from other superficial or subterranean streams not tributary to the Platte River.

Sec. 14. Section 46-217, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-217.~~ Water division No. 2 shall consist of (1) all lands that may be watered from the Loup, White, Niobrara, and Elkhorn Rivers and their tributaries, and (2) all other lands of the state not included in any other water division.

Sec. 15. Section 46-218, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-218.~~ There shall be one or more division ~~engineers~~ supervisors acting for the Department of ~~Water~~ Natural Resources to administer the public water of the state in the water divisions created by section ~~46-215~~ 12 of this act. Such a division ~~engineer~~ supervisor, acting for the ~~Department of Water Resources~~ department, shall have the immediate direction and control of the distribution of water in such manner as ~~shall be~~ directed by the department.

Sec. 16. Section 46-219, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-219.~~ The division ~~engineer~~ ~~or~~ engineers supervisor or supervisors shall, under the direction of the Department of ~~Water~~ Natural Resources, see that the laws relative to the distribution of water are executed in accordance with the rights of priority of appropriation.

Sec. 17. Section 2-1503, Revised Statutes Supplement, 1999, is amended to read:

~~2-1503.~~ As used in Chapter 2, article 15, unless the context otherwise requires:

(1) Commission ~~or~~ means the Nebraska Natural Resources Commission; ~~means the agency created in section 2-1504;~~

(2) State means the State of Nebraska;

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

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

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

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

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

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

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

(10) Watercourse means any depression two feet or more below the surrounding land serving to give direction to a current of water at least nine months of the year, having a bed and well-defined banks and, upon order of the

commission, also includes any particular depression which would not otherwise be within the definition of watercourse; and

(11) Director means the Director of Natural Resources; and

(12) Department means the Department of Natural Resources. ~~as provided in section 2-1504.03.~~

Sec. 18. Section 2-1502, Reissue Revised Statutes of Nebraska, is amended to read:

2-1502. (1) The purpose of the Small Watersheds Flood Control Fund is to assist local organizations by paying all or part of the cost of purchase of needed lands, easements, and rights-of-way for soil and water conservation and flood control needs when the following conditions have been met:

(a) ~~(1)~~ The local organizations have agreed on a program of work;

(b) Such ~~(2) such~~ a program of work has been found to be feasible, practicable, and will promote the health, safety, and general welfare of the people of the state;

(c) The department ~~(3) the Nebraska Natural Resources Commission~~ has either participated in the planning or reviewed the plans and has approved the program of work;

(d) Local ~~(4) local~~ organizations have obtained a minimum of seventy-five percent of the needed number of easements and rights-of-way in the project or a subwatershed prior to the use of state funds for this purpose;

(e) Local ~~(5) local~~ organizations have made a formal request or application to the ~~commission~~ department for state funds for the purpose of purchasing lands, easements, and rights-of-way;

(f) Local ~~(6) local~~ organizations and the ~~commission~~ department have entered into an agreement on the administration and expenditure of these state funds;

(g) The ~~(7) the~~ purchase price of the land, easement, or right-of-way has been established either by the courts or by one registered, licensed, certified residential, or certified general real estate appraiser approved by the ~~commission~~ department, which appraisal costs shall be a nonstate cost; and

(h) Local ~~(8) local~~ organizations have given assurance to the ~~commission~~ department that they have obtained any water rights or other permits required under state or federal law and complied with all other applicable state laws.

(2) State funds to be used for lands, easements, and rights-of-way shall be granted to the local organizations in whose name the land, easement, or right-of-way shall be recorded. Rental or lease revenue from these lands may be used subject to the approval of the ~~commission~~ department by the local organization in the proper management of these lands, such management to include, but not be limited to, weed control, construction, and maintenance of conservation measures, seeding of grass, planting of trees, and construction and maintenance of fences. Within ten years from the purchase date of lands and rights-of-way, and if the lands and rights-of-way are not granted or retained for public purposes as otherwise provided by this section, it shall be the duty of the local organization to sell the property purchased wholly or partially from state funds and to remit to the ~~commission~~ department a pro rata share of the proceeds of such sale equal to the percentage of the total cost of the acquisition of such real property made from any state allocation made hereunder and all such remittances shall be deposited in the Small Watersheds Flood Control Fund. ~~The commission shall specify the terms for such sale, and the~~ local organization shall retain any easement or right-of-way needed to assure the continued operation, maintenance, inspection, and repair of the works of improvement constructed on the land to be sold. The commission and local organization may grant for public purposes title to lands and rights-of-way acquired in whole or in part with funds from the Small Watersheds Flood Control Fund to any public district, city, county, political subdivision of the state, or agency of the state or federal government, or the local organization, with approval of the commission, may retain for public purposes the title to such lands and rights-of-way. Whenever any such grant or retention is approved, the ~~commission~~ department shall be reimbursed in the amount of the pro rata share of the appraised fair market value that is equal to the percentage of the total cost of acquisition paid from the Small Watersheds Flood Control Fund. All such proceeds to the ~~commission~~ department shall be ~~deposited in~~ remitted to the State Treasurer for credit to the Small Watersheds Flood Control Fund.

Sec. 19. Section 2-1503.01, Reissue Revised Statutes of Nebraska, is amended to read:

2-1503.01. ~~The State Treasurer shall create and establish the~~ Small Watersheds Flood Control Fund is created. The State Treasurer shall credit to

the fund such money as is specifically appropriated during any session of the Legislature. The State Treasurer shall also credit such fund with money contributed to or remitted by local organizations which was obtained through the sale or lease of property procured through the use of state funds as authorized in sections 2-1502 to ~~2-1547~~ 2-1503.03. In addition, funds, services, and properties made available by the United States or one of its departments or agencies may be credited to the fund. The money in the fund shall not be subject to fiscal year or biennium limitations. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 20. Section 2-1503.02, Reissue Revised Statutes of Nebraska, is amended to read:

2-1503.02. ~~The Nebraska Natural Resources Commission~~ commission shall adopt and promulgate rules and regulations for the administration of the Small Watersheds Flood Control Fund. The commission may allocate to any local organization in this state, from the Small Watersheds Flood Control Fund, such sum or sums as in the judgment of the ~~state~~ commission may be necessary to enable such local organization to acquire real property or easements needed to permit ~~said~~ the local organizations to install upstream flood control or watershed protection and flood prevention structures on rivers, tributaries, streams, or watersheds thereof, including cooperative projects between the local organization and the United States. ~~Government~~. When any property or easement has been acquired by the use of any funds allocated under ~~the provisions of this section~~, and the property is thereafter sold or leased, it shall be the duty of the local organization to remit to the ~~state commission department~~ a pro rata share of the proceeds of such sale or lease equal to the percentage of total state funds involved.

Sec. 21. Section 2-1503.03, Reissue Revised Statutes of Nebraska, is amended to read:

2-1503.03. ~~The Nebraska Natural Resources Commission~~ commission shall have sole power and authority to specify the date and all other terms for the sale of any lands or rights-of-way acquired wholly or in part with funds from the Small Watersheds Flood Control Fund ~~administered pursuant to sections 2-1502 to 2-1503.02~~ and to require the execution of all necessary documents to complete such sales. ~~The commission department~~ shall, upon acquisition by the local organization of any such lands or rights-of-way, prepare and file with the register of deeds in the county where such lands or rights-of-way are located an affidavit stating that state funds were utilized for the acquisition of such lands or rights-of-way by the organization receiving such funds, and that such lands or rights-of-way cannot be sold, conveyed, granted, or in any way transferred by such organization except at the direction of the commission and in compliance with ~~commission~~ its rules and regulations. ~~The commission shall also, within thirty days of February 24, 1973, file an affidavit as above described against each tract of land or right-of-way acquired by the local organization wholly or in part with funds from the Small Watersheds Flood Control Fund prior to February 24, 1973, and shall upon the completion of filing assume the sole power and authority to specify the date and all other terms for the sale and to require the execution of all necessary documents to complete the sale of all lands or rights-of-way affected thereby.~~

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

2-1504. (1) ~~There is hereby established, to serve as the official agency of the state in connection with water resources development, soil and water conservation, flood prevention, watershed protection, and flood control and to perform the functions conferred upon it in Chapter 2, article 15, and as otherwise provided by law, the~~ The Nebraska Natural Resources Commission is established. The commission shall advise the department as requested by the director and shall perform such other functions as are specifically conferred on the commission by law. The commission shall have no jurisdiction over matters pertaining to water rights.

(2) ~~The Nebraska Natural Resources Commission~~ commission shall consist of the following members, all of whom shall have attained the age of majority:

(a) One resident of each of the following river basins, with delineations being those on the Nebraska river basin map officially adopted by the commission and on file ~~in the commission office with the department~~: (i) The Niobrara River, White River, and Hat Creek basin, (ii) the North Platte River basin, (iii) the South Platte River basin, (iv) the middle Platte River basin, (v) the lower Platte River basin, (vi) the Loup River basin, (vii) the Elkhorn River basin, (viii) the Missouri tributaries basin, (ix) the

Republican River basin, (x) the Little Blue River basin, (xi) the Big Blue River basin, and (xii) the Nemaha River basin;

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

(c) Three members to be appointed by the Governor, subject to confirmation by the Legislature, who shall serve at the pleasure of the Governor. Of the members appointed by the Governor, one shall represent municipal users of water, one shall represent surface water irrigators, and one shall represent ground water irrigators.

(3) Successors to the members of the commission representing river basins shall be selected for four-year terms at individual caucuses of the natural resources district directors residing in the river basin from which the member is selected. Such caucuses shall be held for each basin within ten days following the first Thursday after the first Tuesday of the year the term of office of the ~~commission~~ member from that basin expires. The dates and locations for such caucuses shall be established by the commission. Terms of office shall follow the sequence originally determined by the river basin representatives to the commission at their first meeting on the third Thursday after the first Tuesday in January 1975. All river basin members shall take office on the third Thursday after the first Tuesday in January following their selection and any vacancy shall be filled for the unexpired term by a caucus held within thirty days following the date such vacancy is created. Each member of the commission representing a river basin shall qualify by filing with the other members of the commission an acceptance in writing of his or her selection.

Sec. 23. Section 2-1505, Reissue Revised Statutes of Nebraska, is amended to read:

2-1505. The commission shall designate a chairperson, a vice-chairperson, and such other officers as it may desire and may, from time to time, change such designation. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Each of the members of the commission shall receive a per diem of fifty dollars per day for each day in the performance of his or her duties on the commission, but no member shall receive more than two thousand dollars in any one year, and in addition shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his or her duties on the commission, as provided in sections 81-1174 to 81-1177. ~~for state employees. The commission shall provide for an annual audit of the accounts of receipts and disbursements. Employees and officers shall be bonded by the blanket surety bond required by section 11-201.~~

Sec. 24. Section 2-1568, Reissue Revised Statutes of Nebraska, is amended to read:

2-1568. ~~The Nebraska Natural Resources Commission is hereby authorized to establish,~~ department shall maintain, and administer a data bank in the field of soil and water resources in the State of Nebraska. The collection of basic data and necessary interpretations of these data in the area of soil and water resources by agencies, departments, and political subdivisions of the State of Nebraska shall not be affected by sections 2-1568 to 2-1570. Such data and necessary interpretations of them shall be made available to the ~~commission~~ department for inclusion in the data bank when published or earlier if deemed by the originator to be suitable for inclusion. The source of data shall be identified in the data bank and when appropriate shall be associated with subsequent publication or other use. Processing and interpretation of the basic data shall be carried out by the ~~commission~~ department, except that sections 2-1568 to 2-1570 shall not preclude the independent processing and interpretation of such data by the collecting agency or other agencies. The resources of the data bank shall be made available to all interested agencies and persons.

Sec. 25. Section 2-1570, Revised Statutes Supplement, 1998, is amended to read:

2-1570. To assist in the coordination and dissemination of the resources of the data bank, there is hereby established a technical advisory committee to the data bank. Such committee shall be appointed by the Governor, and shall consist of ~~ten~~ nine representatives of state and federal agencies concerned with the collection, interpretation, and use of basic data. The committee shall report to, assist, and advise the Chief Information Officer in setting information technology policy and shall provide assistance

as requested by the ~~commission~~ department to support the technical panel created in section 86-1511.

Sec. 26. Section 2-1575, Reissue Revised Statutes of Nebraska, is amended to read:

2-1575. Sections 2-1575 to ~~2-1582~~ 2-1585 shall be known and may be cited as the Nebraska Soil and Water Conservation Act.

Sec. 27. Section 2-1577, Reissue Revised Statutes of Nebraska, is amended to read:

2-1577. (1) There is hereby created the Nebraska Soil and Water Conservation Fund to be administered by the ~~Nebraska Natural Resources Commission and to which the~~ department. The State Treasurer shall credit to the fund such money as is (a) appropriated to the fund by the Legislature, (b) paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, and (c) donated as gifts, bequests, or other contributions to such fund from public or private entities. Funds made available by any ~~department or~~ agency of the United States may also be credited to such fund if so directed by such ~~department or~~ agency.

(2) The money in the fund shall not be subject to any fiscal-year limitation or lapse provision of unexpended balance at the end of any such fiscal year or biennium.

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

Sec. 28. Section 2-1578, Reissue Revised Statutes of Nebraska, is amended to read:

2-1578. The ~~Nebraska Natural Resources Commission~~ commission shall adopt and promulgate appropriate rules and regulations necessary for the administration of the Nebraska Soil and Water Conservation Fund.

Sec. 29. Section 2-1579, Reissue Revised Statutes of Nebraska, is amended to read:

2-1579. (1) Except as provided in subsection (2) of this section, expenditures may be made from the Nebraska Soil and Water Conservation Fund as grants to individual landowners of not to exceed seventy-five percent of the actual cost of eligible projects and practices for soil and water conservation or water quality protection, with priority given to those projects and practices providing the greatest number of public benefits.

(2) The ~~Nebraska Natural Resources Commission~~ department shall reserve at least two percent of the funds credited to the fund for grants to landowners ordered by a natural resources district pursuant to the Erosion and Sediment Control Act to install permanent soil and water conservation practices. Such funds shall be made available for ninety percent of the actual cost of the required practices and shall be granted on a first-come, first-served basis until exhausted. Applications not served shall receive priority in ensuing fiscal years.

(3) The commission shall determine which specific projects and practices are eligible for the funding assistance authorized by this section and shall adopt, by reference or otherwise, appropriate standards and specifications for carrying out such projects and practices. A natural resources district assisting the ~~commission~~ department in the administration of the program may, with commission approval, further limit the types of projects and practices eligible for funding assistance in that district.

(4) As a condition for receiving any cost-share funds pursuant to this section, the landowner shall be required to enter into an agreement that if a conservation practice is terminated or a project is removed, altered, or modified so as to lessen its effectiveness, without prior approval of the ~~commission~~ department or its delegated agent, for a period of ten years after the date of receiving payment, the landowner shall refund to the fund any public funds used for the practice or project. When deemed necessary by the ~~commission~~ department or its delegated agent, the landowner may as a further condition for receiving such funds be required to grant a right of access for the operation and maintenance of any eligible project constructed with such assistance. Acceptance of money from the fund shall not in any other manner be construed as affecting land ownership rights unless the landowner voluntarily surrenders such rights.

(5) To the extent feasible, the ~~department and the~~ commission shall administer the fund so that federal funds available within the state for the same general purposes are supplemented and not replaced with state funds.

Sec. 30. Section 2-1584, Revised Statutes Supplement, 1999, is amended to read:

2-1584. The ~~Nebraska Natural Resources Commission~~ department may request and utilize assistance in the administration of the Nebraska Soil and Water Conservation Fund from natural resources districts, from the Natural

Resources Conservation Service and the Farm Service Agency of the United States Department of Agriculture, and from any other appropriate local, state, or federal agencies. Such assistance may include accepting and approving applications for funds and designing, laying out, and certifying the proper completion of projects and practices.

Sec. 31. Section 2-1585, Reissue Revised Statutes of Nebraska, is amended to read:

2-1585. If the ~~Nebraska Natural Resources Commission~~ commission determines that more effective soil and water conservation or water quality protection could be achieved if financial assistance from the Nebraska Soil and Water Conservation Fund were available for multiyear implementation of comprehensive conservation plans, ~~it~~ the department may enter into long-term agreements with landowners for such purposes. Such long-term agreements shall be for a term not to exceed ten years and shall specify the eligible projects and practices to be installed and applied, the year of intended installation, and the estimated cost of each such project or practice. Such agreements shall also provide that financial assistance in any year of the agreement be subject to the appropriation of adequate funds by the Legislature and may provide that priority shall be given to funding such projects and practices over those not identified in other long-term agreements and over those identified in more recently executed long-term agreements. The ~~commission~~ department shall not in any biennium approve any long-term agreements which would cause the total of then existing state obligations under all such agreements to exceed the amount of new funds appropriated for that biennium.

Sec. 32. Section 2-1587, Reissue Revised Statutes of Nebraska, is amended to read:

2-1587. (1) There is hereby created the Nebraska Resources Development Fund to be administered by the ~~Nebraska Natural Resources Commission and to which the department.~~ The State Treasurer shall credit to the fund, to carry out ~~the provisions of~~ sections 2-1586 to 2-1595, such money as is ~~(1)~~ (a) appropriated to the fund by the Legislature, ~~(2)~~ (b) paid to the state as fees, deposits, payments, and repayments relating to the fund, both principal and interest, and ~~(3)~~ (c) donated as gifts, bequests, or other contributions to such fund from public or private entities. Funds made available by any department or agency of the United States may also be credited to this fund if so directed by such department or agency. The money in the fund shall not be subject to any fiscal year or biennium limitation requiring reappropriation of the unexpended balance at the end of the fiscal year or biennium.

(2) To aid in the funding of projects and to prevent excessive fluctuations in appropriation requirements for the fund, the ~~commission~~ department shall create a reserve fund to be used only for projects requiring total expenditures from the Nebraska Resources Development Fund in excess of five million dollars. Unless disapproved by the Governor, the ~~commission~~ department may credit to such reserve fund that portion of any appropriation to the Nebraska Resources Development Fund which exceeds five million dollars. The ~~commission~~ department may also credit to the reserve fund such other funds as it determines are available.

(3) Any money in the Nebraska Resources Development Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 33. Section 2-1588, Revised Statutes Supplement, 1998, is amended to read:

2-1588. (1) Any money in the Nebraska Resources Development Fund may be allocated by the ~~Nebraska Natural Resources Commission~~ commission in accordance with sections 2-1586 to 2-1595 for utilization by the ~~commission~~ department, by any state office, agency, board, or commission, or by any political subdivision of the State of Nebraska which has the authority to develop the state's water and related land resources. Such money may be allocated in the form of grants or loans or for acquiring state interests in water and related land resources programs and projects undertaken within the state. The allocation of funds to a program or project in one form shall not of itself preclude additional allocations in the same or any other form to the same program or project. Funds may also be allocated to assist natural resources districts in the preparation of management plans as provided in section 46-656.12. Funds so allocated shall not be subject to sections 2-1589 to 2-1595.

(2) Only projects with estimated total costs of less than seventeen million dollars, which shall not include operation and maintenance costs, shall be eligible for assistance from the Nebraska Resources Development Fund. If cost overruns during project construction cause the cost of a project to

exceed seventeen million dollars, the ~~commission~~ department may continue to participate in the project and the commission may allocate additional funds to ensure project completion.

(3) No project, including all related phases, segments, parts, or divisions, shall receive more than ten million dollars from the fund.

(4) On July 1, 1994, and each year thereafter, the ~~Director of Natural Resources~~ director shall adjust the project cost and payment limitation of this section by an amount equal to the average percentage change in the federal Department of Commerce, Bureau of the Census, Composite Construction Cost Index for the prior three years.

(5) Prior to September 1 of each even-numbered year, a biennial report shall be made to the Governor and the Clerk of the Legislature describing the work accomplished by the use of such development fund during the immediately preceding two-year period. The report shall include a complete financial statement. Each member of the Legislature shall receive a copy of such report upon making a request for it to the director.

Sec. 34. Section 2-1589, Reissue Revised Statutes of Nebraska, is amended to read:

2-1589. Allocations from the Nebraska Resources Development Fund may be made as grants to agencies or political subdivisions when it is determined (1) The commission shall adopt and promulgate rules and regulations governing the administration of the Nebraska Resources Development Fund. The commission may make an allocation from the fund as a grant to an agency or political subdivision if the commission determines that such an allocation will not be reimbursed from revenue or receipts and when the program or project appears to be of general public benefit, thereby making reimbursement of such money from local tax funds inappropriate or impossible, or when the funds are intended for a state or local contribution to a program or project requiring such contribution to meet the requirements for a matching federal grant.

(2) The commission may make an allocation from the fund as a loan to an agency or political subdivision ~~Allocations may be made from the fund by the commission as loans to agencies or political subdivisions~~ for any program or project or any part thereof consistent with the purposes of ~~sections 2-1586 to 2-1595~~ the fund which will directly generate revenue or receipts, ~~or~~ which can be anticipated to culminate in a program or project which will generate revenue or receipts, or which would not generate revenue or receipts but would be of general public benefit to the applicant making repayment from local tax funds appropriate.

Sec. 35. Section 2-1590, Reissue Revised Statutes of Nebraska, is amended to read:

2-1590. In order to develop Nebraska's land and water resources, ~~the Nebraska Natural Resources Commission department, with the approval of the commission,~~ may acquire interests in water and related land resources projects in the name of the state utilizing the Nebraska Resources Development Fund. Such use of the fund shall be made when the public benefits obtained from the project or a part thereof are statewide in nature and when associated costs are determined to be more appropriately financed by other than a local organization. Such use of the fund may be made upon the determination by the ~~department and the commission~~ that such acquisition is appropriate under the ~~provisions of~~ sections 2-1586 to 2-1595 and may be initiated upon a request filed in accordance with the ~~provisions of~~ section 2-1593 or by the ~~commission department~~ itself without such a request. The department, with the approval of the commission, may also acquire interests in water resource projects in the name of the state to meet future demands for usable water. Such resource projects may include, but not be limited to, the construction of dams and reservoirs to provide surplus water storage capacity for municipal and industrial water demands and for other projects to assure an adequate quantity of usable water. In furtherance of these goals the ~~commission is authorized to~~ ~~department may~~ contract with the federal government or any of its agencies or departments for the inclusion of additional water supply storage space behind existing or proposed structures.

Sec. 36. Section 2-1592, Reissue Revised Statutes of Nebraska, is amended to read:

2-1592. (1) Any organization qualified to apply for and receive funds from the Nebraska Resources Development Fund may file an application with the ~~commission department~~ for a grant or loan from such fund. Applications for grants to the ~~commission department~~ itself shall be filed by the ~~commission department~~. Each application shall be filed in such manner and form, and be accompanied by such information, as may be prescribed by the director and the commission.

(2) Any such application shall:

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

(b) ~~Set (2) set~~ forth or be accompanied by a plan for development of the proposed program or project, together with engineering, economic, and financial feasibility data and information, and such estimated costs of construction or implementation as may be required by the director and the commission;

(c) State (3) state whether money other than that for which the application is made will be used to help in meeting program or project costs and whether such money is available or has been sought for this purpose;

(d) When (4) when appropriate, state that the applicant holds or can acquire title to all lands or has the necessary easements and rights-of-way for the project and related lands and has or may acquire all water rights necessary for the proposed project;

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

(f) Demonstrate (6) demonstrate the probable environmental and ecological consequences that may result from such proposed program or project.

(3) Upon receipt of an application, ~~the commission shall refer it to~~ the director ~~who~~ shall evaluate and investigate all aspects of the proposed program or project and the proposed schedule for development and completion of such program or project, determine the eligibility of the program or project for funding, and make appropriate recommendations to the commission pursuant to sections 2-1586 to 2-1595. As a part of his or her investigation, the director shall consider whether the plan for development of the program or project is satisfactory. If the director determines that the plan is unsatisfactory or that the application does not contain adequate information upon which to make determinations, the director shall return the application to the applicant and may make such recommendations to the applicant as are considered necessary to make the plan or the application satisfactory.

(4) Requests for utilization of the Nebraska Resources Development Fund for state participation in any water and related land-water resources projects through acquisition of a state interest therein shall also be filed with the ~~commission and directed by it to the director for his or her department for the director's~~ evaluation, investigation, and recommendations. Such requests shall be filed in the manner and form and be accompanied by such information as shall be prescribed by the department and the commission.

Sec. 37. Section 2-1593, Reissue Revised Statutes of Nebraska, is amended to read:

2-1593. Each program or project for which funding is requested, whether such request has as its origin an application or the action of the ~~commission department~~ itself, shall be reviewed as provided in sections 2-1586 to 2-1595 by the director prior to the approval of any allocation for such program or project by the commission. The director shall within a reasonable time, not to exceed six months, after receipt of such request report to the commission the results of his or her review and shall recommend approval or rejection of funding for the program or project. The director shall indicate what form of allocation he or she deems to be appropriate. In the case of an approved application recommended for a loan, the commission shall indicate the appropriate repayment period and the rate of interest. The commission shall act in accordance with such recommendations unless action to the contrary is approved by each commission member eligible to vote on the specific recommendation under consideration. No member of the commission shall be eligible to participate in the action of the commission concerning an application for funding to any entity in which such commission member has any interest. The director may be delegated additional responsibilities consistent with the purposes of sections 2-1586 to 2-1595. It shall be the sole responsibility of the commission to determine the priority in which funds are allocated for eligible programs and projects under sections 2-1586 to 2-1595.

Sec. 38. Section 2-1594, Reissue Revised Statutes of Nebraska, is amended to read:

2-1594. The director may recommend approval of and the commission may approve grants or loans for program or project costs or acquisition of interests in projects if after investigation and evaluation the director finds that:

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

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

(3) The (3) the plan for development of the proposed program or

project is satisfactory;

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

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

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

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

(8) ~~The (8) the~~ money required from the ~~development fund~~ Nebraska Resources Development Fund is available.

Sec. 39. Section 2-1595, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) If the allocation to be approved is a loan, the ~~commission department~~ and the applicant or applicants shall include in the agreement provisions for repayment to the ~~fund~~ Nebraska Resources Development Fund of money loaned together with any interest at reasonable rates as established by the commission. The agreement shall further provide that repayment of the loan together with any interest thereon shall commence no later than one full year after construction of the project is completed and that repayment shall be completed within the time period specified by the commission. The repayment period shall not exceed fifty years, except that the commission may extend the time for making repayment in the event of extreme emergency or hardship. Such agreement shall also provide for such assurances of and security for repayment of the loan as shall be considered necessary by the ~~commission department~~.

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

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

Sec. 40. Section 2-1596, Revised Statutes Supplement, 1999, is amended to read:

2-1596. The Legislature finds that an accelerated completion of

modern soil surveys will be an asset to the State of Nebraska and good for the general welfare of the citizens of the state. The Legislature further finds that the completion of modern soil surveys can be most appropriately accomplished by accelerating, in a manner deemed appropriate by the ~~Nebraska Natural Resources Commission~~ department, state financial input into the combined state and federal effort currently being conducted cooperatively by the Natural Resources Conservation Service of the United States Department of Agriculture and the Conservation and Survey Division of the University of Nebraska. It is therefor the intent of this Legislature to embark upon an accelerated program for the completion of Nebraska's modern soil surveys and to recommend that the State of Nebraska and the Legislature appropriate the funds necessary to carry out this accelerated program during the years required for its completion.

Sec. 41. Section 2-1597, Reissue Revised Statutes of Nebraska, is amended to read:

2-1597. ~~The State Treasurer is hereby directed to create and establish the~~ Nebraska Soil Survey Fund ~~is created.~~ The State Treasurer shall and to credit to such fund for the uses and purposes of sections 2-1596 to 2-1598 such money as shall be is specifically appropriated, and such funds, fees, donations, gifts, services, devises, or bequests of real or personal property received by the Nebraska Natural Resources Commission department from any source, federal, state, public or private, to be used by the ~~commission department~~ for the purposes of accelerating the completion of modern soil surveys. The ~~Nebraska Natural Resources Commission department~~ shall allocate money from the ~~Nebraska Soil Survey Fund fund~~ for the purposes of sections 2-1596 to 2-1598. The Director of Administrative Services, upon receipt of proper vouchers approved by the ~~Nebraska Natural Resources Commission department~~, shall issue ~~his~~ warrants on such fund, and the State Treasurer shall countersign and pay from, but not in excess of, the amounts to the credit of such fund.

Sec. 42. Section 2-1598, Reissue Revised Statutes of Nebraska, is amended to read:

2-1598. The Nebraska Soil Survey Fund shall be expended by contractual agreement with the Conservation and Survey Division, ~~of the University of Nebraska,~~ for the purposes of accelerating the program of modern soil survey throughout the state in such manner as the ~~Nebraska Natural Resources Commission shall deem department deems~~ proper and necessary.

Sec. 43. Section 2-15,100, Reissue Revised Statutes of Nebraska, is amended to read:

2-15,100. The state water planning and review process shall be conducted under the guidance and general supervision of the ~~Director of Natural Resources.~~ The Nebraska Natural Resources Commission shall approve the form and content of all reports produced through the planning process director. The director shall be assisted in the state water planning and review process by ~~the Department of Water Resources,~~ the Game and Parks Commission, the Department of Agriculture, the Governor's Policy Research Office, the Department of Health and Human Services Regulation and Licensure, the Department of Environmental Quality, the Water Center of the University of Nebraska, and the Conservation and Survey Division of the University of Nebraska. In addition, the director may obtain assistance from any private individual, organization, political subdivision, or agency of the state or federal government.

Sec. 44. Section 2-15,101, Reissue Revised Statutes of Nebraska, is amended to read:

2-15,101. Appropriations may be made to the ~~Nebraska Natural Resources Commission department~~ for all or part of the costs incurred by agencies other than the ~~commission department~~ in conducting the state water planning and review process. The state budget administrator shall create a separate budget program within each agency that is to receive a portion of such appropriations. To properly account for such funds, recipients shall submit to the ~~commission department~~, in the form prescribed by the ~~commission department~~, documentation of all costs incurred in rendering services determined by the ~~commission department~~ to be eligible for reimbursement.

Sec. 45. Section 2-15,103, Reissue Revised Statutes of Nebraska, is amended to read:

2-15,103. ~~The Nebraska Natural Resources Commission~~ commission shall provide the ~~Director of Natural Resources director~~ and the Legislature upon request with the opinion of the general public and various water interests in the state. It is the intent of the Legislature that the commission consider the different opinions of the individual members but, as a body, it shall provide the director with input and comments on state water planning and review process activities as they relate to the overall use of

Nebraska's water resources. The functions of the commission shall include providing upon request advice and assistance in the planning process by: (1) Identifying legislative and administrative policy issues; (2) developing and reviewing alternative solutions for legislative and administrative policy problems, including impact assessment; (3) recommending the types of problems needing analysis and where such problems are located or likely to be located; (4) disseminating information and materials generated by the planning process to the public; ~~and~~ (5) determining the conditions under which and the methods by which additional public input is to be obtained; and (6) reviewing and commenting on reports produced through the planning process.

Sec. 46. Section 2-15,105, Reissue Revised Statutes of Nebraska, is amended to read:

2-15,105. It is the intent of the Legislature that the public have maximum input into the formulation of state water policy. The ~~Director of Natural Resources~~ director shall conduct one or more public hearings prior to the completion of any recommendations to the Legislature on methods of addressing water policy issues. All materials produced as part of the state water planning and review process shall be available to interested persons and groups upon request. The ~~commission~~ department or other agency providing such material may make a charge therefor which does not exceed the actual cost of providing the same.

Sec. 47. Section 2-15,106, Reissue Revised Statutes of Nebraska, is amended to read:

2-15,106. On or before September 15 of each year, the ~~Director of Natural Resources~~ director shall submit an annual report and plan of work for the state water planning and review process to the Legislature and Governor. The report shall include a listing of expenditures for the past fiscal year, a summary and analysis of work completed in the past fiscal year, funding requirements for the next fiscal year, and a projection and analysis of work to be completed and estimated funding requirements for such work for the next succeeding four years. The explanation of future funding requirements shall include an explanation of the proposed use of such funds and the anticipated results of the expenditure of such funds. The report shall, to the extent possible, identify such information as it affects each agency or other recipient of program funds. The explanation of future funding requirements shall be in a form suitable for providing an explanation of that portion of the ~~commission~~ budget request pertaining to the state water planning and review process.

Sec. 48. Section 2-15,122, Reissue Revised Statutes of Nebraska, is amended to read:

2-15,122. There is hereby created the Natural Resources Enhancement Fund. The State Treasurer shall credit to the fund for the uses and purposes of section 2-15,123 such money as is specifically appropriated and such funds, fees, donations, gifts, services, or devises or bequests of real or personal property received by the ~~Nebraska Natural Resources Commission~~ department from any source, federal, state, public, or private, to be used by the ~~commission~~ department for the purpose of funding programs listed in subsection (2) of section 2-15,123. The ~~commission~~ department shall allocate money from the fund pursuant to section 2-15,123. The fund shall be exempt from provisions relating to lapsing of appropriations. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 49. Section 2-15,123, Reissue Revised Statutes of Nebraska, is amended to read:

2-15,123. (1) The Natural Resources Enhancement Fund shall be allocated by contractual agreement with natural resources districts for the purpose of funding programs listed in subsection (2) of this section. The initial allocations each fiscal year shall be made by the ~~Nebraska Natural Resources Commission~~ department, based on needs of individual natural resources districts relative to needs of other districts, to districts which have qualifying programs. The ~~Director of Natural Resources~~ director shall have sole discretion to decide whether a district's program qualifies for funding pursuant to this section. The unused allocations shall be credited to the Nebraska Resources Development Fund on or after March 1 of any year if the ~~commission~~ director determines that one or more districts cannot reasonably be expected to use their full allocation for that fiscal year. The commission shall adopt and promulgate rules and regulations to ~~carry out this section and section 2-15,122~~ administer the Natural Resources Enhancement Fund.

(2) The fund shall be allocated to natural resources districts for programs related to water quality, including, but not limited to:

- (a) Natural resources districts' water quality programs;
- (b) Natural resources districts' illegal water wells decommissioning

programs;

(c) Inspections by natural resources districts conducted pursuant to the Nebraska Chemigation Act;

(d) Source water protection programs undertaken by natural resources districts;

(e) Purchases of special equipment required by natural resources districts in management areas and control areas formed pursuant to the Nebraska Ground Water Management and Protection Act; and

(f) Application of soil and water conservation practices.

Sec. 50. Section 2-2626, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) To administer, implement, and enforce the Pesticide Act and serve as the lead state agency for the regulation of pesticides. The department shall involve the natural resources districts and other state agencies, including the Department of Environmental Quality, ~~the Nebraska Natural Resources Commission~~, the Department of ~~Water~~ Natural Resources, or the Department of Health and Human Services Regulation and Licensure, in matters relating to water quality. Nothing in the act shall be interpreted in any way to affect the powers of any other state agency or of any natural resources district to regulate for ground water quality or surface water quality as otherwise provided by law;

(2) To be responsible for the development and implementation of a state management plan for the prevention, evaluation, and mitigation of occurrences of pesticides or pesticide breakdown products in ground water and surface water of the state. The Department of Environmental Quality shall be responsible for the adoption of standards for pesticides in surface water and ground water, and the Department of Health and Human Services Regulation and Licensure shall be responsible for the adoption of standards for pesticides in drinking water. These standards shall be established as action levels in the state management plan at which prevention and mitigation measures are implemented. Such action levels may be set at or below the maximum contaminant level set for any product as set by the federal agency under the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq. The department shall cooperate with and use existing expertise in other state agencies when developing a state management plan and shall not hire a hydrologist within the department for such purpose. As part of the state management plan and after notice and public hearing, the department may adopt and promulgate rules and regulations providing lists of state-limited-use pesticides for the entire state or for a designated area within the state, subject to the following:

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

(i) The department determines that the pesticide, when applied in accordance with its directions for use, warnings, and cautions and for uses for which it is registered, may without additional regulatory restrictions cause unreasonable adverse effects on humans or the environment, including injury to the applicator or other persons because of acute dermal or inhalation toxicity of the pesticides;

(ii) The water quality standards set by the Department of Environmental Quality or the Department of Health and Human Services Regulation and Licensure pursuant to this section are exceeded; or

(iii) The department determines that the pesticide requires additional restrictions to meet the requirements of the Pesticide Act, the federal act, or any plan adopted under the Pesticide Act or the federal act;

(b) The department may regulate the time and conditions of use of a state-limited-use pesticide and may require that it be purchased or possessed only:

(i) With permission of the department;

(ii) Under direct supervision of the department or its designee in certain areas and under certain conditions;

(iii) In specified quantities and concentrations or at specified times; or

(iv) According to such other restrictions as the department may set by regulation;

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

(d) The state management plan shall be coordinated with the department and other state agency plans and with other state agencies and with natural resources districts; and

(e) The state management plan may impose progressively more rigorous pesticide management practices as pesticides are detected in ground water or surface water at increasing fractions of the standards adopted by the Department of Environmental Quality or the Department of Health and Human Services Regulation and Licensure;

(3) To adopt and promulgate such rules and regulations as are necessary for the enforcement and administration of the Pesticide Act. There is hereby created a Rules and Regulations Advisory Committee consisting of the Director of Agriculture, Director of Environmental Quality, Director of Natural Resources, ~~Director of Water Resources~~, and Director of Regulation and Licensure or the designated representative of any of such directors. The committee shall advise the Department of Agriculture in the adoption and promulgation of such rules and regulations as are necessary for the enforcement and administration of the act. The regulations shall include, but not be limited to, regulations providing for:

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

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

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

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

(e) Reporting and record-keeping requirements for persons distributing or using pesticide products made available under section 136p of the federal act;

(f) Methods to be used in the application of pesticides when the department finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Act. Such regulations may include methods to be used in the application of a restricted-use pesticide, may relate to the time, place, manner, methods, materials, amounts, and concentrations in connection with the application of the pesticide, and may restrict or prohibit use of the pesticides in designated areas during specified periods of time. The regulations shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to (i) plants, including forage plants, or adjacent or nearby lands, (ii) wildlife in the adjoining or nearby areas, (iii) fish and other aquatic life in waters in reasonable proximity to the area to be treated, (iv) surface water or ground water, and (v) humans, animals, or beneficial insects. In adopting and promulgating such regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government, or other reliable sources. The department may, by regulation, require that notice of a proposed application of a pesticide be given to landowners whose property is adjacent to the property to be treated or in the immediate vicinity thereof if the department finds that such notice is necessary to carry out the purpose of the act;

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

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

(i) Establishment of the components of any state management plan;

(4) To enter any public or private premises at any reasonable time to:

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

(b) Inspect or sample any area exposed or reported to be exposed to a pesticide or where a pesticide application has been made;

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

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

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

(f) Inspect, examine, or take samples from any building or place owned, controlled, or operated by a registrant, certified applicator, or dealer if, from probable cause, it appears that the building or place contains a pesticide;

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

(6) To issue and enforce a written or printed order to stop the

sale, removal, or use of a pesticide if the department has reason to believe that the pesticide is in violation of any provision of the act. The department shall present the order to the owner or custodian of the pesticide. The person who receives the order shall not distribute, remove, or use the pesticide until the department determines that the pesticide is in compliance with the act. This subdivision shall not limit the right of the department to proceed as authorized by any other provision of the act;

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

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

(8) To impose or levy an administrative fine of not more than five thousand dollars on any person who has violated the provisions, requirements, conditions, limitations, or duties imposed by the act. A violation shall mean any separate activity or day in which an activity takes place;

(9) To cause a written complaint to be served upon the alleged violator or violators whenever the director has reason to believe that a violation of any provision of the act, a rule or regulation under the act, or any order of the department has occurred. The complaint shall specify the provision of the act, rule, regulation, or order alleged to be violated and the facts alleged to constitute a violation and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless each person named in the order requests in writing a hearing before the director and answers the charges complained of at a time and a place specified in the notice. In lieu of such order, the director may require that the alleged violator appear before the director at a time and place specified in the notice and answer the charges complained of;

(10) To take measures necessary to ensure that all fees, fines, and penalties prescribed by the act and the rules or regulations adopted under the act are assessed and collected;

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

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

(13) To declare as a pest any form of plant or animal life, other than humans and other than bacteria, viruses, and other microorganisms on or in living humans or other living animals, which is injurious to health or the environment;

(14) To adopt classifications of restricted-use pesticides as determined by the federal agency under the federal act. In addition to the restricted-use pesticides classified by the administrator, the department may also determine state-limited-use pesticides for the state or for designated areas within the state as provided in subdivision (2) of this section;

(15) To receive grants-in-aid from any federal entity, and to enter into cooperative agreements with any federal entity, any agency of this state, any subdivision of this state, any agency of another state, any Indian tribe, or any private person for the purpose of obtaining assistance in the implementation of the Pesticide Act. The department may reimburse any such entity from the Pesticide Administrative Cash Fund for the work performed under the cooperative agreement. The department may delegate its administrative responsibilities under the act to cities of the metropolitan and primary classes if it reasonably believes that such cities can perform the responsibilities in a manner consistent with the act and the rules and regulations adopted and promulgated under it;

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

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

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

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

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

Sec. 51. Section 2-3202, Revised Statutes Supplement, 1998, is

amended to read:

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

- (1) Commission means the Nebraska Natural Resources Commission;
- (2) Natural resources district or district means a natural resources district operating pursuant to Chapter 2, article 32;
- (3) Board means the board of directors of a district;
- (4) Director means a member of the board;
- (5) Other special-purpose districts means rural water districts, drainage districts, reclamation districts, and irrigation districts; ~~and~~
- (6) Manager means the chief executive hired by a majority vote of the board to be the supervising officer of the district; and
- (7) Department means the Department of Natural Resources.

Sec. 52. Section 2-3208, Reissue Revised Statutes of Nebraska, is amended to read:

2-3208. A hearing by the commission on proposed changes as provided by section 2-3207 may be initiated by any of the following methods:

- (1) By the commission on its own motion;
- (2) By written request of a majority of the directors of any or each natural resources district the boundaries of which are proposed to be changed or which is proposed to be merged or divided;
- (3) By petition, signed by twenty-five percent of the legal voters residing within an area proposed to be transferred from one district to an adjoining district by a change in boundaries; or
- (4) By formal written request of a majority of the directors or supervisors of any other special-purpose district ~~as enumerated in section 2-3201~~ wishing to merge with a natural resources district.

Such proposals shall be filed with the department and shall set forth any proposed new boundaries and such other information as the commission requires.

Sec. 53. Section 2-3210, Reissue Revised Statutes of Nebraska, is amended to read:

2-3210. Within sixty days after such proposal for a change of boundaries, division, or merger is made and filed with the ~~commission department~~, the ~~commission department~~ shall begin publication of the notices for a public hearing by the commission on the question. Notice requirements shall be satisfied by publishing such notice at least once a week for three consecutive weeks in a legal newspaper published or of general circulation in the areas affected. A public hearing shall then be held as set forth in the notice and in accord with law and the rules and regulations of the commission.

Sec. 54. Section 2-3211, Reissue Revised Statutes of Nebraska, is amended to read:

2-3211. After the hearing, as provided in section 2-3210, the commission shall determine, upon the basis of the proposed change, upon the facts and evidence presented at such hearing, upon consideration of the standards provided in section 2-3203 relative to the organization of districts, and upon such other relevant facts and information as may be available, whether such changes in boundaries, division, or merger would promote the public interest and would be administratively and financially practicable and feasible. The commission shall make and record such determination, and shall make such other determinations as are required by sections 2-3211.01 and 2-3211.02. ~~The department~~ and shall notify the boards of the affected districts of such determinations in writing. No change in boundaries, division, or merger as provided for by sections 2-3207 to 2-3212 shall take place unless the boards of the affected districts favor such change, division, or merger.

Sec. 55. Section 2-3212, Reissue Revised Statutes of Nebraska, is amended to read:

2-3212. If the boards of the affected districts favor a change of boundaries, division, or merger as provided by sections 2-3211 to 2-3211.02, the various affected district boards shall each present to the Secretary of State an application, signed by them, for a certificate evidencing the change, division, or merger. The application shall be filed with the Secretary of State accompanied with a statement by the ~~commission department~~ certifying that the change, division, or merger is in accordance with the procedures prescribed in sections 2-3207 to 2-3212 and setting forth any new boundary line or other information as in the judgment of the ~~commission department~~ and Secretary of State is adequate to describe such change, division, or merger. When the application and statement have been filed with the Secretary of State, the change, division, or merger shall be deemed effective and the Secretary of State shall issue to the directors of each of the districts a certificate evidencing the change, division, or merger.

Sec. 56. Section 2-3222, Revised Statutes Supplement, 1999, is amended to read:

2-3222. The board shall furnish to the ~~commission~~ department copies of its rules, regulations, audits, meeting minutes, and other documents as the ~~commission~~ department may require in the performance of its duties.

Sec. 57. Section 2-3240, Reissue Revised Statutes of Nebraska, is amended to read:

2-3240. In matters pertaining to applications for appropriation and use of surface water, construction of dams, drainage and channel rectification projects, and installation of ground water wells, districts shall comply with ~~provisions of~~ Chapter 46, articles 2 and 6, and the applicable rules and regulations of the ~~Department of Water Resources~~ department.

Sec. 58. Section 2-3254, Revised Statutes Supplement, 1999, is amended to read:

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

(2) When any such special project would result in the provision of revenue-producing continuing services, the board shall, prior to commencement of construction of such project, determine, by circulation of petitions or by some other appropriate method, if such project can be reasonably expected to generate sufficient revenue to recover the reimbursable costs thereof. If it is determined that the project cannot be reasonably expected to generate sufficient revenue, the project and all work in connection therewith shall be suspended. If it is determined that the project can be reasonably expected to generate sufficient revenue, the board shall divide the total benefits of the project as provided in sections 2-3252 to 2-3254. If the proposed project involves the supply of water for any beneficial use, all plans and specifications for the project shall be filed with the secretary of the district and the Director of ~~Water~~ Natural Resources, except that if such project involves a public water supply system as defined in section 71-5301, the filing of the information shall be with the Department of Health and Human Services Regulation and Licensure rather than the Director of ~~Water~~ Natural Resources. No construction of any such special project shall begin until the plans and specifications for such improvement have been approved by the Director of ~~Water~~ Natural Resources and the Department of Health and Human Services Regulation and Licensure, if applicable, except that if such special project involves a public water supply system as defined in section 71-5301, only the Department of Health and Human Services Regulation and Licensure shall be required to review such plans and specifications and approve the same if in compliance with the Nebraska Safe Drinking Water Act and departmental rules and regulations adopted and promulgated under the act. All prescribed conditions having been complied with, each landowner within the improvement project area shall, within any limits otherwise prescribed by law, subscribe to a number of benefit units in proportion to the extent he or she desires to participate in the benefits of the special project. As long as the capacity of the district's facilities permit, participating landowners may subscribe to additional units, within any limits otherwise prescribed by law, upon payment of a unit fee for each such unit. The unit fees made and charged pursuant to this section shall be levied and fixed by rules and regulations of the district. The service provided may be withheld during the time such charges

levied upon such parcel of land are delinquent and unpaid. Such charges shall be cumulative, and the service provided by the project may be withheld until all delinquent charges for the operation and maintenance of such works of improvement are paid for past years as well as for the current year. All such charges, due and delinquent according to the rules and regulations of such district and unpaid on June 1 after becoming due and delinquent, may be certified by the governing authority of such district to the county clerk of such county in which are situated the lands against which such charges have been levied, and when so certified such charges shall be entered upon the tax list and spread upon the tax roll the same as other special assessment taxes are levied and assessed upon real estate, shall become a lien upon such real estate along with other real estate taxes, and shall be collectible at the same time, in the same manner, and in the same proceeding as other real estate taxes are levied.

(3) When the special project would not result in the provision of revenue-producing continuing services, the board shall apportion the benefits thereof accruing to the several tracts of land within the district which will be benefited thereby, on a system of units. The land least benefited shall be apportioned one unit of assessment, and each tract receiving a greater benefit shall be apportioned a greater number of units or fraction thereof, according to the benefits received. Nothing contained in this section shall prevent the district from establishing separate areas within the project improvement area so as to permit future allocation of costs for particular portions of the work to specific subareas. This subarea method of allocation shall not be used in any project improvement area which has heretofore made a final apportionment of units of benefits and shall not thereafter be changed except by compliance with the procedure prescribed in this section.

(4) A notice shall be inserted for at least one week in a newspaper published or of general circulation in the project improvement area stating the time when and the place where the directors shall meet for the purpose of hearing all parties interested in the apportionment of benefits by reason of the improvement, at which time and place such parties may appear in person or by counsel or may file written objections thereto. The directors shall then proceed to hear and consider the same and shall make the apportionments fair and just according to benefits received from the improvement. The directors, having completed the apportionment of benefits, shall make a detailed report of the same and file such report with the county clerk. The board of directors shall include in such report a statement of the actual expenses incurred by the district to that time which relate to the proposed project and the actual cost per benefit unit thereof. Thereupon the board of directors shall cause to be published, once each week for three consecutive weeks in a newspaper published or of general circulation in the project improvement area, a notice that the report required in this subsection has been filed and notice shall also be sent to each party appearing to have a direct legal interest in such apportionment, which notice shall include the description of the lands in which each party notified appears to have such interest, the units of benefit assigned to such lands, the amount of actual costs assessable to date to such lands, and the estimated total costs of the project assessable to such lands upon completion thereof, as provided by sections 25-520.01 to 25-520.03. If the owners of record title representing more than fifty percent of the estimated total assessments file with the board within thirty days of the final publication of such notice written objections to the project proposed, such project and work in connection therewith shall be suspended, such project shall not be done in such project area, and all expenses relating to such project incurred by and accrued to the district may, at the direction of the board of directors, be assessed upon the lands which were to have been benefited by the completion of such project in accordance with the apportionment of benefits determined and procedures established in this section. Upon completing the establishment of an improvement project area as provided in this subsection and upon determining the reimbursable cost of the project and the period of time over which such cost shall be assessed, the board of directors shall determine the amount of money necessary to raise each year by special assessment within such improvement project area and apportion the same in dollars and cents to each tract benefited according to the apportionment of benefits as determined by this section. The board of directors shall also, from time to time as it deems necessary, order an additional assessment upon the lands and property benefited by the project, using the original apportionment of benefits as a basis to ascertain the assessment to each tract of land benefited, to carry out a reasonable program of operation and maintenance upon the construction or capital improvements involved in such project. The chairperson and secretary shall thereupon return lists of such tracts with the amounts chargeable to each of the county

clerks of each county in which assessed lands are located, who shall place the same on duplicate tax lists against the lands and lots so assessed. Such assessments shall be collected and accounted for by the county treasurer at the same time as general real estate taxes, and such assessments shall be and remain a perpetual lien against such real estate until paid. All provisions of law for the sale, redemption, and foreclosure in ordinary tax matters shall apply to such special assessments.

Sec. 59. Section 2-3257, Reissue Revised Statutes of Nebraska, is amended to read:

2-3257. Detailed plans for the design of certain structural works by a district shall be submitted to the ~~Department of Water Resources department~~ as outlined in sections 46-256 and 46-257. The department shall review the plans and shall approve or disapprove such plans within thirty days ~~of~~ after submission. No construction work shall be started until the department has approved such plans.

Sec. 60. Section 2-3276, Reissue Revised Statutes of Nebraska, is amended to read:

2-3276. By August 1, 1979, each natural resources district shall prepare and adopt a master plan to include but not be limited to a statement of goals and objectives for each of the purposes stated in section 2-3229. The master plan shall be reviewed and updated as often as deemed necessary by the district, but in no event less often than once each ten years. A copy of the master plan as adopted and all revisions and updates thereto shall be filed with the ~~Natural Resources Commission department~~.

Sec. 61. Section 2-3277, Reissue Revised Statutes of Nebraska, is amended to read:

2-3277. Each district shall also prepare and adopt a long-range implementation plan which shall summarize planned district activities and include projections of financial, ~~manpower personnel~~, and land rights needs of the district for at least the next five years and the specific needs assessment upon which the current budget is based. Such long-range implementation plan shall be reviewed and updated annually. A copy of the long-range implementation plan and all revisions and updates thereto as adopted, shall be filed with the ~~Nebraska Natural Resources Commission department~~, the Governor's Policy Research Office, and the Game and Parks Commission on or before October 1 of each year. The ~~Nebraska Natural Resources Commission department~~ shall develop and make available to the districts suggested guidelines regarding the format and general content of such long-range implementation plans.

Sec. 62. Section 2-4215, Reissue Revised Statutes of Nebraska, is amended to read:

2-4215. In exercising any powers granted by the Conservation Corporation Act, the corporation shall coordinate its activities with the land and water resources policies, programs, and planning efforts of the state, particularly the Department of Environmental Quality and the ~~Nebraska Department of Natural Resources, Commission~~ and with the several natural resources districts throughout the state.

Sec. 63. Section 2-4901, Revised Statutes Supplement, 1999, is amended to read:

2-4901. (1) The Climate Assessment Response Committee is hereby created. The office of the Governor shall be the lead agency and shall oversee the committee and its activities. The committee shall be composed of representatives appointed by the Governor with the approval of a majority of the Legislature from livestock producers, crop producers, and the Nebraska Emergency Management Agency, Conservation and Survey Division and Cooperative Extension Service of the University of Nebraska, Department of Agriculture, Department of Health and Human Services Regulation and Licensure, Department of ~~Water Natural Resources, and Governor's Policy Research Office. 7 and Nebraska Natural Resources Commission.~~ Representatives from the federal Farm Service Agency and Federal Crop Insurance Corporation may also serve on the committee at the invitation of the Governor. The Governor may appoint the chairperson of the Committee on Agriculture of the Legislature and the chairperson of the Committee on Natural Resources of the Legislature and any other state agency representatives or invite any other federal agencies to name representatives as he or she deems necessary. The Governor shall appoint one of the Climate Assessment Response Committee members to serve as the chairperson of the committee. Committee members shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

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

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

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

Sec. 64. Section 16-6,106, Reissue Revised Statutes of Nebraska, is amended to read:

16-6,106. Cities of the first class are hereby authorized and empowered to develop and implement and from time to time amend, change, and modify a general plan or program of flood and storm water control, drainage, and disposal for such city. ~~If + PROVIDED, if~~ the plan or program requires works of improvement outside of the city limits, it shall be submitted for review to the boards of the county or counties affected and to the ~~state~~ Department of ~~Water~~ Natural Resources. ~~To + and to~~ accomplish such purposes, or any of them, the city may to the extent deemed needful or useful in the judgment of the city council:

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

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

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

Sec. 65. Section 25-1062.01, Reissue Revised Statutes of Nebraska, is amended to read:

25-1062.01. (1) The words Director of ~~Water~~ Natural Resources as used in this section and in sections 25-1064, 25-2159, and 25-2160, ~~and 46-230~~ mean the Director ~~for the Department of Water of~~ Natural Resources, State of Nebraska, his or her successor in office, or any agent, servant, employee, or officer of the State of Nebraska, now or hereafter exercising any powers or duties with respect to the administration of the irrigation water in the state, who may be a party in any court of the state in an action when the relief demanded involves the delivery of irrigation water.

(2) Whenever notice by either registered or certified letter to an appropriator is required in ~~the sections above named such sections~~, the address of the appropriator shall be that recorded in the office of the Department of ~~Water~~ Natural Resources under section 46-230.

Sec. 66. Section 25-1064, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(3) Any judge of the district court, except when the relief demanded involves the delivery of irrigation water and the director is a party, may grant a temporary restraining order without notice to the adverse party or his or her attorney only if (a) it clearly appears from specific facts shown by affidavit that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his or her attorney can be heard in opposition and (b) the applicant or his or her attorney certifies to the court in writing the efforts, if any, which have been made to give such notice and the reasons supporting the applicant's claim that such notice shall not be required.

Every temporary restraining order granted without notice shall: (i)

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

(4) In the absence from the county of the district judges, any judge of the county court, except when the relief demanded involves the delivery of irrigation water and the director is a party, may grant a temporary restraining order without notice to the adverse party or his or her attorney only if (a) it clearly appears from specific facts shown by affidavit that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his or her attorney can be heard in opposition and (b) the applicant or his or her attorney certifies to the court in writing the efforts, if any, which have been made to give such notice and the reasons supporting the applicant's claim that such notice shall not be required. The judge of the county court shall direct that reasonable notice be given to the party against whom the temporary restraining order is issued to attend at a specified time or place before the district court or any judge thereof to show cause why a temporary injunction should not be issued.

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

(5) The Supreme Court or any judge thereof, the Court of Appeals or any judge thereof, the district court or any judge thereof, or a judge of the county court, if and when he or she has jurisdiction, shall have no power, when the relief demanded involves the delivery of irrigation water and the director is a party, to grant a restraining order or temporary injunction at the time of the commencement of the action, except when notice by either registered or certified letter has been mailed seventy-two hours prior to the time of hearing to the director and the division ~~engineer~~ supervisor in the water division created by section 12 of this act in which the action is brought and, in the manner provided in section 25-1062.01, to all appropriators whose rights to the delivery of irrigation water might in any manner be affected, of the time and place of the hearing. At the hearing on the restraining order or temporary injunction, the director, appropriators, or riparian owners shall be entitled to be heard, in person or by their attorney or attorneys, on the question of whether the restraining order should be granted and, if so, in what amount the bond or undertaking is to be fixed.

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

Sec. 67. Section 25-1920, Revised Statutes Supplement, 1999, is amended to read:

25-1920. In all actions in which a temporary injunction has been granted and entered in the district court, which order allowing the temporary injunction is or has been superseded for by law, and in which action the trial court, on the merits, determined that the temporary injunction ought not to have been granted and a permanent injunction was refused in such action, such

cause shall be advanced by the Court of Appeals or Supreme Court for hearing. In all such actions, if the relief demanded involves the delivery of irrigation water and the Director of ~~Water~~ Natural Resources, as defined in section 25-1062.01, is a party, any appeal from the judgment or decree of the district court shall be perfected within thirty days after the entry of such judgment, decree, or final order by the district court, and the cause shall be advanced for hearing before the Court of Appeals or Supreme Court.

Sec. 68. Section 25-2159, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 69. Section 25-2160, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 70. Section 31-415, Reissue Revised Statutes of Nebraska, is amended to read:

31-415. The drainage district shall have power to purchase such real estate or easement therein as it may need, and if it cannot agree on the purchase price of any needed real estate or easement therein, it shall have power to condemn the same whether the property be within the limits of such district or outside its boundaries. The exercise of the right of eminent domain on areas outside the boundaries of the district shall be limited only to those projects which have been approved by the ~~Nebraska~~ Department of Natural Resources. ~~This Commission~~, ~~PROVIDED~~, ~~that~~ ~~this~~ limitation shall not apply to any drainage district subject to the supervision of the United States Army Corps of Engineers. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724. ~~Whenever~~ ~~If~~ such drainage district ~~shall find~~ ~~finds~~ it expedient or necessary for the maintenance of any part of its improvement already constructed to add thereto further construction in the nature of a settling basin into which waters will be permitted to flow for the purpose of dropping silt before finding their outlet into any part of the main or lateral ditches of such drainage district improvement, such drainage district, if not able to agree with the landowner on the yearly cash rental of any premises taken and used for such purpose, shall have the right to condemn for the purpose of fixing the yearly rental for the land so taken. ~~Whenever~~ ~~If~~ such drainage district ~~shall take~~ ~~or~~ ~~damage~~ ~~takes~~ ~~or~~ ~~damages~~ any real estate, ~~as~~ ~~aforsaid~~, of any minor or protected person, the guardian or conservator of such minor or protected person may agree and settle with the drainage district for all damages or claims by reason of taking such real estate or easement, and may give valid releases and discharges therefor.

Sec. 71. Section 31-508, Reissue Revised Statutes of Nebraska, is amended to read:

31-508. ~~Where~~ ~~such~~ ~~sanitary~~ ~~If~~ a sanitary drainage district has constructed one or more channels, drains, or ditches from a city having a population of more than one hundred thousand and less than three hundred thousand inhabitants, to or beyond the boundaries of ~~said~~ ~~the~~ district downstream, and there remains from the lower terminus of such improvement a portion, or continuation, of the watercourse unimproved, the Department of ~~Water~~ Natural Resources shall investigate the conditions of such watercourse, and if the department ~~shall determine~~ ~~determines~~ that further improvement in such watercourse downstream is for the interest of lands adjacent to such watercourse below the point of the improvement, ~~aforsaid~~, the department

shall file a plan of such improvement in the office of the county clerk of each of the counties ~~wherein~~ in which any of the lands to be benefited are situated and in which any portion of the watercourse to be improved is located. Such plan shall describe the boundaries of the district to be benefited, and shall contain an estimate of the benefits that would accrue to the sanitary district by reason of such improvement as well as the cost thereof, and an estimate of the special benefits that would accrue to lands adjacent to ~~said~~ the watercourse by reason of improved drainage, such estimate being detailed as to the various tracts of land under separate ownership as shown by the records of the county in which such lands are situated.

Sec. 72. Section 31-509, Reissue Revised Statutes of Nebraska, is amended to read:

31-509. Whenever ~~such~~ the Department of Natural Resources files a report and estimate, ~~has been filed,~~ the county clerk of such county shall publish a notice once each week for three weeks in a newspaper published in the county seat of each of the counties having land within ~~said~~ the sanitary drainage district, which notice shall state the filing of the report and estimate, the boundaries of the district to be benefited, ~~and~~ that an election will be held at the office of the county clerk between the hours of 8 a.m. and 6 p.m. on a day named ~~therein,~~ in the notice, and that at ~~said~~ the election the question of the formation of a sanitary drainage district to include the area described in the report ~~shall~~ will be determined. The election shall be held in accordance with sections 31-406 to 31-408, except that no directors shall be elected. If a majority vote for the creation of a district, based on acreage represented, the sanitary drainage district shall have jurisdiction to make the improvements recommended by the Department of ~~Water~~ Natural Resources and to assess the special benefits thereof to the lands specially benefited. If a majority vote against the creation of a district, the work shall not be done.

Sec. 73. Section 31-515, Reissue Revised Statutes of Nebraska, is amended to read:

31-515. The proceedings for imposing of special assessment by the board of trustees shall be, as nearly as may be, according to those for special assessments by the mayor and council under the law governing cities of the first class. If, ~~pursuant to sections 31-508 and 31-509,~~ improvements are recommended by the Department of ~~Water~~ Natural Resources of the State of Nebraska, and a sanitary drainage district is formed as a result of an election as ~~therein~~ provided, adjacent to a watercourse previously improved above such district ~~pursuant to sections 31-508 and 31-509,~~ the board of trustees shall advertise for bids for the construction of such improvements as are recommended by the department and in accordance with plans recommended by ~~said~~ the department.

Sec. 74. Section 31-516, Reissue Revised Statutes of Nebraska, is amended to read:

31-516. Upon the completion of ~~said~~ the improvement, notice shall be given that the trustees will sit as a board of equalization, at a day and hour in such notice stated, for the purpose of equalizing the assessments of such portion of the cost of such improvement as the report of the Department of ~~Water~~ Natural Resources finds to represent the special benefits of the land the drainage of which such improvements would improve. At such hearing such board of equalization shall hear all complaints with reference to the assessments proposed under the findings of the department. The trustees sitting as a board of equalization shall have power to increase or decrease such special assessments to the end that the property shall be assessed its equitable portion of the cost of such improvement, but not exceeding in the aggregate the percentage of the total cost recommended by the department to be assessed against such property and not exceeding in any case the actual special benefits accruing to such land. Notice of such meeting of the board of equalization shall be given by publishing a notice thereof in a paper, published in the county seat in each of the counties where any of the lands to be assessed are situated, once each week for three consecutive weeks. Appeals from the findings of such board of equalization may be taken in the manner provided for appeals from assessments of drainage districts organized under sections 31-401 to 31-450.

Sec. 75. Section 31-1003, Reissue Revised Statutes of Nebraska, is amended to read:

31-1003. ~~Commission~~ Department shall mean the ~~Nebraska~~ Nebraska Department of Natural Resources. ~~Commission created in section 2-1504.~~

Sec. 76. Section 31-1008, Reissue Revised Statutes of Nebraska, is amended to read:

31-1008. Floodway shall mean the channel of a watercourse or drainway and the adjacent land areas that are necessary to be reserved in

order to discharge the base flood without cumulatively increasing the water surface elevation more than a reasonable height, as designated by the ~~commission~~ department.

Sec. 77. Section 31-1015, Reissue Revised Statutes of Nebraska, is amended to read:

31-1015. Obstruction shall mean any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Obstruction shall not include a dam designed to store or divert water for which permission for construction has been obtained from the Department of ~~Water~~ Natural Resources pursuant to section 46-257.

Sec. 78. Section 31-1017, Reissue Revised Statutes of Nebraska, is amended to read:

31-1017. The ~~commission~~ department shall be the official state agency for all matters pertaining to flood plain management. In carrying out that function, the ~~commission~~ department shall have the power and authority to:

(1) Coordinate flood plain management activities of local, state, and federal agencies;

(2) Receive federal funds intended to accomplish flood plain management objectives;

(3) Prepare and distribute information and conduct educational activities which will aid the public and local units of government in complying with the purposes of sections 31-1001 to 31-1023;

(4) Provide local governments having jurisdiction over flood-prone lands with technical data and maps adequate to develop or support reasonable flood plain management regulation;

(5) Adopt and promulgate rules and regulations establishing minimum standards for local flood plain management regulation. In addition to the public notice requirement in the Administrative Procedure Act, the ~~commission~~ department shall, at least twenty days in advance, notify by mail the clerks of all cities, villages, and counties which might be affected of any hearing to consider the adoption, amendment, or repeal of such minimum standards. Such minimum standards shall be designed to protect human life, health, and property and to preserve the capacity of the flood plain to discharge the waters of the base flood and shall take into consideration (a) the danger to life and property by water which may be backed up or diverted by proposed obstructions and land uses, (b) the danger that proposed obstructions or land uses will be swept downstream to the injury of others, (c) the availability of alternate locations for proposed obstructions and land uses, (d) the opportunities for construction or alteration of proposed obstructions in such a manner as to lessen the danger, (e) the permanence of proposed obstructions or land uses, (f) the anticipated development in the foreseeable future of areas which may be affected by proposed obstructions or land uses, (g) hardship factors which may result from approval or denial of proposed obstructions or land uses, and (h) such other factors as are in harmony with the purposes of sections 31-1001 to 31-1023. Such minimum standards may, when required by law, distinguish between farm and nonfarm activities and shall provide for anticipated developments and gradations in flood hazards. If deemed necessary by the ~~commission~~ department to adequately accomplish the purposes of such sections, such standards may be more restrictive than those contained in the national flood insurance program standards, except that the ~~commission~~ department shall not adopt standards which conflict with those of the national flood insurance program in such a way that compliance with both sets of standards is not possible;

(6) Provide local governments and other state and local agencies with technical assistance, engineering assistance, model ordinances, assistance in evaluating permit applications and possible violations of flood plain management regulations, assistance in personnel training, and assistance in monitoring administration and enforcement activities;

(7) Serve as a repository for all known flood data within the state;

(8) Assist federal, state, or local agencies in the planning and implementation of flood plain management activities, such as flood warning systems, land acquisition programs, and relocation programs;

(9) Enter upon any lands and waters in the state for the purpose of making any investigation or survey or as otherwise necessary to carry out the purposes of such sections. Such right of entry shall extend to all employees,

surveyors, or other agents of the ~~commission~~ department in the official performance of their duties, and such persons shall not be liable to prosecution for trespass when performing their official duties;

(10) Enter into contracts or other arrangements with any state or federal agency or person as defined in section 49-801 as necessary to carry out the purposes of sections 31-1001 to 31-1023; and

(11) Adopt and enforce such rules and regulations as are necessary to carry out the duties and responsibilities of such sections.

Sec. 79. Section 31-1018, Reissue Revised Statutes of Nebraska, is amended to read:

31-1018. In determining areas of the state for which state-prepared flood hazard data and maps are needed by local governments or by state or federal agencies and the order in which such data and maps are to be prepared, the ~~commission~~ department shall consider the following factors in such areas:

(1) Potential for future development;

(2) Potential for flood damage or loss of life;

(3) Probability that adequate data and maps will be prepared within a reasonable time by other sources;

(4) Availability and adequacy of any existing maps;

(5) Availability of flood data and other information necessary to produce adequate maps; and

(6) Degree of interest shown by the local governments in the area in utilizing flood data and maps in an effective flood plain management program.

Flood area data and maps produced by the ~~commission~~ department may be provided either directly to the local government which has jurisdiction over such area or indirectly through the national flood insurance program if the ~~commission~~ department and the federal agency responsible for administering the national flood insurance program agree to such an arrangement. Such maps shall delineate the flood plain of the base flood and, when information is available, the floodway and flood fringe of such flood plain. Such maps shall also contain or be accompanied by such other information as the ~~commission~~ department deems appropriate.

Sec. 80. Section 31-1019, Reissue Revised Statutes of Nebraska, is amended to read:

31-1019. When the ~~commission~~ department, a federal agency, or any other entity has provided a local government with sufficient data and maps with which to reasonably locate within its zoning jurisdiction any portion of the flood plain for the base flood of any watercourse or drainway, it shall be the responsibility of such local government to adopt, administer, and enforce flood plain management regulations which meet or exceed the minimum standards adopted by the ~~commission~~ department pursuant to subdivision (5) of section 31-1017. The authority of a local government to adopt flood plain management regulations in accordance with this section shall not be conditional upon a prior appointment of a planning commission or the adoption of a comprehensive development plan pursuant to sections 14-403, 14-404, 14-407, 15-1101, 15-1102, 19-901, 19-929, 23-114.01 to 23-114.03, or 23-174.04 to 23-174.07.

Sec. 81. Section 31-1020, Reissue Revised Statutes of Nebraska, is amended to read:

31-1020. If a local government does not adopt and implement flood plain management regulations in accordance with section 31-1019 within one year after flood hazard data and maps have been provided to it pursuant to such section, the ~~commission~~ department shall, upon petition of at least ten percent of the owners of the land located within the flood plain of the base flood delineated in such maps, or upon the written request of the board of directors of the natural resources district in which such land is located, conduct a public hearing after providing notice pursuant to section 31-1022. If the ~~commission~~ department finds after such hearing that the data and maps available are sufficient to reasonably locate the boundaries of the base flood, the ~~commission~~ department shall determine and fix by order the boundaries of the base flood and, where deemed appropriate, the boundaries of the floodway within the zoning jurisdiction of such local government. If within three months after the date of such order the local government still has not adopted and implemented flood plain management regulations for the area subject to such order in accordance with section 31-1019, the ~~commission~~ department shall be vested with the power and authority to adopt flood plain management regulations for the area and shall adopt and promulgate such regulations for the identified base flood within the zoning jurisdiction of such local government. Such regulations shall be consistent with the minimum standards adopted by the ~~commission~~ department pursuant to subdivision (5) of section 31-1017 and shall take effect on the date prescribed by the ~~commission~~ department. All ordinances or other actions by the local government which are

contrary to the ~~commission's adopted regulations~~ rules and regulations of the department shall be null and void.

Sec. 82. Section 31-1021, Reissue Revised Statutes of Nebraska, is amended to read:

31-1021. It shall be the duty of the local government to administer and enforce any regulations adopted by the ~~commission department~~ pursuant to section 31-1020 in the same manner as if the local government had enacted such regulations. Such duty may be enforced in a mandamus action brought against such local government by any resident or landowner within the jurisdiction of such local government. If such mandamus action is successful, the local government may be held responsible for all reasonable and actual costs of the plaintiff, including, but not limited to, attorney's fees. Neither the regulations enacted by the ~~commission department~~ nor the boundaries of the base flood or floodway adopted by the ~~commission department~~ may be modified by the local government without the written consent of the ~~commission department~~, except that a local government may adopt a measure more restrictive than that adopted by the ~~commission department~~.

Sec. 83. Section 31-1022, Reissue Revised Statutes of Nebraska, is amended to read:

31-1022. Notice of any hearing to be conducted by the ~~commission department~~ pursuant to section 31-1020 shall be given to the clerk of the local government and to such other local officials as the ~~commission department~~ deems appropriate, at least thirty days prior to the hearing. Notice shall also be published in a newspaper of general circulation in the area involved at least once each week for three consecutive weeks, the last publication of which shall be not less than five days prior to the date set for the hearing. The rules and regulations of the ~~commission department~~ adopted and promulgated in accordance with section 31-1020 shall not be subject to the provisions of the Administrative Procedure Act. Appeals from ~~commission department~~ determinations pursuant to section 31-1020 may be taken by any aggrieved party, and the appeals shall be in accordance with the Administrative Procedure Act.

Sec. 84. Section 31-1023, Reissue Revised Statutes of Nebraska, is amended to read:

31-1023. (1) All state agencies, boards, and commissions shall take preventive action to minimize flood hazards and losses in connection with state-owned and state-financed buildings, roads, and other facilities, and shall take such steps as are necessary to insure compliance with the minimum standards adopted by the ~~commission department~~ in accordance with subdivision (5) of section 31-1017 when such facilities are being located or constructed in any area where no local government is enforcing flood plain management regulations pursuant to section 31-1019 or 31-1021. If a local government with jurisdiction over the land upon which any such facility is to be located or constructed is enforcing flood plain management regulations pursuant to section 31-1019 or 31-1021, the state agency, board, or commission locating or constructing such facility shall comply with such regulations unless such compliance is specifically waived by the ~~commission department~~.

(2) The ~~commission department~~ shall assist state agencies, boards, and commissions in determining and evaluating flood hazards and alternative flood protective measures and shall establish by rule or regulation, standards and procedures to govern its review of proposed state-owned and state-financed facilities not subject to local flood plain management regulations. Such standards and procedures shall meet the minimum criteria necessary to maintain the state's eligibility for flood insurance under the national flood insurance program.

Sec. 85. Section 33-105, Reissue Revised Statutes of Nebraska, is amended to read:

33-105. There shall be paid to the Department of ~~Water~~ Natural Resources in advance for the services of the Director of ~~Water~~ Natural Resources by the party demanding or necessitating the service the following fees:

(1) For filing, recording, and examining each application for a storage reservoir, for the first five thousand acre-feet or fraction thereof, twenty-five dollars, and for each additional five thousand acre-feet or fraction thereof, ten dollars;

(2) For filing, recording, and examining each application for, or application for modification of permits to include, intentional or incidental underground water storage and recovery, five hundred dollars;

(3) For filing, recording, and examining each application for water for irrigation from a natural stream, for the first one thousand acres proposed for irrigation or fraction thereof, two hundred dollars, and for each additional one thousand acres or fraction thereof, one hundred dollars;

(4) For filing, recording, and examining each application for water for irrigation from a storage reservoir, for the first one thousand acres proposed for irrigation or fraction thereof, fifty dollars, and for each additional one thousand acres or fraction thereof, twenty-five dollars;

(5) For filing, recording, and examining each application for water for power purposes, for each theoretical fifty horsepower or fraction thereof, five dollars;

(6) For filing, recording, and examining each application for withdrawal of ground water for industrial purposes, for the first four thousand acre-feet or fraction thereof, one thousand five hundred dollars, and for each additional one thousand acre-feet or fraction thereof, seven hundred fifty dollars;

(7) For filing an application to amend a permit for withdrawal of ground water for industrial purposes, five hundred dollars;

(8) For filing any petition, affidavit, other paper, or application for which no fee has been fixed, ten dollars;

(9) For recording any deed or document pertaining to land covered in whole or in part by a water appropriation or any instrument other than an application, ten dollars;

(10) For blueprint copy of any map or drawing, for other copy of drawings or photostatic copy of any record, or for computer printouts or copies of data provided by other methods, a reasonable sum to be fixed by the department in an amount estimated to cover the actual cost of preparing such a reproduction;

(11) For the examination of plans for any dam and reservoir or enlargement, one dollar for each foot in height of the dam and, at the department's discretion, expenses incurred while visiting and examining the site; and

(12) For certificate and seal, one dollar.

The Director of ~~Water~~ Natural Resources shall keep a record of all money thus received and shall ~~pay~~ remit such money to the State Treasurer for ~~the credit to and~~ use of the General Fund, except that all fees collected pursuant to subdivision (10) of this section shall be credited to the Department of ~~Water~~ Natural Resources Cash Fund.

Sec. 86. Section 46-106, Reissue Revised Statutes of Nebraska, is amended to read:

46-106. ~~Such~~ The petition for the proposed district shall be published for at least two weeks before the time at which the same is to be presented, in some newspaper printed and published in the county where the petition is presented, together with a notice stating the time of the meeting at which ~~same~~ the petition will be presented. A copy of such petition and all maps and other papers filed with the ~~same~~ petition shall be filed in the office of the Department of ~~Water~~ Natural Resources for at least four weeks before the date set for such hearing. ~~It shall be the duty of the~~ The Director of ~~Water~~ Natural Resources ~~to~~ shall examine such petition, maps, and other papers, and, if he or she deems it necessary, ~~to~~ shall further examine the proposed district, the works proposed to be purchased, or the location of the works to be constructed. The director ~~and he~~ shall prepare a report upon the matter in such form as he or she deems advisable, and submit the ~~same~~ report to the county board at the meeting set for the hearing of the petition.

Sec. 87. Section 46-122, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

Sec. 88. Section 46-190, Reissue Revised Statutes of Nebraska, is amended to read:

46-190. After a sale of the property and franchises of the district, the board of directors shall, with the amount realized from such sale, together with such other funds as such district may have, make

settlement, payment, and redemption, if possible, of all outstanding bonded and other indebtedness of the district, but shall in no case pay more than the market value of such outstanding bonds with interest up to the time of payment. In cases ~~where~~ when bonds not yet due cannot be redeemed by reason of the refusal of the owner thereof to surrender them before due, the board may invest the surplus money of the district, after paying all debts that can be paid, in state, county, or other safe bonds, bearing the same or greater rate of interest, if possible, than the district bonds thus outstanding, for the purpose of paying such outstanding bonds of the district when due. In case the amount realized from the sale of such district property, together with other money of the district, ~~shall be~~ is insufficient for the payment of all the indebtedness of the district, assessments shall continue to be made against the lands included in the district in the manner provided by law for assessments to pay bonds and other indebtedness of irrigation districts, until a sufficient amount is raised to fully pay all obligations of such district.

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

Sec. 89. Section 46-192, Reissue Revised Statutes of Nebraska, is amended to read:

46-192. After all the property of the district ~~shall be~~ is disposed of as provided in sections 46-186 to 46-188, except for any balance of funds remaining after all of the obligations of such district ~~shall~~ have been paid, the directors of such district shall file in the office of the county clerk of each county in which such district is located, and in the office of the Department of ~~Water~~ Natural Resources, a report attested by the secretary of the board, stating that the district has disposed of its property and franchises, except for any balance of funds remaining, and has discontinued operation, which report shall be recorded in the miscellaneous record of such counties. Each easement and right-of-way, whether owned by the district in fee or otherwise, shall automatically be terminated and extinguished and such interest together with any canal or other structure shall become the property of the owner of the land upon which such easement, right-of-way, canal, or other structure is located, or, if owned in fee by the district, shall become the property of the owner of the land adjacent thereto, upon the filing of the report with the ~~Department of Water Resources~~ department. If any person, ~~persons or corporation,~~ having has any claim against such district which is not settled or disposed of at the time of the filing of such report, ~~shall fail and neglect and such person fails or neglects~~ to bring suit upon such claim within one year ~~from~~ after the time of the filing of such report, such claim or claims shall be forever barred as against such district as well as against all persons and property therein.

Sec. 90. Section 46-193, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 91. Section 46-199, Reissue Revised Statutes of Nebraska, is amended to read:

46-199. At least as often as once a year after organization, the board of directors shall make a report to the Director of ~~Water~~ Natural Resources of the condition of the work of construction, as to capacity, stability, and permanency, ~~and~~ whether or not the plan of irrigation

formulated under ~~the provisions of~~ section 46-193 is being successfully carried out, and whether or not, in the opinion of the board, the funds available will complete the proposed works. Upon the receipt of such report by the Director of ~~Water~~ Natural Resources, he or she shall make such suggestions and recommendations to such board of directors as he or she may deem advisable for the best interest of the district.

Sec. 92. Section 46-1,155, Reissue Revised Statutes of Nebraska, is amended to read:

46-1,155. Any two or more irrigation districts may merge into one district if a petition for merger signed by a majority of the board of directors of each district or signed by a majority of the electors of each district is filed with the boards of directors of the districts to be merged. Such petition shall include a plan for the merger, which plan shall contain:

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

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

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

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

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

(6) The name of the proposed district; and

(7) Such other matters as the petitioners ~~shall~~ determine proper to be included.

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

Sec. 93. Section 46-1,157, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 94. Section 46-205, Reissue Revised Statutes of Nebraska, is amended to read:

46-205. The priority of ~~such an~~ appropriation shall date from the filing of the application in the office of the Department of ~~Water~~ Natural Resources.

Sec. 95. Section 46-226, Reissue Revised Statutes of Nebraska, is amended to read:

46-226. The ~~Department of Water Resources~~ department shall make proper arrangements for the determination of priorities of right to use the public waters of the state, and determine the same. The method of determining the priority and amount of appropriation shall be fixed by the department.

Sec. 96. Section 46-226.03, Reissue Revised Statutes of Nebraska, is amended to read:

46-226.03. For purposes of sections 46-226 to ~~46-238~~ 46-243:

(1) Department means the Department of Natural Resources;

(2) Director means the Director of Natural Resources;

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

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

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

(6) ~~(2)~~ Public water supplier ~~shall mean~~ means a city, village, municipal corporation, metropolitan utilities district, rural water district, natural resources district, irrigation district, reclamation district, or sanitary and improvement district which supplies or intends to supply water to inhabitants of cities, villages, or rural areas for domestic or municipal purposes; ~~and~~

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

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

Sec. 97. Section 46-227, Reissue Revised Statutes of Nebraska, is

amended to read:

46-227. The ~~Department of Water Resources~~ department shall measure, or cause to be measured, the quantity of water flowing in the several streams of the state, ~~shall and~~ make a record thereof in the office of the department, and shall from time to time make such additional measurements as may be necessary, in considering applications for water appropriations and such controversies as may arise regarding the distribution of water.

Sec. 98. Section 46-229, Reissue Revised Statutes of Nebraska, is amended to read:

46-229. All appropriations for water must be for some beneficial or useful purpose and, except as provided in sections 46-290 to 46-294 and 46-2,122 to 46-2,125, when the appropriator or his or her successor in interest ceases to use it for such purpose for more than three consecutive years, the right may be terminated only by the ~~Director of Water Resources~~ director following a hearing pursuant to sections 46-229.02 to 46-229.05.

Sec. 99. Section 46-229.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-229.01. The ~~Department of Water Resources~~ department shall, as often as necessary, examine into the condition of all ditches constructed or partially constructed within the state, and shall compile information concerning the condition of every water appropriation, and all ditches and canals and other works constructed, or partially constructed thereunder.

Sec. 100. Section 46-229.04, Reissue Revised Statutes of Nebraska, is amended to read:

46-229.04. (1) At such hearing the verified field investigation report of an employee of the department shall be prima facie evidence for the forfeiture and annulment of such water appropriation. If no one appears at the hearing, such water appropriation or unused part thereof shall be declared forfeited and annulled. If someone interested appears and contests the same, the department shall hear evidence, and if it appears that such water has not been put to a beneficial use or has ceased to be used for such purpose for more than three consecutive years, the same shall be declared canceled and annulled unless the department finds that there has been sufficient cause for such nonuse as provided for in subsection (3) of this section.

(2) If it is determined that such water has not been put to beneficial use or has ceased to be used for such purpose for more than ten consecutive years, the water right shall be declared canceled and annulled, except that for any water appropriation or part of a water appropriation on any tract of land under separate ownership, sufficient cause for nonuse shall be deemed to exist even if the period of nonuse was for more than ten consecutive years if the landowner used the available water supply on only part of the land under the water appropriation because of an inadequate water supply.

(3) If the period of nonuse did not exceed ten consecutive years, sufficient cause shall be deemed to exist if such nonuse was a result of one or more of the following:

(a) The land subject to the appropriation was placed under an acreage reserve or production quota program or otherwise withdrawn from use as required for participation in any federal or state program;

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

(c) The available water supply was inadequate to enable the owner to use the water for a beneficial or useful purpose;

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

(e) Circumstances were such that a prudent person, following the dictates of good husbandry, would not have been expected to use the water;

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

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

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

The department may specify by rule and regulation other circumstances which shall be deemed to constitute sufficient cause.

(4) If at the time of the hearing there is an application for incidental or intentional underground water storage ~~of water~~ pending before the department and filed by the owner of the appropriation, the proceedings shall be consolidated.

Sec. 101. Section 46-229.05, Reissue Revised Statutes of Nebraska, is amended to read:

46-229.05. An appeal may be taken from the decision of the department upon such hearing as provided by section ~~46-210~~ 7 of this act.

Sec. 102. Section 46-230, Reissue Revised Statutes of Nebraska, is amended to read:

46-230. As the adjudication of a stream progresses, and as each claim is finally adjudicated, the ~~Director of Water Resources~~ director shall make and cause to be entered of record in his or her office an order determining and establishing the several priorities of right to use the water of such stream, the amount of the appropriation of the several persons claiming water from such stream and the character of use for which each appropriation shall be found to have been made, and the address of the owner of each water appropriation. It shall be the duty of every owner of an appropriation to give notice to the ~~Department of Water Resources~~ department of its address, and any change of its address or of the name of the owner of the appropriation. Notification shall be in such form and shall include such evidence of ownership as the director may by regulation require. Upon receipt of such notice, the department shall update its records.

Sec. 103. Section 46-231, Reissue Revised Statutes of Nebraska, is amended to read:

46-231. Each appropriation shall be determined in its priority and amount by the time at which it is made and the amount of water which the works are constructed to carry. An appropriator shall at no time be entitled to the use of more than he or she can beneficially use for the purposes for which the appropriation has been made, and the amount of any appropriation made by means of enlargement of the distributing works shall be determined in like manner.

An ~~No~~ allotment from the natural flow of streams for irrigation shall not exceed one cubic foot per second of time for each seventy acres of land ~~nor~~ and shall not exceed three acre-feet in the aggregate during one calendar year for each acre of land for which such appropriation ~~shall have~~ has been made, and ~~no~~ an allotment shall not exceed the least amount of water that experience may indicate is necessary, in the exercise of good husbandry, for the production of crops. Such limitations ~~shall do~~ do not apply to storage waters or to water appropriations transferred pursuant to sections 46-2,122 to 46-2,125 and 46-2,127 to 46-2,129.

When storage water is being used in addition to the natural flow, the person in charge of the ditch or canal shall, upon his or her request and within twenty-four hours thereof, be notified in writing by the user of such storage waters of the time of withdrawal from natural streams to be distributed according to law.

When an appropriation is for irrigation purposes and the amount is so small that a proper distribution and application is ~~impossible~~ impractical, as much water as the applicant can use without waste may be allotted for a limited time so fixed by the department as to give each appropriator his or her just share without violating other rights, so long as (1) the volume of water used in a twenty-four-hour period does not exceed the amount of water that would otherwise have been allowed at the approved fixed continuous rate for a twenty-four-hour period or (2) the volume of water used in a seven-day, Monday-through-Sunday period does not exceed the amount of water that would otherwise have been allowed at the approved fixed continuous rate for a seven-day period. The department shall determine schedules among appropriators to assure that other rights are not violated.

Sec. 104. Section 46-233, Reissue Revised Statutes of Nebraska, is amended to read:

46-233. (1) The United States and every person intending to appropriate any of the public waters of the State of Nebraska shall, before (a) commencing the construction, enlargement, or extension of any works for such purpose, (b) performing any work in connection with such construction, enlargement, or extension, or (c) taking any water from any constructed works, make an application to the ~~Department of Water Resources~~ department for a permit to make such appropriation. A permit may be obtained to appropriate public waters for intentional underground water storage and recovery of such water. A public water supplier may make application to appropriate public waters for induced ground water recharge.

(2) The application shall be upon a form prescribed and furnished by the department without cost to an applicant. Such application shall set forth (a) the name and post office address of the applicant, (b) the source from which such appropriation shall be made, (c) the amount of the appropriation desired, as nearly as it may be estimated, (d) the location of any proposed work in connection with the appropriation, (e) the estimated time required for its completion, which estimated time shall include the period required for the construction of ditches, pumps, and other features or devices, (f) the time estimated at which the application of the water for the beneficial purposes

shall be made, which time shall be limited to a reasonable time following the estimated time of completion of the work when prosecuted with diligence, (g) the purpose for which water is to be applied and (i) if for induced ground water recharge by a public water supplier, a statement of the times of the year when and location along a stream where flows for induced ground water recharge are proposed and (ii) if for irrigation, a description of the land to be irrigated by the water and the amount, and (h) such facts and supporting documentation as are required by the department which shall include, but not be limited to, the depth of all wells, the extent of the underlying aquifer, the expected rate of recharge, the minimum flow or flows necessary to sustain the well field throughout the reach identified, and the period of time that a well field would continue to meet minimal essential needs of the public water supplier when there is no flow as those factors relate to and are part of an evaluation of pertinent hydrologic relationships.

A public water supplier making application for induced ground water recharge may submit with its application a statement of the amount of induced ground water recharge water which the public water supplier presently uses as well as the amount of induced ground water recharge water it anticipates using in the next twenty-five-year period. Such statement shall also quantify the total amount of water the public water supplier presently uses from the well field as well as the total amount of water it anticipates using from the well field in the next twenty-five-year period.

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

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

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

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

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

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

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

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

(6) After the director has accepted the application made under subsection (2) of this section as a completed application and published notice as required under subsection (5) of this section, the director shall, if he or she determines that a hearing is necessary, set a time and place for a public hearing on the application. The hearing shall be held within reasonable proximity to the area in which the wells are or would be located. At the hearing the applicant shall present all hydrological data and other evidence

supporting its application. All interested parties shall be allowed to testify and present evidence relative to the application.

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

(8) Application may be made to the department for a temporary permit to appropriate water. The same standards for granting a permanent appropriation shall apply for granting such temporary permit. The requirement of filing a map or plans with the application may be waived at the discretion of the ~~Director of Water Resources~~ director. In granting a temporary permit, the director shall specify a date on which the right to appropriate water under the permit shall expire. Under no circumstances shall such date be longer than one calendar year from the date the temporary permit was granted. The right to appropriate water shall automatically terminate on the date specified by the director on the temporary permit without further action by the department.

Sec. 105. Section 46-233.01, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) In determining whether to grant such application, the director shall consider the following factors:

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

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

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

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

(3) When determining whether denial of such application is demanded by the public interest, the director shall consider the following factors:

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

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

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

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

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

(f) Any other factors consistent with the purposes of this section that the director deems relevant to protecting the interests of the state and its citizens.

The application shall be deemed in the public interest if the overall benefits to Nebraska are greater than the adverse impacts to Nebraska. The director's order granting or denying an application shall specify the reasons for such action, including a discussion of the required factors for consideration, and shall document such decision by reference to the hearing record, if any, and to any other sources used by the director in making the decision.

Sec. 106. Section 46-234, Reissue Revised Statutes of Nebraska, is amended to read:

46-234. If there is no unappropriated water in the source of supply or if a prior appropriation has been perfected to water the same land to be watered by the applicant, the ~~Department of Water Resources~~ department may refuse such application. An application may also be refused (1) if existing facilities other than those owned or operated by the applicant are to be utilized and the applicant fails to show, by documentary evidence, agreements with the owner and operator of the facilities to allow the applicant to use such facilities or (2) when denial is demanded by the public interest. The party making such application shall not prosecute such work so long as such refusal continues in force. An application for appropriation shall not be exclusive of any of the lands included therein until the owner or owners of such land give consent to the same in proper form duly acknowledged. No application made or canal constructed, prior to the application of the water and the perfection of an appropriation therefor or the filing of the consent, ~~herein provided~~, shall prevent other applications from being allowed and other canals from being constructed to irrigate the same lands or any of them. In

case of an application for an appropriation of water for the development of water power, the department shall promptly act upon such application and limit the time within which such appropriation shall be perfected to the period within which the proposed power project can be completed by uninterrupted and expeditious construction.

Sec. 107. Section 46-235, Reissue Revised Statutes of Nebraska, is amended to read:

46-235. (1) For applications other than those to appropriate public waters for induced ground water recharge, if there is unappropriated water in the source of supply named in the application, if such application and appropriation when perfected are not otherwise detrimental to the public welfare, and if denial of the application is not demanded by the public interest, the ~~Department of Water Resources~~ department shall approve the application and shall make a record in its office and return the application to the applicant, who shall on receipt thereof be authorized to proceed with the work and to take such measures as may be necessary to perfect such application into an appropriation. The priority of such application and appropriation when perfected shall date from the filing of the application in the office of the department, and the date of filing shall be regarded as the priority number thereof. The department may, upon examination of such application, approve it for a shorter period of time for perfecting the proposed appropriation or for a smaller amount of water or of land than applied for. The department may also impose such other reasonable conditions as it deems appropriate to protect the public interest. An applicant ~~feeling himself or herself~~ aggrieved by the action of the department shall, upon proper showing, be granted a hearing before the department, which hearing shall be conducted in accordance with the rules of procedure adopted by the department, and a full and complete record shall be kept of all such proceedings. When a complete record of the case has been made up, the department shall render an opinion of facts and of law based upon the evidence before it.

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

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

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

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

(b) The director may approve the application for a well or wells constructed before September 9, 1993, but may specifically deny the applicant the right to request regulation of junior appropriators if the director, at the time of approval, finds that the well or wells, at the time of their construction, were not located, designed, or constructed so as to take reasonable advantage of aquifer conditions in the area to minimize the frequency and amount of the demand for flows for induced ground water recharge. Thereafter a public water supplier holding an approved application which has been denied the right to request regulation of junior appropriators may petition the director for a hearing to present evidence showing the director that the well or wells have been modified, relocated, or reconstructed to take reasonable advantage of the aquifer conditions in the area. If the director determines that the well or wells have been so modified, relocated, or reconstructed, the director shall cause to be modified the approval of the application to allow for the regulation of junior appropriators, subject to the restrictions or conditions applicable to public water suppliers.

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

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

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

and

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

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

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

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

Sec. 108. Section 46-235.02, Reissue Revised Statutes of Nebraska, is amended to read:

46-235.02. (1) Just compensation shall be required if a public water supplier exercises a preference to the injury of a senior appropriator.

(2) Just compensation shall be provided by a public water supplier to any injured junior appropriator whose appropriation was perfected prior to September 9, 1993, if and to the extent such injury resulted from regulation of junior appropriators requested by the public water supplier to provide water for any purpose other than domestic. Such compensation shall not be required to a junior appropriator if the regulation requested is to provide water for domestic purposes only. At the time any junior appropriator whose appropriation was perfected prior to September 9, 1993, is regulated at the request of a public water supplier, the ~~Department of Water Resources~~ department shall determine for each such appropriator the extent to which the regulation is for domestic purposes and the extent to which it is for other purposes.

(3) A cause of action for just compensation shall accrue at the time a junior appropriator is regulated by the ~~Department of Water Resources~~ department.

Sec. 109. Section 46-235.03, Reissue Revised Statutes of Nebraska, is amended to read:

46-235.03. Natural resources districts shall have the authority to impose restrictions or controls on public water suppliers as specified in the Nebraska Ground Water Management and Protection Act. Such restrictions or controls may limit the withdrawal of ground water to a greater degree or extent than is otherwise permitted or allowed by a permit issued by the ~~Department of Water Resources~~ department.

Sec. 110. Section 46-235.04, Reissue Revised Statutes of Nebraska, is amended to read:

46-235.04. (1) Induced ground water recharge appropriations shall be administered in the same manner as prescribed by Chapter 46, article 2, for other appropriations. Appropriations for induced ground water recharge may be canceled and annulled as provided in section 46-229.04.

(2) The ~~Department of Water Resources~~ department may approve the transfer of priority dates among water wells, including replacement water wells, located within a single well field that are subject to an induced recharge appropriation, or are part of an application for such an appropriation, to improve the water well field's efficiency of operation with respect to river flow. The transfers shall be approved if the department finds that (a) the transfers would not increase the quantity of induced ground water recharge under the original priority date or application, (b) the amount of water withdrawn from water wells under the original priority date or application would not increase, (c) the quantity of streamflow needed to sustain well field operation under the original priority date would decrease, (d) the transfer would not impair the rights of other appropriators, and (e) the transfer is in the public interest in the same manner as provided in

section 46-235. The department may assign multiple priority dates to a single water well that replaces two or more water wells which are abandoned. Replacement water wells installed pursuant to this subsection must be installed within the same well field as the abandoned water well. Notice shall be furnished and any hearing held as provided in sections 46-291 to 46-293. For purposes of this subsection, ~~the term "single well field"~~ shall ~~mean~~ means those contiguous tracts of land owned or leased by the applicant containing two or more water wells subject to induced recharge.

Sec. 111. Section 46-236, Reissue Revised Statutes of Nebraska, is amended to read:

46-236. Within six months after the approval of an application for water power as provided for in section 46-234 and before placing water to any beneficial use, the applicant shall enter into a contract with the State of Nebraska, through the ~~Department of Water Resources~~ department, for leasing the use of all water so appropriated. Such lease shall be upon forms prepared by the department, and the time of such lease shall not run for a greater period than fifty years; and for the use of water for power purposes the applicant shall pay into the state treasury on or before January 1 each year fifteen dollars for each one hundred horsepower for all water so appropriated. Upon application of the lessee or its assigns, the ~~Department of Water Resources~~ department shall renew the lease so as to continue it and the water appropriation in full force and effect for an additional period of fifty years.

Upon the failure of the applicant to comply with any of the provisions of such lease and the failure to pay any of ~~the fees herein specified~~ such fees, the department shall notify the lessee that the required fees have not been paid to the department or that the lessee is not otherwise in compliance with the provisions of the lease. If the lessee has not come into compliance with all provisions of the lease or has not paid to the department all required fees within fifteen calendar days ~~of~~ after the date of such notice, the department shall issue an order denying the applicant the right to divert or otherwise use the water appropriation for power production. The department shall rescind the order denying use of the water appropriation at such time as the lessee has come into compliance with all provisions of the lease and has paid all required fees to the department. If after forty-five calendar days from the date of issuance of the order the lessee is not in compliance with all provisions of the lease or required fees have not been paid to the department, such lease and water appropriation shall be canceled by the department.

Sec. 112. Section 46-237, Reissue Revised Statutes of Nebraska, is amended to read:

46-237. Within six months after approval and allowance of an application other than an application to appropriate public waters for induced ground water recharge, the applicant shall file in the office of the ~~Department of Water Resources~~ department a map or plat which shall conform to the rules and regulations of the department as to material, size, and coloring and be upon a scale of not less than two inches to the mile. Such map or plat shall show the source from which the proposed appropriation is to be taken and all proposed dams, dikes, reservoirs, canals, powerhouses, and other structures for the purpose of storing, conveying, or using water for any purpose whatsoever and their true courses or positions in connection with the boundary lines and corners of lands which they occupy. Land listed for irrigation shall be shown in government subdivisions or fractions thereof, as the case may be, and no rights shall be deemed to have been acquired until the provisions of this section have been complied with. Failure to so comply shall work a forfeiture of the appropriation and all rights thereunder.

Sec. 113. Section 46-238, Reissue Revised Statutes of Nebraska, is amended to read:

46-238. (1) Within six months after the approval of any application for water for irrigation, power, or other useful purpose by the ~~Department of Water Resources~~ department, the person making such application shall commence the excavation or construction of the works in which it is intended to divert the water and the actual construction of any water power plant and reservoir or reservoirs for storage in connection therewith and shall vigorously, diligently, and uninterruptedly prosecute such work to completion unless temporarily interrupted by some unavoidable and natural cause. A failure to comply with this section shall work a forfeiture of the appropriation and all rights under the appropriation. The cost of promotion and engineering work shall not be considered a part of the cost of construction, and the progress of the construction work shall be such that one-tenth of the total work shall be completed within one year from the date of approval of the application. The construction of all work required in connection with the proposed project

shall be prosecuted in the manner described in this section and with such a force as shall assure the average rate of constructional progress necessary to complete such work or works within the time stipulated in the approval of such application, notwithstanding the ordinary delays and casualties that must be expected and provided against. A failure to carry on the construction of either an irrigation project or a water power project as outlined in this section shall work a forfeiture of the appropriation and all rights under the appropriation, and the department shall cancel such appropriation. The department shall have free access to all records, books, and papers of any irrigation or water power company, shall have the right to go upon the right-of-way and land of any such company, shall inspect the work to see that it is being done according to plans and specifications approved by the department, and shall also keep a record of the cost of construction work when deemed advisable for physical valuation purposes.

(2) The department may extend, for reasonable lengths of time, the time for completion of works, the application of water to a beneficial use, or any of the other requirements for completing or perfecting an application for flow or storage rights as fixed in the approval of an application or otherwise for the appropriation of water. Such extension may be granted upon a petition to the department and the showing of reasonable cause. The department shall cause a notice of each petition received to be published at the petitioner's expense in at least one newspaper of general circulation in the county or counties of the appropriation once a week for three consecutive weeks. The department shall hold a hearing on the issue of extension on its own motion or if requested by any interested person. If a hearing is held, notice shall be given by certified mail to the applicant, to any person who requested a hearing, and to any person who requests notification of the hearing. The department may grant the extension in the absence of a hearing if no requests for a hearing are received. Any interested person may be made a party to such action. Any party affected by the decision on the petition may appeal directly to the Court of Appeals. Subsequent extensions may be made in the same manner.

Sec. 114. Section 46-240.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-240.01. All appropriators of water for agricultural purposes of less than the statutory limit of direct flow from the public waters of this state within the drainage basin of the stream from which such waters originate shall be entitled to such additional appropriation or appropriations from the direct flow of such stream, within the statutory limits provided by law, as may be necessary and required for the production of crops in the practice of good husbandry. To accomplish such purpose, existing agricultural appropriators within the drainage basin having less than the statutory limit of direct flow shall, as a matter of right, be entitled upon application therefor to the approval and grant of such additional supplemental appropriation or appropriations from the direct flow of such stream as will not make the total appropriations, for the lands upon which such water is to be used, exceed the limits provided by law and as may be necessary and required for the production of crops upon such lands with the practice of good husbandry. Applications for such supplemental additional appropriations from the direct flow, upon the approval or granting thereof, shall have priority within the drainage basin as of the date such applications are filed in the office of the ~~Department of Water Resources~~ department.

Sec. 115. Section 46-241, Reissue Revised Statutes of Nebraska, is amended to read:

46-241. (1) Every person intending to construct and operate a storage reservoir for irrigation or any other beneficial purpose or intending to construct and operate a facility for intentional underground water storage and recovery shall, except as provided in sections 46-243 and 46-257, make an application to the ~~Department of Water Resources~~ department upon the prescribed form. Such application shall be filed and proceedings had thereunder in the same manner and under the same rules and regulations as other applications. Upon the approval of such application, the applicant shall have the right to impound in such reservoir, or store in and recover from such underground water storage facility, all waters not otherwise appropriated and any appropriated water not needed for immediate use, to construct and operate necessary ditches for the purpose of conducting water to such storage reservoir or facility, and to condemn land for such reservoir, ditches, or other facility. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

(2) The owner of a storage reservoir or facility shall be liable for all damages arising from leakage or overflow of the water therefrom or from the breaking of the embankment of such reservoir. The owner or possessor of a

reservoir or intentional underground water storage facility shall not have the right to store water in such reservoir or facility during the time that such water is required in ditches for direct irrigation or for any reservoir or facility holding a senior right. Every person who owns, controls, or operates a reservoir or intentional underground water storage facility, except political subdivisions of this state, shall be required to pass through the outlets of such reservoir or facility, whether presently existing or hereafter constructed, a portion of the measured inflows to furnish water for livestock in such amounts and at such times as directed by the ~~Department of Water Resources~~ department to meet the requirements for such purposes as determined by the department, except that a reservoir or facility owner shall not be required to release water for this purpose which has been legally stored. Any dam shall be constructed in accordance with section 46-257, and the outlet works shall be installed in such a manner that water may be released in compliance with this section. The requirement for outlet works may be waived by the department upon a showing of good cause. Whenever any person ~~shall divert~~ diverts water from a public stream and ~~return~~ returns it into the same stream, he or she may take out the same amount of water, less a reasonable deduction for losses in transit, to be determined by the department, ~~providing~~ if no prior appropriator for beneficial use ~~shall be~~ is prejudiced by such diversion.

(3) An application for storage and recovery of water intentionally stored underground may be made only by an appropriator of record who ~~shall show~~ shows, by documentary evidence, sufficient interest in the underground water storage facility to entitle the applicant to the water requested.

Sec. 116. Section 46-242, Reissue Revised Statutes of Nebraska, is amended to read:

46-242. (1) After the completion to the satisfaction of the ~~Department of Water Resources~~ department of a storage reservoir for which a permit has been obtained pursuant to section 46-241, any person proposing to apply to beneficial use the water stored shall file with the department an application for a permit particularly describing the use to which the water is to be applied and, if for irrigation, describing the land to be irrigated.

(2) Application may be made for a permit to appropriate water for the irrigation of land lying both upstream and downstream from a storage reservoir or intentional underground water storage facility. Under an approved application for a permit to appropriate water stored in a reservoir or facility for use on land upstream from such reservoir or facility, water may be diverted from the stream by the applicant and a compensating amount of water shall be released from the reservoir or facility for the use of downstream appropriators, but the rights of prior appropriators shall not be adversely affected by such exchange of water.

(3) The owner of a storage reservoir shall have a preferred right to make such application for a period of six months from the time limited for the completion of such reservoir. The date of the expiration of such period shall be endorsed upon the application when allowed. If an application is made by any other than such owner of a reservoir at any time, the same shall not be approved by the department until the applicant shows, by documentary evidence, sufficient interest in such storage reservoir to entitle the applicant to enough water for the purpose set forth in the application.

(4) Application may be made for a permit to appropriate water from a storage reservoir, subject to subsection (3) of this section, or an intentional underground water storage facility, subject to subsection (3) of section 46-241, for instream use of water for recreation or fish and wildlife if the appropriation will not prejudice the rights of any prior appropriator for a beneficial use.

(5) An unapproved application for a permit pursuant to this section which is pending on August 26, 1983, may be amended to include use of stored water for intentional underground water storage.

Sec. 117. Section 46-250, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 118. Section 46-252, Reissue Revised Statutes of Nebraska, is amended to read:

46-252. (1) Any person may conduct, either from outside the state

or from sources located in the state, quantities of water over and above those already present into or along any of the natural streams or channels of this state, for purposes of instream beneficial uses or withdrawal of some or all of such water for out-of-stream beneficial uses, at any point without regard to any prior appropriation of water from such stream, due allowance being made for losses in transit to be determined by the Department of ~~Water~~ Natural Resources. The department shall monitor movement of the water by measurements or other means and shall be responsible for assuring that such quantities are not subsequently diverted or withdrawn by others unless they are authorized to do so by the person conducting the water.

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

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

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

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

Sec. 119. Section 46-254, Reissue Revised Statutes of Nebraska, is amended to read:

46-254. Any person owning or in control of any ditch, reservoir, or other device for appropriating or using water who ~~shall willfully open or close, change or interfere~~ opens, closes, changes, or interferes with any headgate or controlling gate, or by any method or means ~~take~~ takes any water from any natural stream, reservoir, or other source, through any ditch or canal to any land or lands, or ~~allow~~ allows the same to be done, or ~~use or allow~~ uses or allows to be used any water upon any land or lands, or for any other purpose whatsoever, without authority from the Department of ~~Water~~ Natural Resources, or who ~~shall store~~ stores water in or ~~release~~ releases water from a reservoir other than in compliance with orders of the Director of ~~Water~~ Natural Resources or his or her representative, shall be guilty of a Class II misdemeanor. Each day that the water is allowed to run without authority from the department shall constitute a separate offense.

Sec. 120. Section 46-256, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 121. Section 46-257, Reissue Revised Statutes of Nebraska, is amended to read:

46-257. (1)(a) Except as provided in subsections (2) and (3) of this section, any person intending to construct a dam for any purpose, including, but not limited to, providing a reservoir for temporary or permanent storage of surface water, well water, human waste effluent, and mine tailings and sediments, shall submit plans, drawings, and specifications of the same to the Department of ~~Water~~ Natural Resources and at the same time submit an application to comply with section 46-241, when applicable, before beginning construction. No dam shall be constructed until the required plans,

drawings, and specifications have been approved by the department.

(b) An applicant for a permit for a livestock waste control facility required by the Department of Environmental Quality in conjunction with the Department of ~~Water~~ Natural Resources to obtain approval for any dam or lagoon under section 54-2412 shall submit plans, drawings, and specifications to the Department of ~~Water~~ Natural Resources and obtain approval before beginning construction. The Department of ~~Water~~ Natural Resources shall approve or deny the dam or lagoon within sixty days after the request is made.

(2) Any person intending to construct a low-hazard dam, as defined in the rules and regulations of the department, less than twenty-five feet high, measured from the natural bed of the stream or watercourse at the downstream toe of the dam to the top of the dam, with a water storage impounding capacity of less than fifteen acre-feet, measured below the crest of the lowest open outlet or overflow, and with a total storage capacity, including surcharge storage through any emergency spillway, below the top of the dam of less than fifty acre-feet, shall be exempt from ~~the provisions of~~ subsection (1) of this section and also shall be exempt from ~~the provisions of~~ subsection (1) of section 46-241 as long as there will be no diversion or withdrawal of water from the reservoir.

(3) Any person intending to construct on a dry watercourse a low-hazard dam, as defined in the rules and regulations of the department, less than twenty-five feet high, measured from the natural bed of the stream or watercourse at the downstream toe of the dam to the top of the dam, for the sole purpose of holding, managing, or disposing of animal or human waste shall be exempt from ~~the provisions of~~ subsection (1) of this section and also shall be exempt from ~~the provisions of~~ subsection (1) of section 46-241 if surface water runoff, except incidental runoff from the upstream area, is adequately diverted around the structure and is not permitted to enter the reservoir area and if the total storage capacity below the top of the dam is less than fifty acre-feet. For purposes of this section, incidental runoff means the runoff that drains from the slope of the embankments, the top of the dam, the reservoir area, the feedlots, the associated roadways, and up to twenty-five acres of additional area that cannot be diverted. Incidental runoff capacity from a twenty-five-year frequency, twenty-four-hour storm must be provided for in the waste reservoir in addition to the capacity required for the waste effluent or stored materials.

(4) Subsections (2) and (3) of this section do not waive any requirements of the Department of Environmental Quality.

(5) Whenever the Director of ~~Water~~ Natural Resources determines that a dam or lagoon has been constructed in violation of subsection (1) of this section, he or she may order the immediate removal of such dam or lagoon and if necessary may institute legal proceedings to obtain compliance with such order.

(6) Any person constructing a dam or lagoon without having complied with subsection (1) of this section shall be guilty of a Class V misdemeanor, and every day such dam or lagoon is maintained shall be considered a separate offense.

Sec. 122. Section 46-258, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 123. Section 46-261, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) By April 1, any district or company which has transferred an appropriation pursuant to sections 46-2,127 to 46-2,129 in the previous

calendar year shall provide the department:

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

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

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

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

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

(3) The department may require the owner or controller of any canal or ditch to install an approved recording gauge at one or more specific locations to record the amount of water used. The department shall not furnish any water to be delivered to or used by or through any ditch, reservoir, or other contrivance for the appropriation, use, or storage of water until this section has been complied with. The department may construct bars or dams to prevent such delivery or use.

Sec. 124. Section 46-263.02, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 125. Section 46-270, Reissue Revised Statutes of Nebraska, is amended to read:

46-270. Any corporation or association organized under the law of this state for the purpose of constructing and operating canals, reservoirs, and other works for irrigation and water power purposes, shall have power to borrow money, to issue bonds, and to mortgage its property and franchises in the same manner as railroad corporations, except ~~PROVIDED, HOWEVER,~~ that no such bonds shall be registered with the Auditor of Public Accounts until after the plans for improvement have been approved by the Department of ~~Water~~ Natural Resources.

Sec. 126. Section 46-273, Reissue Revised Statutes of Nebraska, is amended to read:

46-273. The United States of America is hereby authorized, in conformity to the laws of the State of Nebraska, to appropriate, develop, and store any unappropriated flood or unused waters, in connection with any project constructed by the United States pursuant to the provisions of an Act of Congress approved June 17, 1902, being An Act providing for the reclamation of arid lands (32 Stat. L. 388), and all acts amendatory thereof and supplemental thereto. When the officers of the United States Bureau of Reclamation ~~shall~~ determine that any water so developed or stored is in excess of the needs of the project as then completed or is flood or unused water, the United States may contract to furnish such developed, stored, flood, or unused water, under the terms and conditions imposed by Act of Congress and the rules and regulations of the United States, to any person who may have theretofore been granted a permit to appropriate a portion of the normal flow of any stream, if the water so appropriated shall, during some portion of the year, be found insufficient for the needs of the land to which it is appurtenant. The United States and every person entering into a contract as herein provided shall have the right to conduct such water into and along any of the natural streams of the state, but not so as to raise the waters thereof above the ordinary high water mark, and may take out the same again at any point desired, without regard to the prior rights of others to water from the same stream; but due allowance shall be made for losses in transit, the amount of such allowance to be determined by the Department of ~~Water~~ Natural Resources. The department shall supervise and enforce the distribution of such water so delivered with like authority and under the same provisions as in the case of general appropriators.

Sec. 127. Section 46-277, Reissue Revised Statutes of Nebraska, is amended to read:

46-277. The owner or operator of any dam and appurtenant works which has or will have a storage capacity of fifty acre-feet or more below the top of the dam, including surcharge storage through any emergency spillway, or will be twenty-five feet in height or more, measured from the natural bed of the stream or watercourse at the downstream toe of the dam to the top of the dam and is constructed for impounding or diversion of water or the containment of waste effluent, sediments, or other materials, shall keep such dam and appurtenant works in a state of repair to be approved by the Department of

~~Water~~ Natural Resources. The Director of ~~Water~~ Natural Resources shall determine the safety inspection requirements, frequency of inspections, and reporting details on the inspections of the dams based on the hazard classification and actual conditions of each dam. The owner or operator shall provide the department access to such dams at all reasonable times. When an inspection reveals a structure in an unsafe condition, the director shall give notice to the owner to place such dam and appurtenant works in such state of repair as will meet the approval of the director. The repair shall be completed in not more than ninety days or such reasonable time as may be determined by the director. Such notice shall be in writing and shall be served in the same manner as court summonses are served.

Sec. 128. Section 46-278, Reissue Revised Statutes of Nebraska, is amended to read:

46-278. Any owner or owners of such dam who ~~shall~~ neglect or refuse to repair such dam within three months after receiving written notice from the Director of ~~Water~~ Natural Resources so to do, shall be guilty of a Class V misdemeanor, and every day that such owner or owners neglect or refuse to repair such dam after the expiration of three months from date of receiving notice so to do shall be considered a separate offense.

Sec. 129. Section 46-288, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(2) Beneficial use shall include, but not be limited to, reasonable and efficient use of water for domestic, municipal, agricultural, industrial, commercial, power production, subirrigation, fish and wildlife, ground water recharge, interstate compact, water quality maintenance, or recreational purposes. Nothing in this subdivision shall be construed to affect the preferences for use of surface water as provided in section 46-204;

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

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

Sec. 130. Section 46-289, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(2) Any adverse impacts of the proposed interbasin transfer and use;

(3) Any current beneficial uses being made of the unappropriated water in the basin of origin;

(4) Any reasonably foreseeable future beneficial uses of the water in the basin of origin;

(5) The economic, environmental, and other benefits of leaving the water in the basin of origin for current or future beneficial uses;

(6) Alternative sources of water supply available to the applicant; and

(7) Alternative sources of water available to the basin of origin for future beneficial uses.

The application shall be deemed in the public interest if the overall benefits to the state and the applicant's basin are greater than or equal to the adverse impacts to the state and the basin of origin. The

director's order granting or denying an application shall specify the reasons for such action, including a discussion of the required factors for consideration, and shall document such decision by reference to the hearing record, if any, and to any other sources used by the director in making the decision.

Sec. 131. Section 46-290, Reissue Revised Statutes of Nebraska, is amended to read:

46-290. Except as provided in sections 46-2,120 to 46-2,130, any person having a permit to appropriate water for beneficial purposes issued pursuant to Chapter 46 who desires to transfer the use of such water appropriation to a different location within the same river basin than that specified in the permit shall apply for approval of such change to the Department of ~~Water~~ Natural Resources.

Sec. 132. Section 46-291, Reissue Revised Statutes of Nebraska, is amended to read:

46-291. Upon receipt of an application filed under section 46-290, the Director of ~~Water~~ Natural Resources shall cause a notice of such application to be published at the applicant's expense at least once a week for three weeks in at least one newspaper of general circulation in each county containing lands on which the water appropriation is or is proposed to be located and a newspaper of general circulation in Nebraska.

Such notice shall be published at least once a week for three consecutive weeks, and shall contain a description of the water appropriation, the number assigned such permit in the records of the ~~department~~ Department of Natural Resources, the date of priority, a description of the lands to which such water appropriation is proposed to be applied, and any other relevant information.

The notice shall state that any person may in writing object to and request a hearing on the application at any time prior to the elapse of two weeks from the date of final publication.

Sec. 133. Section 46-292, Reissue Revised Statutes of Nebraska, is amended to read:

46-292. The ~~department~~ Department of Natural Resources may hold a hearing on an application filed under section 46-290 on its own motion, and shall hold a hearing if requested by any person.

Sec. 134. Section 46-293, Reissue Revised Statutes of Nebraska, is amended to read:

46-293. Any hearing held pursuant to section 46-292 shall be conducted in accordance with sections ~~46-209 and 46-210~~ 6 and 7 of this act.

Sec. 135. Section 46-294, Reissue Revised Statutes of Nebraska, is amended to read:

46-294. (1) The Director of ~~Water~~ Natural Resources shall approve an application filed pursuant to section 46-290 if:

(a) ~~(1)~~ The requested change of location is within the same river basin, will not adversely affect any other water appropriator, and will not significantly adversely affect any riparian water user who files an objection in writing prior to the hearing;

(b) ~~(2)~~ The requested change will use water from the same source of supply as the current use;

(c) ~~(3)~~ The change of location will not diminish the supply of water otherwise available;

(d) ~~(4)~~ The water will be applied to a use in the same preference category as the current use, as provided in section 46-204; and

(e) ~~(5)~~ The requested change is in the public interest.

The applicant ~~shall have~~ has the burden of proving that the change of location will comply with subdivisions ~~(1) through (5) of this section~~ (a) through (e) of this subsection, except that the burden ~~shall be~~ is on the riparian user to demonstrate his or her riparian status and to demonstrate a significant adverse effect on his or her use in order to prevent approval of an application.

(2) In approving an application, the director may impose any reasonable conditions deemed necessary to protect the public interest. An approved change of location shall retain the same priority date as that of the original water right. In approving an application, the director may (a) authorize a greater number of acres to be irrigated if the amount and rate of water approved under the original appropriation is not increased by the change of location or (b) authorize the overlying of water appropriations on the same lands as long as the limits provided in section 46-231 are not exceeded.

Sec. 136. Section 46-295, Reissue Revised Statutes of Nebraska, is amended to read:

46-295. The Legislature recognizes that, as a result of water project operations, surface water in some areas of the state has been, is, and

will be in the future intentionally and incidentally stored in and withdrawn from underground strata. The Legislature acknowledges that rights to water intentionally or incidentally stored underground and rights to withdrawal of such water should be formally recognized and quantified and recognizes the propriety of all beneficiaries proportionately sharing, to the extent of potential benefit from intentional underground water storage, in the financial obligations necessary for construction, operation, and maintenance of water projects which cause intentional underground water storage.

The Legislature finds that uses of water for incidental and intentional underground water storage are beneficial uses of water which contribute to the recharge of Nebraska's aquifers and that comprehensive, conjunctive management of surface water and intentional or incidental underground water storage is essential for the continued economic prosperity and well-being of the state, serves the public interest by providing an element of certainty essential for investment in water resources development, and will improve Nebraska's standing in the event of interstate dispute.

To facilitate optimum beneficial use of water by the people of Nebraska, the Legislature recognizes the need for authorizing the recognition of incidental underground water storage, for authorizing intentional underground water storage, and for authorizing the levying and collection of fees and assessments on persons who withdraw or otherwise use or benefit from intentional underground water storage as provided in sections 46-299 to 46-2,106.

Nothing in sections ~~33-105~~, 46-202, 46-226.01, 46-226.02, 46-233, 46-240, 46-241, 46-242, 46-295 to 46-2,106, 46-544, and 46-656.23 shall be construed to alter existing statutes regarding the relationship between naturally occurring surface and ground water.

Sec. 137. Section 46-296, Reissue Revised Statutes of Nebraska, is amended to read:

46-296. As used in sections 33-105, 46-202, ~~46-226.01, 46-226.02, 46-233, 46-240, 46-241, 46-242~~, and 46-295 to 46-2,106, unless the context otherwise requires:

(1) Department ~~shall mean~~ means the Department of ~~Water~~ Natural Resources;

(2) Director ~~shall mean~~ means the Director of ~~Water~~ Natural Resources;

(3) Person ~~shall mean~~ means a natural person, partnership, limited liability company, association, corporation, municipality, or agency or political subdivision of the state or of the federal government;

(4) Underground water storage ~~shall mean~~ means the act of storing or recharging water in underground strata. Such water shall be known as water stored underground, ~~but the term shall but does not include~~ ground water as defined in section 46-656.07 which occurs naturally;

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

(6) Incidental underground water storage ~~shall mean~~ means underground water storage which occurs as an indirect result, rather than an intended or planned purpose, of a water project or use and ~~may include, but shall not be includes, but is not limited to~~, seepage from reservoirs, canals, and laterals, and deep percolation from irrigated lands.

Sec. 138. Section 46-2,101, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,101. (1) Any person intending to levy fees or assessments in accordance with section 46-299, or to modify such fees or assessments, shall, prior to levying such fees, assessments, modified fees, or modified assessments, file with the department an application for approval of authority to levy such fees on a form prescribed and furnished by the department.

(2) Such an application shall include a fee schedule and the following information:

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

(b) The underground water storage method;

(c) The relative amounts of water stored or to be stored underground and naturally occurring ground water;

(d) The data or reference studies used by the applicant to determine the underground water storage;

(e) A description of the areas served or to be served by the water stored underground;

(f) The amount of surface water, if any, for which the applicant has an appropriation; and

(g) The manner, use, and location of any such surface water appropriation.

The application shall be processed under the applicable rules and regulations of the department adopted and promulgated pursuant to section ~~46-209~~ 6 of this act.

(3) An application shall be approved if the fees, assessments, modified fees, or modified assessments appear reasonable and comply with the requirements of section 46-299.

(4) The department shall review approved fee schedules every five years after approval to determine whether the fees should be increased, decreased, or eliminated, except that if the adopted schedules have been pledged to repayment of financing for the project, the department shall only review after repayment is completed.

Sec. 139. Section 46-2,105, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,105. Any person aggrieved by a decision made or an order issued by the director pursuant to section 46-226.02, 46-233, 46-240, 46-241, 46-242, 46-297, or 46-2,101 may appeal as provided in section ~~46-210~~ 7 of this act.

Sec. 140. Section 46-2,108, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,108. ~~As used in (1)~~ For purposes of sections 46-2,107 to 46-2,119, unless the context otherwise requires:

(a) Department means the Department of Natural Resources;

(b) Director means the Director of Natural Resources; and

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

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

Sec. 141. Section 46-2,109, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 142. Section 46-2,110, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,110. Following notice and a public hearing, any natural resources district or the Game and Parks Commission may file with the ~~Director of Water Resources~~ director an application for a permit to appropriate water for instream flows in each stream segment identified pursuant to section 46-2,109. The application shall include the locations on the stream at which the need for instream flows begins and ends and the time of year when instream flows are most critical. The application shall also provide a detailed description of the amount of water necessary to provide adequate instream flows.

Sec. 143. Section 46-2,111, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,111. (1) The Legislature finds that instream appropriations, ~~as defined in section 46-2,108,~~ for recreation, fish, and wildlife should consider preferences among different uses and that all appropriations should consider the possible legal relationship between surface water and ground water. Thus the Legislature finds that, since such issues have not been fully considered, the ~~Director of Water Resources~~ director shall not grant any permit to appropriate water, except as specified in subsection (2) of this section, before January 1, 1997, for any application pending on or filed after June 2, 1995.

(2) The ~~Director of Water Resources~~ director may grant applications for (a) appropriations for flood control or sediment control structures which will not make or cause to be made any consumptive use of the impounded water, (b) applications for temporary appropriations for public construction that are five cubic feet per second or less, or (c) applications by public water

suppliers for induced ground water recharge appropriations pursuant to sections 46-233 to 46-238.

Sec. 144. Section 46-2,112, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,112. The ~~Director of Water Resources~~ director shall set a time and place for hearing every fifteen years from the date a permit to appropriate water for instream flows is granted. Notice of the hearing shall be given to the parties to the original application and shall be published in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks, the last publication to be not less than seven days prior to the hearing. The purpose of the hearing shall be to receive evidence regarding whether the water appropriated under the permit still provides the beneficial uses for which the permit was granted and whether the permit is still in the public interest. The hearing shall proceed under the rebuttable presumption that the appropriation continues to provide the beneficial uses for which the permit was granted and that the appropriation is in the public interest. After the hearing, the director may by order modify or cancel, in whole or in part, the instream appropriation.

Sec. 145. Section 46-2,113, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,113. It is in the state's and the public interest that the filing of the following classes of applications before the ~~Department of Water Resources~~ department demand that the ~~Director of Water Resources~~ director shall appropriately modify any existing or pending instream appropriation or application to not interfere with such application or the granting of such appropriation:

- (1) Applications for induced recharge to public water supply wells;
- (2) Applications for storage rights necessary for flood and sediment control projects which are dry or will not result in a net consumption of water exceeding two hundred acre-feet on an average annual basis;
- (3) Applications for transfer permits associated with natural flow, storage use, power generation, or hydropower;
- (4) Applications for de minimis uses; or
- (5) Applications for industrial or manufacturing de minimis consumptive uses.

Sec. 146. Section 46-2,114, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 147. Section 46-2,115, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,115. An application for an instream appropriation which is pending on or filed after January 1, 1997, shall be approved by the ~~Director of Water Resources~~ director if he or she finds that:

- (1) In order to allow for future beneficial uses, there is unappropriated water available to provide the approved instream flow rate at least twenty percent of the time during the period requested;
- (2) The appropriation is necessary to maintain the existing recreational uses or needs of existing fish and wildlife species;
- (3) The appropriation will not interfere with any senior surface water appropriation;
- (4) The rate and timing of the flow is the minimum necessary to maintain the existing recreational uses or needs of existing fish and wildlife species; and
- (5) The application is in the public interest.

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

Sec. 148. Section 46-2,116.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,116.01. If the ~~Director of Water Resources~~ director determines that there is insufficient unappropriated natural flow available for an application for an instream appropriation and if the applicant consents, the ~~director shall request the Nebraska Natural Resources Commission to~~ department

may conduct a study to determine whether the instream flow needs can be met through the use of stored water in new storage facilities. The study shall address the availability of storage sites, the estimated cost of providing any required storage, and such other findings and conclusions as the ~~commission~~ department deems appropriate.

Sec. 149. Section 46-2,116.02, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,116.02. If the ~~Nebraska Natural Resources Commission~~ department determines that instream flow needs can be met through the use of stored water in new storage facilities after a study conducted under section 46-2,116.01, the applicant may request financial assistance for the construction of necessary storage facilities from the Nebraska Resources Development Fund. The cost of the project may be shared with any other users of the stored water.

Sec. 150. Section 46-2,117, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 151. Section 46-2,118, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

Sec. 152. Section 46-2,119, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,119. Instream appropriations shall be administered in the same manner as prescribed by Chapter 46, article 2, for other appropriations, except that existing reservoirs shall not be required by the ~~Director of Water Resources~~ director to release impounded water for instream appropriations. Instream flow appropriations shall not be superior to existing storage rights as provided in section 46-241. Instream appropriations may be canceled as provided in section 46-229.04.

Sec. 153. Section 46-2,120, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,120. (1) Any irrigation district, reclamation district, public power and irrigation district, rural water district, or mutual irrigation or canal company using the procedure described in sections 46-2,121 to 46-2,129 and which is exempt from sections 84-1408 to 84-1414 shall provide notice by mail to each owner of land in the district or served by the company not less than seven days before any meeting or hearing under sections 46-2,121 to 46-2,129.

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

(a) Department means the Department of Natural Resources; and

(b) Director means the Director of Natural Resources.

Sec. 154. Section 46-2,122, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(a) The owner of the land to which the water appropriation is

attached and the owner of the ditch, canal, or other diverting works subject to transfer consent in writing to the department to the transfer of the appropriation from the tract of land;

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

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

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

Sec. 155. Section 46-2,123, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,123. ~~The Department of Water Resources~~ department may hold a hearing on the application for transfer and map under section 46-2,122 if the department determines that a hearing is necessary to determine whether the application for transfer and map are in compliance with such section. The department shall hold a hearing on the application if requested by any owner of land within the district or served by the company. The hearing shall be conducted in accordance with section ~~46-209~~ 6 of this act and the rules and regulations of the department.

Sec. 156. Section 46-2,124, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,124. Any irrigation district, reclamation district, public power and irrigation district, rural water district, or mutual irrigation or canal company intending to file an application for transfer and a map with the ~~Department of Water Resources~~ department under section 46-2,122 shall give notice prior to the meeting at which the application and map will be approved for filing. Notice shall be given in the manner provided in section 46-2,128.

Sec. 157. Section 46-2,125, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

An appeal may be taken from the decision of the department on the application for transfer and map as provided in section ~~46-210~~ 7 of this act.

Sec. 158. Section 46-2,128, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,128. Commencing at least six weeks but not more than twelve weeks before transferring any water appropriations under section 46-2,127, the district or company shall cause notice of the proposed transfer to be published at least once a week for three consecutive weeks in at least one newspaper of general circulation in each county containing lands on which the water appropriation is or is proposed to be applied. The district or company shall also provide the notice to the ~~Department of Water Resources~~ department. The notice shall contain:

- (1) A description of the water appropriation to be transferred;
- (2) The number assigned the water appropriation permit in the records of the department under sections 46-233 to 46-235;
- (3) The priority date of the water appropriation;
- (4) A description of the land to which the water appropriation is proposed to be applied;
- (5) A statement that any owner of land within the district or served by the canal company may object to and request a hearing on the proposed transfer within seven calendar days after final publication; and
- (6) Any other relevant information.

Sec. 159. Section 46-2,130, Reissue Revised Statutes of Nebraska, is amended to read:

46-2,130. Nothing in sections 46-2,120 to 46-2,129 shall be construed to limit or restrict the powers of the ~~Department of Water Resources~~ department with respect to adjudication of water rights.

Sec. 160. Section 46-302, Reissue Revised Statutes of Nebraska, is amended to read:

46-302. Whenever the board of directors of any irrigation district shall, by resolution, determine that it is to the interest, convenience, and welfare of the district that the district, under ~~the provisions of~~ sections 46-301 to 46-315, purchase, construct, or otherwise acquire, operate, and maintain, any electric light and power plant, lines, or systems, whether as an addition, extension, enlargement, alteration, or reconstruction of any site, irrigation works, or other property owned or controlled by the district, or as a plant, lines, or system independent of works or property already owned or controlled by the district, the board of directors shall thereupon prepare comprehensive written plans, statements, and reports setting out the nature, location, and description of the proposed plant, lines, and system, including method or methods of generation or acquisition, the location of transmission lines, the use of other sites, properties, and works already owned or controlled by the district, estimated costs of acquisition and construction, the method or means of financing the proposed plan and project, the amount of bonds, if any, proposed to be issued in connection therewith, and such other data as the Department of ~~Water~~ Natural Resources shall prescribe. The expense thereof may be authorized by any special meeting or at the annual meeting of such district. Such plans, statements, and reports, including a copy of such resolution, shall be duly certified by the board of directors and shall be thereupon submitted to the department for its examination, as ~~hereinafter~~ set forth in section 46-304.

Sec. 161. Section 46-303, Reissue Revised Statutes of Nebraska, is amended to read:

46-303. In lieu of the resolution of the board of directors and the preparation and submission by the board of plans, reports, and statements, as provided in section 46-302, a petition containing and setting forth the data and information required in ~~said~~ such section concerning the proposed electric light and power plant, lines, and systems, may be presented to the Department of ~~Water~~ Natural Resources, signed by not less than twenty percent of all the qualified electors of the district. Such petition shall declare that, in the opinion of the petitioners, it is to the interest, convenience, and welfare of the district that the district, under ~~the provisions of~~ sections 46-301 to 46-315, adopt substantially, the plan or method set out in the petition for the establishment, acquisition, and operation by the district, of electric light and power plant, lines, and systems. The petition shall contain the affidavit of the person or persons who circulated the same, certifying that each name signed thereto is the true signature of the person whose name it purports to be and that ~~said~~ the person is a qualified elector of the district.

Sec. 162. Section 46-304, Reissue Revised Statutes of Nebraska, is amended to read:

46-304. Upon receipt by the Department of ~~Water~~ Natural Resources of the plans, reports, and statements provided for in section 46-302, or of the petition provided for in section 46-303, ~~it shall be the duty of~~ the department ~~to~~ shall examine the proposed plan and project, and make an estimate of the probable cost thereof, and make such further examination and investigation concerning the same as the department shall deem necessary or advisable. If the department ~~shall deem~~ deems the proposed plan and project feasible and practicable, either as originally submitted or as changed and amended by the department, the department shall then file with the board of directors of the irrigation district concerned, its report in the matter, which report shall include a complete explanation of the proposed project, the plans and maps showing location of the project, the estimated cost of the project, and the probable receipts from the sale of electric energy, and the certificate of the department that the project has been examined and deemed feasible and practicable by the department.

Sec. 163. Section 46-305, Reissue Revised Statutes of Nebraska, is amended to read:

46-305. Upon the filing of the ~~aforsaid~~ data and certificates with the board of directors of the district, ~~it shall be the duty of~~ the board of directors and the other proper officers of the district ~~to~~ shall submit the proposed plan and project to the qualified electors of the district for their approval or rejection, at a general election or at a special election called for that purpose, the submission of proposition and all matters pertaining to such election to conform, including notice of election, as nearly as may be, and except as otherwise expressly provided in sections 46-301 to 46-315, to the provisions of law governing elections upon propositions for the issuance of bonds of the district. The report of the Department of ~~Water~~ Natural Resources and all other data and information on file with the board of directors or the officers of the district shall be subject to inspection at all reasonable business hours by any elector of the district, or other

interested persons, for the entire period during which notice of the election shall be published. Such question and proposition shall be thus submitted by ballots upon which shall appear, in a clear, fair, and concise manner, a statement of the nature and description of the proposed project, and, if such proposition includes the issuance of bonds of the district, there shall also appear upon the ballots a general description of such bonds, including principal amount, rate of interest and when payable, date of issuance, and date of maturity. At the bottom of the ballots substantially the following form shall appear:

FOR the adoption of the foregoing plan and project (and issuance of bonds of the district).

AGAINST the adoption of the foregoing plan and project (and the issuance of bonds of the district).

If a majority of the ballots cast on such proposition ~~shall be~~ are in favor thereof, the board of directors shall declare the same adopted, and the board of directors of the district shall proceed forthwith to put such plan and project into effect, including the issuance of bonds of the district if included in the proposition submitted at the election, ~~as aforesaid,~~ the levy and collection of taxes and assessments to pay such bonds and interest thereon, and the execution of all contracts proper or incident to the consummation of such plan and project.

Sec. 164. Section 46-312, Reissue Revised Statutes of Nebraska, is amended to read:

46-312. If at any time after the initial acquisition or establishment by any irrigation district of an electric light and power plant, lines, or systems, ~~as herein provided,~~ it shall appear to the Department of ~~Water~~ Natural Resources deems it to be practicable and expedient that additional plants, lines, or systems, or extensions or improvements of the existing electric light and power plant, lines, or systems, should be made by the district, and if the cost of such additions and extensions cannot be made or provided for by the application of unused funds derived from the operation of the existing electric light and power plant, lines, or systems, or by the pledge or assignment of future net revenue as in sections 46-301 to 46-315, then the board of directors may, and on the petition of not less than twenty-five percent of the qualified electors of the district shall, submit to the electors of the district at any general election or at any special election called for the purpose, the question and proposition of making such improvements, additions, or extensions and the issuance of bonds of the district to pay the cost thereof. A statement of the department with reference to the expediency and feasibility of such proposed extension and addition shall be made by such department to the irrigation district whenever requested by the board of directors of such district. Such election shall be held and the result thereof determined and declared in conformity with the provisions of law governing elections upon the proposition of the issuance of bonds of the district. Complete ~~PROVIDED, HOWEVER, complete~~ plans and a description of the proposed additions, improvements, changes, or extensions shall be prepared and kept on file in the main office of the district or of the board of the district, subject to inspection by any elector or other interested person, at all reasonable business hours during the period of publication of notice of such election. The ~~AND PROVIDED FURTHER,~~ the ballots at such election shall conform, as nearly as practicable, with the requirements of section 46-305.

Sec. 165. Section 46-315, Reissue Revised Statutes of Nebraska, is amended to read:

46-315. Every irrigation district in this state shall have the exclusive right to make application to the Department of ~~Water~~ Natural Resources for the use of all water used for irrigation purposes and all return flow and seepage water from irrigated land in its district for the purpose of operating hydroelectric plants under ~~the provisions of~~ sections 46-301 to 46-315.

Sec. 166. Section 46-514, Reissue Revised Statutes of Nebraska, is amended to read:

46-514. ~~The word department shall refer to the Department of Water Resources of the State of Nebraska whose authority and power are defined in sections 46-208 to 46-213. For purposes of the Reclamation Act, department means the Department of Natural Resources.~~

Sec. 167. Section 46-516, Reissue Revised Statutes of Nebraska, is amended to read:

46-516. Before any reclamation district is established under the Reclamation Act, a petition shall be filed in the office of the ~~Department of Water Resources~~ department signed by the owners of not less than thirty percent of the acreage of lands to be included in the district, exclusive of

land in cities and villages, and each tract or tracts of land and the total acreage shall be listed opposite the name of the signer. A signing petitioner shall not be permitted after the filing of the petition to withdraw his or her name therefrom. No district shall be formed under the act unless the taxable valuation of land, together with improvements thereon, within the proposed district, exclusive of land and improvements thereon in cities and villages, is five million seven hundred twenty thousand dollars or more. The petition shall set forth:

- (1) The proposed name of the district;
- (2) That property within the proposed district will be benefited by the accomplishment of the purposes enumerated in section 46-515;
- (3) A general description of the purpose of the contemplated improvement and of the territory to be included in the proposed district. The description need not be given by metes and bounds or by legal subdivision, but it shall be sufficient to enable a property owner to ascertain whether the property is within the territory proposed to be organized as a district. The territory need not be contiguous if it is so situated that the organization of a single district of the territory described is calculated to promote one or more of the purposes enumerated in section 46-515;
- (4) The taxable value of all irrigable land within the boundaries of the proposed district;
- (5) A general description of the divisions of the district, the number of directors of the district proposed for each subdivision, and the names and addresses of the proposed members of the board of directors of the district. There shall be not less than five nor more than twenty-one directors named therein who shall serve until their successors are elected and qualified. In the petition the directors named shall be divided as nearly as possible into three equal groups, the members of the first group to hold office until their successors have been elected at the first general state election thereafter and have qualified, the members of the second group to hold office until their successors have been elected at the second general state election thereafter and have qualified, and the members of the third group until the members elected at the third general state election thereafter have qualified. After the name of each director, it shall be stated to which of the three groups he or she belongs; and
- (6) A prayer for the organization of the district by the name proposed.

No petition with the requisite signatures shall be declared null and void on account of alleged defects, but the department may at any time permit the petition to be amended to conform to the facts, to correct any errors in the description of the territory, or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All such petitions filed prior to the hearing on the first petition filed shall be considered by the department the same as though filed with the first petition placed on file. In determining whether the requisite number of landowners have signed the petition, the department shall be governed by the names as they appear upon the tax roll which shall be prima facie evidence of such ownership.

Sec. 168. Section 46-541, Reissue Revised Statutes of Nebraska, is amended to read:

46-541. The board shall have power on behalf of the district:

(1) To have perpetual succession, except that all districts organized prior to January 1, 1950, which have not entered into a bona fide construction of their works shall, within fifteen years following January 1, 1961, cause to be submitted to the qualified electors of the district the following question:

Shall the district be continued for an additional fifteen years?

.... Yes

.... No

The election shall be held in the same manner set out in section 46-564 relating to submission to qualified electors for the approval of bonded indebtedness.

In the event a majority of the qualified voters voting in such election vote yes, then such district shall be continued for an additional fifteen years. For all districts organized after January 1, 1950, and not having entered into a bona fide construction of their works before January 1, 1961, the directors shall, within fifteen years following January 1, 1961, cause to be submitted the same question to the qualified electors of the district. All districts organized after November 1, 1953, which have not entered into a bona fide construction of their works within fifteen years after the first day of July of the year of assessment of the taxable property

of the district shall submit to the qualified electors of the district the question of whether the district shall be continued for an additional fifteen years. If a district has pending before the Congress of the United States a bill for the authorization or reauthorization of its project at the expiration of any one of such fifteen-year periods, the district shall be continued until such authorization or reauthorization is granted by the Congress of the United States and appropriations made for the actual construction of its work, which additional period shall not exceed ten years from the expiration of the fifteen-year period.

If at the end of the fifteen-year period, plus the additional ten-year period granted while its project is pending before the Congress of the United States for authorization or reauthorization and an appropriation for the actual construction of its works, no physical construction of any of its works has been started, then the same question shall again be submitted to the qualified electors. In the event a majority of the qualified voters voting in such election vote yes, then such district shall be continued for an additional fifteen years.

In the event of a failure to receive a majority affirmative vote of the voters voting in such election, the district shall be dissolved and the district shall submit to the department a full and complete audit by a public accountant showing the assets possessed by the district. Thereupon the department shall enter an order providing that within sixty days the assets of such district shall be liquidated, all rights granted by the department shall be canceled, and any assets on hand shall be divided as follows:

(a) All bills payable and all expenses of dissolution shall be deducted from the assets and paid; and

(b) The balance remaining shall be divided proportionately among the operating public school districts of the district in the proportion that the number of acres in each school district bears to the total number of acres of all of the school districts within the boundaries of the district. If the district is confined to one county, distribution shall be made by the county treasurer of such county. If the district extends into more than one county, the funds for disbursement to such school districts shall be paid to the county within which the schoolhouses are located for distribution to such school districts;

(2) To take by appropriation, grant, purchase, bequest, devise, or lease, and to hold and enjoy water rights and waterworks, and any and all real and personal property of any kind within or without the district necessary or convenient to the full exercise of its powers; to purchase, sell, lease, encumber, alienate, or otherwise dispose of waterworks and real and personal property; to enter into contracts for furnishing water service for use within the district; to acquire, construct, operate, control, and use any and all works, facilities, and means necessary or convenient to the exercise of its power, both within and without the district, for the purpose of providing for the use of such water within the district; and to do and perform any and all things necessary or convenient to the full exercise of the powers granted in this subdivision;

(3) To have and to exercise the power of eminent domain in addition to any other rights and powers conferred in this section upon any district organized under the Reclamation Act, for the purposes and after the manner provided for in sections 76-704 to 76-724, except that when any reclamation district exercises the power of eminent domain as to water being used for power purposes, it shall not include any other properties of any irrigation district, public power district, or public power and irrigation district organized and existing under the laws of the State of Nebraska;

(4) To construct and maintain works and establish and maintain facilities across or along any public street or highway and in, upon, or over any vacant public lands, which public lands are now or may hereafter become the property of the State of Nebraska, and to construct works and establish and maintain facilities across any stream of water or watercourse. The district shall promptly restore any such street or highway to its former state of usefulness as nearly as may be and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof. In the use of streets, the district shall be subject to the reasonable rules and regulations of the county, city, or village where such streets lie concerning excavation and the refilling of excavation, the relaying of pavements, and the protection of the public during periods of construction. The district shall not be required to pay any license or permit fees or file any bonds. The district may be required to pay reasonable inspection fees;

(5) To contract with the government of the United States or any agency thereof for the construction, preservation, operation, and maintenance of tunnels, reservoirs, regulating or reregulating basins, diversion works and

canals, dams, power plants, drains, and all necessary works incident thereto, to acquire rights to the use of water from such works, and to enter into contracts for the use of water from such works by persons and corporations, public and private;

(6) To list in separate ownership the lands within the district which are susceptible of irrigation from the district sources, to enter into contracts to furnish water service to all such lands, and to levy assessments as hereinafter provided against the lands within the district to which water service is furnished on the basis of the value per acre-foot of water service furnished to the lands within the district. The board may divide the district into units and fix a different value per acre-foot of water in the respective units and in such case shall assess the lands within each unit upon the same basis of value per acre-foot of water service furnished to lands within such unit;

(7) To fix rates at which water service, not otherwise provided for in this section, may be furnished. Rates shall be equitable although not necessarily equal or uniform for like classes of service throughout the district;

(8) To adopt plans and specifications for the works for which the district was organized, which plans and specifications may at any time be changed or modified by the board. The plans shall include maps, profiles, and such other data and descriptions as may be necessary to set forth the location and character of the works, and a copy thereof shall be kept in the office of the district and open to public inspection. The plans and specifications and any changes shall be approved by the department in accordance with the statutes;

(9) To appropriate and otherwise acquire water rights within or without the state; to develop, store, and transport water; to provide, contract for, and furnish water service for municipal and domestic purposes, irrigation, power, milling, manufacturing, mining, metallurgical use, and any and all other beneficial uses and to derive revenue and benefits therefrom; to fix the terms and rates therefor; to make and adopt plans for and to acquire, construct, operate, and maintain dams, reservoirs, canals, conduits, pipelines, tunnels, power plants, transmission lines, and any and all works, facilities, improvements, and property necessary or convenient therefor; and in the doing of all of such things to obligate itself and execute and perform such obligations according to the tenor thereof. The contracts for furnishing of water service for irrigation and domestic purposes shall only be made for use within the district. The board may transfer water appropriations within the district pursuant to sections 46-2,127 to 46-2,129;

(10) To invest any surplus money in the district treasury, including such money as may be in any sinking fund established for the purpose of providing for the payment of the principal or interest of any contract, bond, or other indebtedness or for any other purpose, not required for the immediate necessities of the district, in its own bonds or in treasury notes or bonds of the United States. The investment may be made by direct purchase of any issue of such bonds or treasury notes, or part thereof, at the original sale of the same or by the subsequent purchase of such bonds or treasury notes. Any bonds or treasury notes thus purchased and held may, from time to time, be sold and the proceeds reinvested in bonds or treasury notes as provided in this subdivision. Sales of any bonds or treasury notes thus purchased and held shall, from time to time, be made in season so that the proceeds may be applied to the purposes for which the money with which the bonds or treasury notes were originally purchased was placed in the treasury of the district. The functions and duties authorized by this subdivision shall be performed under such rules and regulations as shall be prescribed by the board;

(11) To refund bonded indebtedness incurred by the district under and pursuant to such rules and regulations as shall be prescribed by the board;

(12) To borrow money, incur indebtedness, and issue bonds or other evidence of such indebtedness;

(13) To adopt bylaws not in conflict with the Constitution of Nebraska and laws of the state for carrying on the business, objects, and affairs of the board and of the district; and

(14) To enter into agreements for water service with agencies of the federal government or the Game and Parks Commission through which water will be made available, at rates determined as provided in subdivision (7) of this section, for hunting, fishing, and recreational development. The water service shall not exceed the amount of water which may be appropriated for such purposes by order of the ~~Department of Water Resources~~ department, and such amounts shall be included in the total appropriative right of the district or districts involved.

Sec. 169. Section 46-583, Reissue Revised Statutes of Nebraska, is amended to read:

46-583. At the hearing, if the board of directors of such district deems it not for the best interest of such district that a change of its boundaries be so made as to include therein the lands mentioned in the petition, the board of directors of such district shall order that the petition be rejected. But if the board of directors of such district deems it for the best interest of such district that the boundaries of such district be changed and if it ~~shall appear~~ appears that the petition for the annexation and incorporation of the tract or tracts of land has been signed and presented as provided in section 46-574, that the allegations of the petition are true, and that no protesting petition has been filed, or if filed has been dismissed as provided by the provisions of sections 46-574 to 46-584, the board of directors of such district may enter a tentative order annexing and including all lands described in the petition, or some part thereof. ~~The~~ ~~PROVIDED,~~ ~~that the~~ order shall not become final until the proposition of levying taxes as provided for in section 46-543~~7~~ has been complied with and until the proposition of levying taxes ~~shall have~~ has been submitted by a resolution of the board of directors of such district to the qualified electors residing within the tract or tracts of land described in the ~~said~~ tentative order at an election held for that purpose in the same manner as provided for submission of incurring bonded indebtedness in sections 46-564 to 46-566, and when the proposition has been approved by a majority of the qualified electors residing within the tract or tracts of land voting on the proposition at such election, then the board of directors shall enter a final order annexing and including all lands described in the tentative order. If at such election a majority of the qualified electors vote against the proposition, then the board of directors of such district shall set aside the tentative order, ~~and~~ shall order that the petition be denied, and shall proceed no further in that matter. ~~When~~ If the proposition ~~has been~~ is approved by a majority of the qualified electors of the ~~said~~ tract or tracts voting on the proposition at such election in the manner provided for in section 46-543, ~~thereafter~~ the board of directors of such district shall be ~~entitled to~~ certify to the county board ~~wherein~~ of the county in which the tract or tracts of land are situated the rate of tax to be levied. The final order entered by the board of directors of such district shall describe the entire boundaries of the district, and for that purpose the board of directors may cause a survey of such portions thereof to be made as the board of directors ~~may deem~~ deems necessary. A copy of the final order of the board of directors ordering such annexation, certified by the president and secretary of the board of directors of such district, shall be filed with the Department of ~~Water~~ Natural Resources, and thereupon the district shall be and remain a reclamation district as fully and to every intent and purpose as if the lands which are included in the district by the annexation thereof and the change of boundaries had been included therein at the original organization of the district. ~~Such~~ ~~7~~ ~~and~~ ~~such~~ tract or tracts of land so annexed to such district shall enjoy all the rights and privileges, of whatever kind and nature, and be subject to all the contract, obligation, lien, or charge for or upon which the original district was or might become liable or chargeable.

Sec. 170. Section 46-602, Revised Statutes Supplement, 1999, is amended to read:

46-602. (1) For each water well completed in this state on or after September 9, 1993, the water well contractor as defined in section 46-1213 constructing the water well and the owner of the water well shall complete the appropriate registration form after the completion of the water well. The registration form for water wells, excluding test holes and dewatering wells with intended use of ninety days or less, shall be filed with the Department of ~~Water~~ Natural Resources by the owner within thirty days after completion of the water well. Registration shall be on a form provided by the Director of ~~Water~~ Natural Resources. The form shall contain (a) the name, address, and signature of the owner, (b) the legal description of the water well, (c) the date drilling commenced and the date construction was completed, (d) the intended use of the water well, (e) the description and depth of geologic materials encountered, (f) the depth and diameter or dimension of the constructed water well and test hole, (g) the depth and diameter or dimension of the excavated hole if applicable, (h) the depth of the formation stabilizer or gravel pack and size of particles if used, (i) the depth and thickness of grout or other sealing materials if applicable, (j) casing information, including length, inside diameter, wall thickness, and type of material if applicable, (k) the static water level, (l) the water level when pumped at the designated rate, giving the rate of pumping and amount of time pumped, if applicable, (m) the yield of the water well in gallons per minute if

applicable, (n) the identification number of any permit for the water well issued pursuant to Chapter 46, article 6, Chapter 66, article 11, or any other law, (o) the name, address, and license number of any license issued pursuant to the Water Well Standards and Contractors' Licensing Act to any person, other than the owner of the water well, who constructed the water well, (p) screen information, including length, trade name, inside and outside diameter, slot size, and type of material if applicable, (q) the signature of the water well contractor, (r) when the newly constructed water well is a replacement water well, the registration number of the water well it replaces, if applicable, and the date the original water well was or will be decommissioned, and (s) such additional information conformable to the statement of purpose contained in section 46-601 as the director requires. A series of two or more water wells completed and pumped into a common carrier as part of a single site plan for irrigation purposes shall have a registration form completed for each well in the series. A series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground shall be considered as one water well, and one registration form and detailed site plan shall be completed for each such series. For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground and for water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, one registration form shall be required which shall include a detailed site plan which shows the location of each such water well in the site and a log from each such water well. The Department of ~~Water~~ Natural Resources shall be notified of any change in the ownership of a water well required to be registered under this section. Notification shall be in such form and shall include such evidence of ownership as the director by rule and regulation directs. The department shall use such notice to update the registration on file. The registration requirement in this subsection shall not apply to water wells constructed prior to September 9, 1993, unless previously required to be registered.

(2) Whenever a water well becomes an illegal water well as defined in section 46-1207.01, the owner of the water well shall decommission the water well by completely filling and sealing the water well cavity in accordance with the rules and regulations adopted pursuant to the Water Well Standards and Contractors' Licensing Act. The method specified in such rules and regulations for filling and sealing water well cavities shall be designed to eliminate any safety hazard created by illegal water wells and to prevent deterioration in the quality of the underlying ground water. Upon proper decommissioning of any water well, written notice of the abandonment shall be provided by the owner to the department within sixty days. The department shall not collect a fee for the filing of the notice.

(3) For purposes of this section, replacement water well means a water well which (a) replaces an abandoned water well within three years of the last operation of the abandoned water well or replaces a water well that will not be used after construction of the new water well and the original water well will be decommissioned within one year of construction of the new water well and (b) is constructed to provide water to the same tract of land served by the water well being replaced.

(4) For purposes of water well registration under this section, registration fees shall be collected as provided in sections 46-606 and 46-1224.

Sec. 171. Section 46-604, Reissue Revised Statutes of Nebraska, is amended to read:

46-604. The Director of ~~Water~~ Natural Resources shall retain the registration form required by section 46-602 and shall provide a copy to the natural resources district within which the water well is located, to the Conservation and Survey Division of the University of Nebraska, to the owner of the water well, and to the water well contractor as defined in section 46-1213. By January 31 of each year, each water well contractor shall file a report with the Department of ~~Water~~ Natural Resources of any water well he or she drilled during the previous year if a copy of the registration form was not received by the water well contractor pursuant to this section.

Sec. 172. Section 46-606, Revised Statutes Supplement, 1999, is amended to read:

46-606. (1) The Director of ~~Water~~ Natural Resources shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each water well registered under section 46-602 except as provided in subsections (2) through (5) of this section.

(2) For water wells permitted pursuant to the Industrial Ground

Water Regulatory Act, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each of the first ten such water wells registered under section 46-602, and for each group of ten or fewer such water wells registered thereafter, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224.

(3) For a series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground, the director shall collect in advance a fee of thirty dollars for each such series and the fee required by section 46-1224.

(4) For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each of the first five such water wells registered under section 46-602, and for each group of five or fewer such water wells registered thereafter, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224. However, if such water wells are a part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected as if only one water well was being registered and the fee required by section 46-1224 shall be collected.

(5)(a) For a series of two or more water wells completed and pumped into a common carrier as part of a single site plan for irrigation purposes, the director shall collect in advance a registration fee of thirty dollars and the fee required by section 46-1224 for each of the first two such wells registered under section 46-602.

(b) Any additional water wells which are part of a series registered under this subsection shall not be subject to a new well registration fee.

(6) The director shall remit the fees collected to the State Treasurer for credit to the appropriate fund. The State Treasurer shall credit the registration fees to the Water Well Decommissioning Fund and shall credit the fees required by section 46-1224 to the Water Well Standards and Contractors' Licensing Fund.

Sec. 173. Section 46-610, Reissue Revised Statutes of Nebraska, is amended to read:

46-610. (1) Any person may apply to the Director of ~~Water~~ Natural Resources for a special permit to drill an irrigation water well without regard to the spacing requirements of section 46-609 and shall pay a fee to the Department of ~~Water~~ Natural Resources of twelve dollars and fifty cents, which fee shall be remitted to the State Treasurer for credit to the General Fund. Such application shall be in such form as the director directs and shall contain a statement of the proposed location of the irrigation water well, the reason for seeking such special permit, the legal description of the land to be irrigated by the irrigation water well, the number of acres to be irrigated, the proposed size of the irrigation water well, the estimated capacity of the irrigation water well, expressed in gallons per minute, to the extent that capacity is susceptible of advance determination, and the name of the person who is actually going to construct the irrigation water well.

(2) A separate application, like that provided for in subsection (1) of this section, shall be submitted for each irrigation water well for which a special permit is sought. When considering the approval or rejection of any application, the director shall consider the size, shape, and irrigation needs of the property for which such special permit is sought, the known ground water supply, the effect on the ground water supply and the surrounding land of the irrigation water well for which such special permit is sought, any waiver or agreement allowing the new irrigation water well by the owner of any registered irrigation water well less than six hundred feet from the location of the proposed new irrigation water well, and such other information as may be available. Such application may be approved or disapproved in whole or in part or may be approved with conditions, and the special permit shall be issued or refused accordingly.

Sec. 174. Section 46-613.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-613.01. The Legislature recognizes and declares that the maintenance of an adequate source of ground water within this state is essential to the social stability of the state and the health, safety, and welfare of its citizens and that reasonable restrictions on the transportation of ground water from this state are a proper exercise of the police powers of the state. The need for such restrictions, which protect the health, safety, and general welfare of the citizens of this state, is hereby declared a matter

of legislative determination.

Any person, firm, city, village, municipal corporation, or other entity intending to withdraw ground water from any water well located in the State of Nebraska and transport it for use in another state shall apply to the Department of ~~Water~~ Natural Resources for a permit to do so. In determining whether to grant such permit, the Director of ~~Water~~ Natural Resources shall consider:

- (1) Whether the proposed use is a beneficial use of ground water;
- (2) The availability to the applicant of alternative sources of surface or ground water;
- (3) Any negative effect of the proposed withdrawal on surface or ground water supplies needed to meet reasonable future demands for water in the area of the proposed withdrawal; and
- (4) Any other factors consistent with the purposes of this section that the director deems relevant to protect the interests of the state and its citizens.

Issuance of a permit shall be conditioned on the applicant's compliance with the rules and regulations of the natural resources district from which the water is to be withdrawn. The applicant shall be required to provide access to his or her property at reasonable times for purposes of inspection by officials of the district or the ~~Department of Water Resources~~ department.

The director may include such reasonable conditions on the proposed use as he or she deems necessary to carry out the purposes of this section.

Sec. 175. Section 46-613.02, Reissue Revised Statutes of Nebraska, is amended to read:

46-613.02. Any person violating any provision of sections 46-601 to 46-613.01 or furnishing false information under such sections shall be guilty of a Class IV misdemeanor. The Department of ~~Water~~ Natural Resources may enforce such sections by instituting proceedings, actions, and prosecutions.

Sec. 176. Section 46-637, Reissue Revised Statutes of Nebraska, is amended to read:

46-637. The use of water described in section 46-636 may only be made after securing a permit from the Department of ~~Water~~ Natural Resources for such use. If the applicant is an individual, the application for a permit shall include the applicant's social security number. In approving or disapproving applications for such permits, the Director of ~~Water~~ Natural Resources shall take into account the effect that such pumping may have on the amount of water in the stream and its ability to meet the requirements of appropriators from the stream. This section ~~shall~~ does not apply to (1) water wells located within fifty feet of the bank of any natural stream which were in existence on ~~September 9, 1993, the operative date of this act~~ and (2) replacement water wells as defined in ~~subsection (3) of~~ section 46-602 that are located within fifty feet of the banks of a stream if the water wells being replaced were originally constructed prior to ~~September 9, 1993, the operative date of this act~~ and were located within fifty feet of the bank of any natural stream.

Sec. 177. Section 46-638, Reissue Revised Statutes of Nebraska, is amended to read:

46-638. (1) The Director of ~~Water~~ Natural Resources ~~of the State of Nebraska is hereby authorized to~~ may grant and administer permits to public water suppliers: (a) To locate, develop, and maintain ground water supplies through water wells or other means and to transport water into the area to be served; and (b) to continue existing use of ground water and the transportation of ground water into the area served.

(2) For purposes of the Municipal and Rural Domestic Ground Water Transfers Permit Act and sections 46-651 to 46-655, (a) public water supplier shall mean a city, village, municipal corporation, metropolitan utilities district, rural water district, natural resources district, irrigation district, reclamation district, or sanitary and improvement district which supplies or intends to supply water to inhabitants of cities, villages, or rural areas for domestic or municipal purposes and (b) water well shall have the same meaning as in section 46-601.01.

Sec. 178. Section 46-639, Reissue Revised Statutes of Nebraska, is amended to read:

46-639. An applicant which desires to avail itself of the Municipal and Rural Domestic Ground Water Transfers Permit Act shall make application in writing to the Director of ~~Water~~ Natural Resources for a permit. The application shall include (1) a statement of the amount of water for which a permit is desired together with an exhibit of maps showing the location of all water wells and (2) such other information as the director deems necessary or desirable. The application shall be accompanied by a fee in the amount of

fifty dollars for the first five million gallons per day and an additional twenty dollars for each additional increment of five million gallons per day requested. The fee shall be based on the amounts of water requested on a daily average basis.

Sec. 179. Section 46-640, Reissue Revised Statutes of Nebraska, is amended to read:

46-640. Upon receipt of an application filed under section 46-639, the ~~director~~ Director of Natural Resources shall cause a notice of such application to be published at the applicant's expense at least once a week for three consecutive weeks in a legal newspaper published or of general circulation in each county containing lands on which the water well field or any part of such water well field is or is proposed to be located. The notice shall contain a description of the lands upon which such water well field is or is proposed to be located, the amount of water requested, the number of water wells constructed or proposed, and any other relevant information. The notice shall state that any interested person may object to and request a hearing on the application by filing written objections specifically stating the grounds for each objection within two weeks after the date of final publication in the office of the director.

Sec. 180. Section 46-641, Reissue Revised Statutes of Nebraska, is amended to read:

46-641. The ~~department~~ Department of Natural Resources may hold a hearing on an application filed under section 46-639 on its own motion and shall hold a hearing on such an application if requested by any person pursuant to section 46-640.

Sec. 181. Section 46-642, Reissue Revised Statutes of Nebraska, is amended to read:

46-642. If the Director of ~~Water~~ Natural Resources finds that the withdrawal and transportation of ground water requested by the applicant are reasonable, are not contrary to the conservation and beneficial use of ground water, and are not otherwise detrimental to the public welfare, he or she shall grant a permit to the applicant to withdraw and transport water in the amount applied for or in a lesser amount. The permit so granted shall have a priority date as of the time when the application is filed with the director.

Sec. 182. Section 46-644, Reissue Revised Statutes of Nebraska, is amended to read:

46-644. Permits granted by the Director of ~~Water~~ Natural Resources shall be valid for a period of five years after the granting of a permit and as long thereafter as the water for which the permit is granted is used. For the purposes of ~~sections 46-638 to 46-650~~ the Municipal and Rural Domestic Ground Water Transfers Permit Act, the commencement of construction of facilities to provide water for beneficial use shall be deemed the date of the commencement of beneficial use. If it ~~shall appear~~ appears that the holder of a permit granted under the ~~provisions of sections 46-638 to 46-650~~ act has not used water for a beneficial purpose and in accordance with the terms of the permit for more than three years, such permit may be revoked or modified by the director. The procedure for such revocation or modification shall be the same as that provided for in sections 46-229.02 to 46-229.05.

Sec. 183. Section 46-645, Reissue Revised Statutes of Nebraska, is amended to read:

46-645. The Director of ~~Water~~ Natural Resources may grant to any public water supplier permits to store excess, unused, and unappropriated water for recharging ground water reservoirs. The procedure to be followed in granting permits to utilize excess, unused, and unappropriated water for recharging ground water reservoirs shall, so far as applicable, be the same as that required for granting permits for the use of ground water as provided in ~~sections 46-638 to 46-650~~ the Municipal and Rural Domestic Ground Water Transfers Permit Act.

Sec. 184. Section 46-646, Reissue Revised Statutes of Nebraska, is amended to read:

46-646. Any person who feels aggrieved by any order or decision in connection with the granting or denial, in whole or in part, of an application for a permit or in connection with the revocation or modification of a permit may institute proceedings in the Court of Appeals in the manner provided for in section ~~46-210~~ 7 of this act.

Sec. 185. Section 46-648, Reissue Revised Statutes of Nebraska, is amended to read:

46-648. The use of ground water pursuant to a permit granted by the Director of ~~Water~~ Natural Resources under the ~~provisions of sections 46-638 to 46-650~~ Municipal and Rural Domestic Ground Water Transfers Permit Act shall be subject to and governed by ~~the provisions of~~ section 46-613.

Sec. 186. Section 46-649, Reissue Revised Statutes of Nebraska, is

amended to read:

46-649. The Director of ~~Water~~ Natural Resources may adopt and promulgate all rules and regulations necessary or desirable to secure compliance with the ~~provisions of sections 46-638 to 46-650~~ Municipal and Rural Domestic Ground Water Transfers Permit Act.

Sec. 187. Section 46-653, Reissue Revised Statutes of Nebraska, is amended to read:

46-653. Any person may apply to the Director of ~~Water~~ Natural Resources for a special permit to drill a water well without regard to the spacing requirements of section 46-651. Such application shall be on a form prescribed and furnished by the director and shall contain a statement of the precise location of the proposed water well, facts justifying the request for such special permit, the proposed size of such water well, expressed in gallons per minute, to the extent that capacity is susceptible of advance determination, and the name of the person who is actually going to drill the water well. A separate application shall be submitted for each water well for which a special permit is sought, and each application shall be accompanied by a fee of twelve dollars and fifty cents which shall be remitted to the State Treasurer for credit to the General Fund. When considering the approval or rejection of any such application, the director shall consider the facts offered as justification of the need for special permit, the known ground water supply, and such other pertinent information as may be available. Such application may be approved or disapproved in whole or in part and the special permit issued or refused accordingly.

Sec. 188. Section 46-654, Reissue Revised Statutes of Nebraska, is amended to read:

46-654. (1) Any public water supplier having a permit under the Municipal and Rural Domestic Ground Water Transfers Permit Act is hereby granted the protection of sections 46-651 to 46-655 for all water wells for which a permit has been or in the future is granted by the Department of ~~Water~~ Natural Resources under such act.

(2) If in its application for a permit pursuant to such act a public water supplier requests the protection of the spacing requirements of section 46-651 for test holes and water wells under construction and if the permit is granted, the ~~director~~ Director of Natural Resources shall identify in the permit the area to which the spacing protection will apply and the spacing protection of section 46-651 shall then apply to such area for a period of one year from the date the permit is granted. The director shall notify, by certified or registered mail, owners and occupiers of land affected by the granting of such spacing protection, according to information supplied by the applicant. Costs of providing such notice shall be borne by the applicant. Owners or occupiers of land not receiving the notice required by this subsection shall not be bound by the spacing requirements until the applicant's water wells are completed. Such protection may be extended by the director, by a similar procedure, upon application by the public water supplier and good cause shown, for additional one-year periods.

Sec. 189. Section 46-656.05, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.05. The Legislature further finds:

(1) The management, conservation, and beneficial use of hydrologically connected ground water and surface water are essential to the continued economic prosperity and well-being of the state, including the present and future development of agriculture in the state;

(2) Hydrologically connected ground water and surface water may need to be managed differently from unconnected ground water and surface water in order to permit equity among water users and to optimize the beneficial use of interrelated ground water and surface water supplies;

(3) Natural resources districts already have significant legal authority to regulate activities which contribute to declines in ground water levels and to nonpoint source contamination of ground water and are the preferred entities to regulate, through ground water management areas, ground water related activities which are contributing to or are, in the reasonably foreseeable future, likely to contribute to conflicts between ground water users and surface water appropriators or which may be necessary in order to resolve disputes over interstate compacts or decrees, or to carry out the provisions of other formal state contracts or agreements;

(4) The Department of ~~Water~~ Natural Resources is responsible for regulation of surface water resources and local surface water project sponsors are responsible for much of the structured irrigation utilizing surface water supplies, and these entities should be responsible for regulation of surface water related activities which contribute to such conflicts or provide opportunities for such dispute resolution;

(5) The department, following review and concurrence of need by the Interrelated Water Review Committee of the Nebraska Natural Resources Commission, should also be given authority to regulate ground water related activities to mitigate or eliminate disputes over interstate compacts or decrees or difficulties in carrying out the provisions of other formal state contracts or agreements if natural resources districts do not utilize their ground water management authority in a reasonable manner to prevent or minimize such disputes or difficulties; and

(6) All involved natural resources districts, the department, and surface water project sponsors should cooperate and collaborate on the identification and implementation of management solutions to such conflicts or provide opportunities for mitigation or elimination of such disputes or difficulties.

Sec. 190. Section 46-656.07, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.07. For purposes of the Nebraska Ground Water Management and Protection Act and sections 46-601 to 46-613.02 and 46-636 to 46-655, unless the context otherwise requires:

(1) Person shall mean a natural person, a partnership, a limited liability company, an association, a corporation, a municipality, an irrigation district, an agency or a political subdivision of the state, or a department, an agency, or a bureau of the United States;

(2) Ground water shall mean that water which occurs in or moves, seeps, filters, or percolates through ground under the surface of the land;

(3) Contamination or contamination of ground water shall mean nitrate nitrogen or other material which enters the ground water due to action of any person and causes degradation of the quality of ground water sufficient to make such ground water unsuitable for present or reasonably foreseeable beneficial uses;

(4) District shall mean a natural resources district operating pursuant to Chapter 2, article 32;

(5) Illegal water well shall mean (a) any water well operated or constructed without or in violation of a permit required by the act, (b) any water well not in compliance with rules and regulations adopted and promulgated pursuant to the act, (c) any water well not properly registered in accordance with sections 46-602 to 46-604, or (d) any water well not in compliance with any other applicable laws of the State of Nebraska or with rules and regulations adopted and promulgated pursuant to such laws;

(6) To commence construction of a water well shall mean the beginning of the boring, drilling, jetting, digging, or excavating of the actual water well from which ground water is to be withdrawn;

(7) Management area shall mean any area so designated by a district pursuant to section 46-656.20, by the Director of Environmental Quality pursuant to section 46-656.39, or by the Director of ~~Water~~ Natural Resources pursuant to section 46-656.52. Management area shall include a control area or a special ground water quality protection area designated prior to July 19, 1996;

(8) Management plan shall mean a ground water management plan developed by a district and submitted to the Director of ~~Water~~ Natural Resources for review pursuant to sections 46-656.12 to 46-656.15;

(9) Ground water reservoir life goal shall mean the finite or infinite period of time which a district establishes as its goal for maintenance of the supply and quality of water in a ground water reservoir at the time a ground water management plan is adopted;

(10) Board shall mean the board of directors of a district;

(11) Irrigated acre shall mean any acre that is certified as such pursuant to rules and regulations of the district and that is actually capable of being supplied water through irrigation works, mechanisms, or facilities existing at the time of the allocation;

(12) Acre-inch shall mean the amount of water necessary to cover an acre of land one inch deep;

(13) Subirrigation or subirrigated land shall mean the natural occurrence of a ground water table within the root zone of agricultural vegetation, not exceeding ten feet below the surface of the ground;

(14) Best management practices shall mean schedules of activities, maintenance procedures, and other management practices utilized to prevent or reduce present and future contamination of ground water which may include irrigation scheduling, proper timing of fertilizer and pesticide application, and other fertilizer and pesticide management programs;

(15) Point source shall mean any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, vessel, other floating

craft, or other conveyance, over which the Department of Environmental Quality has regulatory authority and from which a substance which can cause or contribute to contamination of ground water is or may be discharged;

(16) Allocation shall mean the allotment of a specified total number of acre-inches of irrigation water per irrigated acre per year or an average number of acre-inches of irrigation water per irrigated acre over any reasonable period of time not to exceed five years;

(17) Rotation shall mean a recurring series of use and nonuse of irrigation wells on an hourly, daily, weekly, monthly, or yearly basis;

(18) Water well shall have the same meaning as in section 46-601.01; and

(19) Surface water project sponsor shall mean an irrigation district created pursuant to Chapter 46, article 1, a reclamation district created pursuant to Chapter 46, article 5, or a public power and irrigation district created pursuant to Chapter 70, article 6.

Sec. 191. Section 46-656.12, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.12. Each district shall prepare a ground water management plan based upon the best available information and submit such plan to the Director of ~~Water~~ Natural Resources for review and approval.

The plan shall include, but not be limited to, the identification to the extent possible of:

(1) Ground water supplies within the district including transmissivity, saturated thickness maps, and other ground water reservoir information, if available;

(2) Local recharge characteristics and rates from any sources, if available;

(3) Average annual precipitation and the variations within the district;

(4) Crop water needs within the district;

(5) Current ground water data-collection programs;

(6) Past, present, and potential ground water use within the district;

(7) Ground water quality concerns within the district;

(8) Proposed water conservation and supply augmentation programs for the district;

(9) The availability of supplemental water supplies, including the opportunity for ground water recharge;

(10) The opportunity to integrate and coordinate the use of water from different sources of supply;

(11) Ground water management objectives, including a proposed ground water reservoir life goal for the district. For management plans adopted or revised after July 19, 1996, the ground water management objectives may include any proposed integrated management objectives for hydrologically connected ground water and surface water supplies;

(12) Existing subirrigation uses within the district;

(13) The relative economic value of different uses of ground water proposed or existing within the district; and

(14) The geographic and stratigraphic boundaries of any proposed management area.

If the expenses incurred by a district preparing a ground water management plan exceed twenty-five percent of the district's current budget, the district may make application to the Nebraska Resources Development Fund for assistance.

If a control area, management area, or special ground water quality protection area has been designated in a district prior to July 19, 1996, the area shall be designated a management area but the district shall not be required to adopt or amend its existing rules, regulations, action plan, or ground water management plan, due to that change in designation, for the geographical area of the district included in such control area, management area, or special ground water quality protection area. A district may change references from control area or special ground water quality protection area to management area without holding a public hearing. Before taking any action described in the remainder of this section, a district shall hold a public hearing within the district. Notice of the hearing shall be given as provided in section 46-656.19. If the changes made by Laws 1996, LB 108, require substantive changes to the district's rules, regulations, or plans, the district shall enact appropriate amendments to such rules, regulations, or plans. A district in which a special ground water quality protection area was designated prior to July 19, 1996, shall insure compliance with section 46-656.29. A district in which a control area, management area, or special ground water quality protection area was designated prior to July 19, 1996,

may adopt any of the controls permitted by section 46-656.25.

Sec. 192. Section 46-656.14, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.14. The Director of ~~Water~~ Natural Resources shall review any ground water management plan submitted by a district to ensure that the best available studies, data, and information, whether previously existing or newly initiated, were utilized and considered and that such plan is supported by and is a reasonable application of such information. If a management area is proposed and the primary purpose of the proposed management area is protection of water quality, the director shall consult with the Department of Environmental Quality regarding approval or denial of the management plan. The director shall consult with the Conservation and Survey Division of the University of Nebraska, ~~the Nebraska Natural Resources Commission,~~ and such other state or federal agencies the director shall deem necessary when reviewing plans. Within ninety days after receipt of a plan, the director shall transmit his or her specific findings, conclusions, and reasons for approval or disapproval to the district submitting the plan.

Sec. 193. Section 46-656.15, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.15. If the Director of ~~Water~~ Natural Resources disapproves a ground water management plan, the district which submitted the plan shall, in order to establish a management area, submit to the director either the original or a revised plan with an explanation of how the original or revised plan addresses the issues raised by the director in his or her reasons for disapproval. Once a district has submitted an explanation pursuant to this section, such district may proceed to schedule a hearing pursuant to section 46-656.19.

Sec. 194. Section 46-656.16, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.16. Prior to January 1, 1996, each district shall amend its ground water management plan to identify to the extent possible the levels and sources of ground water contamination within the district, ground water quality goals, long-term solutions necessary to prevent the levels of ground water contaminants from becoming too high and to reduce high levels sufficiently to eliminate health hazards, and practices recommended to stabilize, reduce, and prevent the occurrence, increase, or spread of ground water contamination. Notwithstanding the restrictions provided in section 46-656.22, each district may modify its plan to include (1) any agreements between the district and state or federal agencies entered into as part of the review process conducted pursuant to section 46-656.14 and (2) any conditions imposed by the Director of ~~Water~~ Natural Resources during such review process. If a special ground water quality protection area has been designated in a district as of September 6, 1991, or if the study required by section 46-656.36 or 46-656.50 recommends the designation of a management area, the district shall not be required to amend its plan for the geographical area encompassed by the special protection or management area.

Sec. 195. Section 46-656.19, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.19. Prior to proceeding toward establishing a management area, a management plan shall have been approved by the Director of ~~Water~~ Natural Resources or the district shall have completed the requirements of section 46-656.15. If necessary to determine whether a management area should be designated, the district may initiate new studies and data-collection efforts and develop computer models. In order to establish a management area, the district shall fix a time and place for a public hearing to consider the management plan information supplied by the director and to hear any other evidence. The hearing shall be located within or in reasonable proximity to the area proposed for designation as a management area.

Notice of the hearing shall be published at the expense of the district in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks, the last publication to be not less than seven days prior to the hearing. The notice shall provide a general description of the contents of the plan and of the area which will be considered for inclusion in the management area and a general description of all controls proposed for adoption or amendment by the district and shall identify all locations where a copy of the full text of the proposed controls may be obtained. The full text of all controls shall be available to the public upon request not later than the date of first publication.

All interested persons shall be allowed to appear and present testimony. The hearing shall include testimony of a representative of the Department of ~~Water~~ Natural Resources and, if the primary purpose of the

proposed management area is protection of water quality, of the Department of Environmental Quality and shall include the results of any studies or investigations conducted by the district.

Sec. 196. Section 46-656.25, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

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

(h) It may provide educational requirements, including mandatory educational requirements, designed to protect water quality or to stabilize or reduce the incidence of ground water depletion, conflicts between ground water users and surface water appropriators, disputes over interstate compacts or decrees, or difficulties fulfilling the provisions of other formal state contracts or agreements;

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

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

(2) In adopting, amending, or repealing any control authorized by subsection (1) of this section or sections 46-656.26 and 46-656.27, the district's considerations shall include, but not be limited to, whether it reasonably appears that such action will mitigate or eliminate the condition which led to designation of the management area or will improve the administration of the area.

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

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

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

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

(b) For management areas a purpose of which is the integrated management of hydrologically connected ground water and surface water, the district may establish different provisions for water wells constructed before

the designation of a management area for integrated management of hydrologically connected ground water and surface water and for water wells constructed on or after the designation date or any other later date or dates established by the district.

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

(7) If the district determines, following a public hearing conducted pursuant to section 46-656.19, that the impact on surface water supplies or the depletion or contamination of the ground water supply in the management area or any portion of the management area is so excessive that the public interest cannot be protected solely through implementation of reasonable controls adopted pursuant to subsection (1) of this section, it may close all or a portion of the management area to the issuance of any additional permits for a period of not more than five calendar years. The area may be further closed thereafter by a similar procedure for additional time periods of the same length. Any such area may be reopened at any time the district determines that conditions warrant new permits at which time the district shall consider all previously submitted applications for permits in the order in which they were received.

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

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

Sec. 197. Section 46-656.28, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.28. (1) If a district on its own motion or following a request by a surface water appropriator, surface water project sponsor, ground water user, the Department of ~~Water~~ Natural Resources, or another state agency has reason to believe that a management area should be designated for integrated management of hydrologically connected ground water and surface water or that controls in a management area should be adopted to include such integrated management, the district may utilize the procedures established in sections 46-656.19 to 46-656.21 or may request that the affected appropriators, the affected surface water project sponsors, and the Department of ~~Water~~ Natural Resources consult with the district and that studies and a hearing be held on the preparation of a joint action plan for the integrated management of hydrologically connected ground water and surface water.

(2) If, following a request from a district and as a result of information available to the Department of ~~Water~~ Natural Resources and following preliminary investigation, the Director of ~~Water~~ Natural Resources makes a preliminary determination that there is a reason to believe that the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to (a) conflicts between ground water users and surface water appropriators, (b) disputes over interstate compacts or decrees, or (c) difficulties fulfilling the provisions of other formal state contracts or agreements, the department shall, in cooperation with any appropriate state agency and district, conduct or coordinate any necessary studies to determine the cause of such conflicts, disputes, or difficulties and the extent of the area affected. Such studies shall be prioritized and completed within a reasonable time following such preliminary determination. The department shall issue a written report of such preliminary findings within ninety days after the completion of any such studies. The department shall consider all relevant portions of the ground water management plan developed by the district pursuant to sections 46-656.12 to 46-656.16 during the study required by this section.

(3) If the director determines from any studies conducted pursuant to subsection (2) of this section or from information otherwise available that the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to conflicts between ground water users and surface water appropriators, to disputes over interstate compacts or decrees, or to

difficulties fulfilling the provisions of other formal state contracts or agreements and that conflicts between ground water users and surface water appropriators, disputes over interstate compacts or decrees, or difficulties fulfilling the provisions of other formal state contracts or agreements could be eliminated or reduced through the exercise of the authority granted by subsection (5) of this section, he or she shall, within thirty days after completion of the report required by subsection (2) of this section, consult with the affected surface water appropriators and district containing the area affected by such conflicts, disputes, or difficulties and fix a time and place for a public hearing to consider the report, hear any other relevant evidence, and secure testimony on whether a joint action plan should be prepared. The hearing shall be held within ninety days after completion of the report, shall be open to the public, and shall be located within or in reasonable proximity to the area considered in the report. Notice of the hearing shall be published in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks. The last publication shall be not less than seven days prior to the hearing. The notice shall provide a general description of all areas which will be considered for inclusion in the management area for which the district and director are considering in the preparation of a joint action plan.

(4) At the hearing, all interested persons shall be allowed to appear and present testimony. The Conservation and Survey Division of the University of Nebraska, the Department of Health and Human Services Regulation and Licensure, the Department of Environmental Quality, ~~the Nebraska Natural Resources Commission~~, the affected surface water project sponsor or sponsors, and the appropriate surface water appropriators and district or districts may offer as evidence any information in their possession relevant to the purpose of the hearing. Within ninety days after the hearing or after any further studies or investigations conducted by or on behalf of the ~~Director of Water Resources~~ director as he or she deems necessary, the district shall determine by order whether to proceed with developing a joint action plan for integrated management.

If the district determines that it should proceed and the district and the director determine that a joint action plan should be prepared, the district and the director shall develop a joint action plan to be utilized within the area in order to mitigate or eliminate conflicts between ground water users and surface water appropriators, disputes over interstate compacts or decrees, or difficulties fulfilling the provisions of other formal state contracts or agreements.

(5) The district's portion of the joint action plan developed under this section shall include one or more of the controls authorized by section 46-656.25 and shall be completed within one year after the date of the district's resolution to proceed. The portion of the joint action plan developed by the Department of ~~Water~~ Natural Resources shall be completed within one year after the date of the district's resolution to proceed and shall include one or more of the following measures concerning the use of surface water:

(a) Increased monitoring and enforcement of surface water diversion rates and amounts diverted annually;

(b) The prohibition or limitation of additional surface water appropriations;

(c) Requirements for surface water appropriators to apply or utilize reasonable conservation measures or best management practices consistent with the good husbandry and other requirements of section 46-231; or

(d) Other reasonable restrictions on surface water use that are consistent with the intent of section 46-656.05 and the requirements of section 46-231.

If the department determines that surface water appropriators should be required to apply or utilize reasonable conservation measures or best management practices, the department's portion of the joint action plan shall allow the affected surface water appropriators and surface water project sponsors a reasonable amount of time, not to exceed one hundred eighty days unless extended by the department, to identify the conservation measures or best management practices to be applied or utilized and a schedule for such application and utilization.

(6) In developing their respective portions of the joint action plan authorized by subsection (5) of this section, the department and the district shall consider, but not be limited to considering, whether it reasonably appears that such action would mitigate or eliminate the condition which led to designation of the management area or the adoption of a joint action plan for the management area or will improve the administration of the management area.

(7) The district shall also determine that designation of a management area and adoption of a joint action plan would be in the public interest.

(8) Neither well registration dates nor appropriation dates shall be a factor in determining whether a management area shall be designated or a joint action plan prepared.

(9) In determining whether designating a management area or adopting a joint action plan would be in the public interest, the district shall consider (a) the impacts of the existing or projected diminution or degradation of water resources on (i) surface water appropriators, (ii) ground water users, (iii) public health and safety, (iv) social, economic, and environmental values in the affected area or areas, and (v) compliance with state laws, rules, or regulations, including, but not limited to, constitutional and statutory preferences in the use of water and interstate compacts or decrees, and (b) whether designation and implementation of a management area or adoption and implementation of a joint action plan would prevent or alleviate the impact of such diminution or degradation of water resources.

(10) Following completion of the district's and the director's portions of the joint action plan, the district, in order to establish a management area, shall fix a time and place for a public hearing to consider the joint action plan information and to hear any other relevant evidence. The hearing shall be held within sixty days after completion of the joint action plan and shall be located within or in reasonable proximity to the area proposed for designation as a management area.

Notice of the hearing shall be published at the expense of the district in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks. The last publication shall be not less than seven days prior to the hearing. The notice shall provide a general description of the contents of the joint action plan and of the area which will be considered for inclusion in the management area and shall provide the text of all controls proposed for adoption by the district and the department.

All interested persons shall be allowed to appear and present testimony. The hearing shall include testimony of a representative of the department and shall include the results of any studies or investigations conducted by the district or the director.

(11) Within ninety days after the hearing the district shall determine by order whether a management area shall be designated.

If the district determines that a management area shall be established, the district shall by order designate the area as a management area and shall adopt the joint action plan, to include one or more controls authorized by section 46-656.25 and subsection (5) of this section to be utilized within the area in order to mitigate or eliminate the conflicts, disputes, or difficulties described in subsection (9) of this section. Such an order shall include a geographic and stratigraphic definition of the area. The boundaries and controls shall take into account any considerations brought forth at the hearing and administrative factors directly affecting the ability of the district to implement and carry out local ground water management.

The controls adopted shall not include controls substantially different from those set forth in the notice of the hearing. The area designated by the order shall not include any area not included in the notice of the hearing.

(12) The district shall cause a copy of any order adopted pursuant to subsection (11) of this section to be published once each week for three consecutive weeks in a local newspaper published or of general circulation in the area involved. The last publication shall be not less than ten days prior to the effective date of the order. The order shall become effective on the date specified by the district but not later than ninety days after the date of establishment of the management area.

(13) Modification of a district's portion of a joint action plan may be accomplished utilizing the procedure established for the initial adoption of the joint action plan. Modification of the boundaries of a district-designated management area for integrated management or dissolution of such an area shall be in accordance with the procedures established in sections 46-656.19 to 46-656.21. Hearings for such modifications or for dissolution may not be initiated more often than once a year. Modification of controls also may be accomplished using the procedure in such sections.

(14) Each district in which a joint action plan for a management area has been adopted shall, in cooperation with the surface water appropriators, any surface water project sponsors, and the department, establish a program to monitor use of hydrologically connected ground water

and surface water resources in the area which is contributing to or is in the reasonably foreseeable future likely to contribute to conflicts between ground water users and surface water appropriators, to disputes over interstate compacts or decrees, or to difficulties fulfilling the provisions of other formal state contracts or agreements.

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

(16)(a) If a district, in accordance with subsection (1) of this section, has initiated the process for the preparation of a joint action plan for the integrated management of hydrologically connected ground water and surface water, the district may adopt regulations to require a temporary suspension in the drilling of certain new wells in the district or portion of the district for which the preparation of the joint action plan is proposed. If such temporary suspension is imposed, it shall apply to all new wells in the geographic area involved except (i) test holes or dewatering wells with an intended use of ninety days or less, (ii) water wells designed and constructed to pump fifty gallons per minute or less, and (iii) water wells defined by the district to be replacement water wells. The regulations to impose such temporary suspension may be adopted only after a public hearing for which notice has been given as provided in section 46-656.19. Any such temporary suspension could be imposed initially for not to exceed three years, but could be extended thereafter on an annual basis for not to exceed two years if necessary to allow adoption and implementation of a management area and action plan in accordance with subsections (11) and (12) of this section.

(b) Any such temporary suspension shall be immediately rescinded for the applicable portion or portions of the geographic area involved if any of the following events occur: (i) The ~~Director of Water Resources~~ director determines, in accordance with subsection (2) or (3) of this section that there is no reason to believe that the conditions described in such subsections exist and that therefor no hearing is required on a question of whether a joint action plan should be prepared; (ii) the district determines, pursuant to subsection (5), (6), (7), (8), or (9) of this section that it should not proceed to develop a joint action plan; (iii) the district determines pursuant to subsection (11) of this section that a management area should not be adopted; or (iv) an order adopted by the district pursuant to subsection (11) of this section becomes effective and designates the area or areas involved as a management area and adopts a joint action plan which includes one or more controls authorized by section 46-656.25.

(c) The district may grant a variance from the temporary suspension if it determines that construction of a new well is necessary to alleviate an emergency situation involving the provision of water for human consumption.

This subsection does not authorize the Department of ~~Water~~ Natural Resources to temporarily suspend drilling of water wells.

This subsection terminates on December 31, 2002.

Sec. 198. Section 46-656.30, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.30. An application for a permit or late permit for a water well in a management area shall be denied only if the district in which the water well is to be located finds (1) that the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the district, (2) that the proposed use would not be a beneficial use of water for domestic, agricultural, manufacturing, or industrial purposes, or (3) in the case of a late permit only, that the applicant did not act in good faith in failing to obtain a timely permit.

If the district finds that the application is incomplete or defective, it shall return the application for correction. If the correction is not made within sixty days, the application shall be canceled. All permits shall be issued with or without conditions attached or denied not later than thirty days after receipt by the district of a complete and properly prepared application.

A permit issued shall specify all regulations and controls adopted by a district relevant to the construction or utilization of the proposed water well. No refund of any application fees shall be made regardless of whether the permit is issued, canceled, or denied. The district shall transmit one copy of each permit issued to the Director of ~~Water~~ Natural Resources.

Sec. 199. Section 46-656.31, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.31. The issuance by the district of a permit pursuant to

section 46-656.30 or registration of a water well by the Director of ~~Water~~ Natural Resources pursuant to section 46-602 shall not vest in any person the right to violate any district rule, regulation, or control in effect on the date of issuance of the permit or the registration of the water well or to violate any rule, regulation, or control properly adopted after such date.

Sec. 200. Section 46-656.33, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.33. All fees paid to the Director of ~~Water~~ Natural Resources in accordance with the terms of the Nebraska Ground Water Management and Protection Act shall be paid into the Ground Water Management Fund which is hereby created and which shall be administered by the director. Any money credited to the fund may be utilized by the director for payments of expenses incurred in the administration of the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 201. Section 46-656.38, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.38. If the Director of Environmental Quality determines from the study conducted pursuant to section 46-656.36 that one or more sources of contamination are not point sources and if a management area, a purpose of which is protection of water quality, has been established which includes the affected area, the Director of Environmental Quality shall consider whether to require the district which established the management area to adopt an action plan as provided in sections 46-656.39 to 46-656.43.

If the Director of Environmental Quality determines that one or more of the sources are not point sources and if such a management area has not been established or does not include all the affected area, he or she shall, within thirty days after completion of the report required by section 46-656.36, consult with the district within whose boundaries the area affected by such contamination is located and fix a time and place for a public hearing to consider the report, hear any other evidence, and secure testimony on whether a management area should be designated or whether an existing area should be modified. The hearing shall be held within one hundred twenty days after completion of the report, shall be open to the public, and shall be located within or in reasonable proximity to the area considered in the report. Notice of the hearing shall be published in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks, the last publication to be not less than seven days prior to the hearing. The notice shall provide a general description of all areas which will be considered for inclusion in the management area.

At the hearing, all interested persons shall be allowed to appear and present testimony. The Conservation and Survey Division of the University of Nebraska, the Department of Health and Human Services Regulation and Licensure, the Department of ~~Water~~ Natural Resources, ~~the Nebraska Natural Resources Commission~~, and the appropriate district may offer as evidence any information in their possession which they deem relevant to the purpose of the hearing. After the hearing and after any studies or investigations conducted by or on behalf of the Director of Environmental Quality as he or she deems necessary, the director shall determine whether a management area shall be designated.

Sec. 202. Section 46-656.40, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.40. (1) Within one hundred eighty days after the designation of a management area or the requiring of an action plan for a management area, a purpose of which is protection of water quality, the district or districts within whose boundaries the area is located shall prepare an action plan designed to stabilize or reduce the level and prevent the increase or spread of ground water contamination. Whenever a management area or the affected area of such a management area encompasses portions of two or more districts, the responsibilities and authorities delegated in this section shall be exercised jointly and uniformly by agreement of the respective boards of all districts so affected.

(2) Within thirty days after an action plan has been prepared, a public hearing on such plan shall be held by the district in reasonable proximity to the area to be affected. Notice of the hearing shall be published in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks, the last publication to be not less than seven days prior to the hearing. The notice shall provide a general description of all areas to be affected by the proposed action plan and shall provide the text of all controls proposed for adoption by the district.

(3) Within thirty days after the hearing, the district shall adopt and submit an action plan to the ~~department~~ Department of Environmental Quality.

Sec. 203. Section 46-656.50, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.50. If, as a result of information available to the Department of ~~Water~~ Natural Resources or a request by a district and following preliminary investigation, the Director of ~~Water~~ Natural Resources makes a preliminary determination that there is reason to believe that (1) the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to disputes over interstate compacts or decrees or to difficulties fulfilling the provisions of other formal state contracts or agreements and (2) the natural resources district or districts in which such use is located have not designated a management area or have not implemented adequate controls to prevent such disputes or difficulties, the department shall, in cooperation with any appropriate state agency and natural resources district, coordinate any necessary studies to determine the cause of such disputes or difficulties and the extent of the area affected. Such studies shall be prioritized and completed within a reasonable time following such preliminary determination. The department shall issue a written report of such preliminary findings within ninety days after the completion of any such studies. The department shall consider the relevant water quantity portions of the ground water management plan developed by the district pursuant to sections 46-656.12 to 46-656.16 during the study required by this section.

Sec. 204. Section 46-656.51, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.51. (1) If the Director of ~~Water~~ Natural Resources determines from any studies conducted pursuant to section 46-656.50, or from information otherwise available, that the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to disputes over interstate compacts or decrees or to difficulties fulfilling the provisions of other formal state contracts or agreements and if a management area has been established which includes the affected area, the director shall decide whether to request the district which established the management area to adopt an action plan as provided in sections 46-656.53 to 46-656.57 in addition to the controls previously adopted by the district pursuant to section 46-656.25. The district may agree to that request and begin preparing an action plan under section 46-656.53 or may inform the director that it will not prepare an action plan unless the director requires the district to do so under subsection (2) of this section and section 46-656.52.

(2) If the director determines that the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to disputes or difficulties described in subsection (1) of this section and that (a) a management area has not been established or (b) he or she is considering whether to require the district to prepare an action plan for all or part of an established management area, he or she shall, within thirty days after completion of the report required by section 46-656.50, consult with the district containing the area affected by such disputes or situations and fix a time and place for a public hearing to consider the report, hear any other evidence, and secure testimony on whether a management area should be designated or whether the district should be required to prepare an action plan. The hearing shall be held within ninety days after completion of the report, shall be open to the public, and shall be located within or in reasonable proximity to the area considered in the report. Notice of the hearing shall be published in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks. The last publication shall be not less than seven days prior to the hearing. The notice shall provide a general description of all areas which will be considered for inclusion in the management area for which the director is considering designation or requiring the preparation of an action plan.

At the hearing, all interested persons shall be allowed to appear and present testimony. The Conservation and Survey Division of the University of Nebraska, the Department of Health and Human Services Regulation and Licensure, the Department of Environmental Quality, ~~the Nebraska Natural Resources Commission~~, the affected surface water project sponsor or sponsors, the appropriate surface water appropriators, and the appropriate district or districts may offer as evidence any information in their possession relevant to the purpose of the hearing. Within thirty days after the hearing or after any studies or investigations conducted by or on behalf of the Director of

~~Water~~ Natural Resources as he or she deems necessary, the director shall determine by order whether a management area shall be designated or an action plan required.

Sec. 205. Section 46-656.52, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.52. (1) The Director of ~~Water~~ Natural Resources may designate a management area to allow the integrated management of hydrologically connected resources or require the district to prepare an action plan under sections 46-656.53 to 46-656.60 if the Department of ~~Water~~ Natural Resources determines:

(a) That the quantity of surface water resources is being substantially and adversely impacted or is likely to be substantially and adversely impacted in the foreseeable future because of the use of hydrologically connected ground water resources;

(b) That substantial and adverse impact is contributing to or is in the reasonably foreseeable future likely to contribute to disputes over an interstate compact or decree or to difficulties fulfilling the provisions of other formal state contracts or agreements;

(c) That designating a management area or requiring preparation of an action plan would mitigate or eliminate the disputes over the interstate compact or decree or the difficulties in fulfilling the provisions of other formal state contracts or agreements; and

(d) That designating a management area or requiring preparation of an action plan would be in the public interest.

(2) In determining whether designating a management area or requiring preparation of an action plan would be in the public interest, the director shall consider (a) the impacts of the existing or projected diminution or degradation of water resources on (i) surface water appropriators, (ii) ground water users, (iii) public health and safety, (iv) social, economic, and environmental values in the affected area or areas, and (v) compliance with state laws, rules, or regulations, including, but not limited to, constitutional and statutory preferences in the use of water and interstate compacts or decrees, and (b) whether designation and implementation of a management area or preparation and implementation of an action plan would mitigate or eliminate the impact of such diminution or degradation.

(3) Neither well registration dates nor appropriation dates shall be a factor in determining whether a management area shall be designated or a joint action plan prepared.

(4) If the director determines that a management area shall be established or that the district shall be required to adopt an action plan, he or she shall consult with relevant state agencies and with the district or districts affected and determine the boundaries of the area, taking into account the effect on political subdivisions and the socioeconomic and administrative factors directly affecting the ability to implement and carry out local ground water and surface water management, control, and protection. The report by the director shall include the specific reasons for the creation of the management area or the requirement of such an action plan and a full disclosure of the possible causes.

(5) When the boundaries of an area have been determined, the director shall issue an order designating the area as a management area or requiring such an action plan. Such an order shall include a geographic and stratigraphic definition of the area.

Sec. 206. Section 46-656.53, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.53. (1) Within one year after the designation of a management area or the requiring of an action plan for a management area, the Department of ~~Water~~ Natural Resources, the surface water project sponsor or sponsors, and the district or districts within which the area is located shall, in consultation with each other, prepare an action plan designed to mitigate or eliminate the incidence of disputes over interstate compacts or decrees or of difficulties fulfilling the provisions of other formal state contracts or agreements. Whenever a management area or the affected area of such a management area encompasses portions of two or more districts, the responsibilities and authorities delegated in this section shall be exercised jointly and uniformly by agreement of the respective boards of all districts so affected.

(2) Within sixty days after an action plan has been prepared, one or more public hearings on such plan shall be held by the district and the department in reasonable proximity to the area or areas to be affected. Notice of each hearing shall be published in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks. The last publication shall be not less than seven days

prior to the hearing. The notice shall include a general description of all areas to be affected by the proposed action plan, the text of all controls proposed for adoption by the district, and the text of any surface water regulations prepared by the department.

(3) Within sixty days after the last hearing, the district shall adopt and submit its portion of the action plan to the department.

Sec. 207. Section 46-656.54, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.54. The district's portion of the action plan adopted under section 46-656.53 shall include one or more of the controls authorized by section 46-656.25. The portion of the action plan developed by the Department of ~~Water~~ Natural Resources shall include one or more of the following measures concerning the use of surface water:

(1) Increased monitoring and enforcement of surface water diversion rates and amounts diverted annually;

(2) The prohibition or limitation of additional surface water appropriations;

(3) Requirements for surface water appropriators to apply or utilize reasonable conservation measures or best management practices consistent with the good husbandry and other requirements of section 46-231; or

(4) Other reasonable restrictions on surface water use that are consistent with the intent of section 46-656.05 and the requirements of section 46-231.

If the department determines that surface water appropriators should be required to apply or utilize reasonable conservation measures or best management practices, the department's portion of the plan shall allow the affected surface water appropriators and surface water project sponsors a reasonable amount of time, not to exceed one hundred eighty days unless extended by the department, to identify the proposed conservation measures or best management practices to be applied or utilized and a schedule for such application and utilization.

Sec. 208. Section 46-656.55, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.55. (1) In adopting or amending the respective portions of the action plan authorized by subsection (2) of this section, the Department of ~~Water~~ Natural Resources and the district shall consider, but not be limited to considering, whether it reasonably appears that such action will mitigate or eliminate the condition which led to designation of the management area or the requirement of an action plan for the management area or will improve the administration of the area.

(2) The Director of ~~Water~~ Natural Resources shall approve or deny the adoption or amendment of the surface water project sponsor's conservation measures and the district's portion of the action plan within ninety days after the date the plan is submitted by the district. He or she may hold a public hearing to consider testimony regarding the action plan prior to the issuance of an order approving or disapproving the adoption or amendment. In approving the adoption or amendment of the plan in such an area, considerations shall include, but not be limited to, those enumerated in subsection (1) of this section and the lawful exercise of the authority granted by the Nebraska Ground Water Management and Protection Act.

(3) If the director denies approval of the district's portion of an action plan, the order shall state the reasons for such denial. A district may, within ninety days after denial of its original action plan, submit a revised action plan to the director for approval subject to section 46-656.58.

Sec. 209. Section 46-656.56, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.56. Following approval of the district's portion of an action plan by the Director of ~~Water~~ Natural Resources, the district shall cause a copy of each control adopted pursuant to section 46-656.55 to be published once each week for three consecutive weeks in a newspaper published or of general circulation in the area involved. The last publication shall be not less than seven days before the date such control becomes effective.

Sec. 210. Section 46-656.57, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.57. Each district in which a management area has been designated or an action plan for a management area has been required pursuant to section 46-656.52 shall, in cooperation with the surface water project sponsors and the Department of ~~Water~~ Natural Resources, establish a program to monitor use of hydrologically connected ground water and surface water resources in the area which is contributing to or is in the reasonably foreseeable future likely to contribute to disputes over interstate compacts or decrees or to difficulties fulfilling the provisions of other formal state

contracts or agreements.

Sec. 211. Section 46-656.58, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.58. The controls in the district's portion of an action plan approved by the Director of ~~Water~~ Natural Resources pursuant to section 46-656.55 shall be exercised by the district for the period of time necessary to reduce the use of hydrologically connected ground water and surface water resources in the area which is contributing to or is in the reasonably foreseeable future likely to contribute to disputes over interstate compacts or decrees or to difficulties fulfilling the provisions of other formal state contracts or agreements. An action plan may be amended by the same method utilized in the adoption of the action plan.

Sec. 212. Section 46-656.59, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.59. A district may petition the Director of ~~Water~~ Natural Resources to remove the designation of the area as a management area or the requirement of an action plan for a management area or to modify the boundaries of a management area designated pursuant to section 46-656.52. If the director determines that the use of hydrologically connected ground water and surface water resources in the area which is contributing to or is in the reasonably foreseeable future likely to contribute to disputes over interstate compacts or decrees or to difficulties fulfilling the provisions of other formal state contracts or agreements in a management area has stabilized at a level which is no longer detrimental to the public interest, he or she may remove the designation or action plan requirement or modify the boundaries of the management area.

Sec. 213. Section 46-656.60, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.60. (1) If (a) at the end of twelve months following the designation of a management area or the requiring of an action plan for a management area pursuant to section 46-656.52, a district encompassed in whole or in part by such a management area has not completed and adopted its portion of an action plan, (b) a district does not submit a revised action plan within ninety days after denial of its original action plan, or (c) the district submits a revised action plan which is not approved by the Director of ~~Water~~ Natural Resources, the power to specify controls authorized in section 46-656.25 shall, subject to review and concurrence of need by the Interrelated Water Review Committee of the Nebraska Natural Resources Commission, vest in the ~~Director of Water Resources~~ director.

(2) If, following a review, the committee fails to concur with the need for vesting the power to specify controls in the ~~Director of Water Resources~~ director, the district may proceed with implementation of its portion of an action plan pursuant to sections 46-656.19 to 46-656.21.

(3) If the power to specify controls authorized in section 46-656.25 in such a management area is vested in the director, he or she shall within ninety days adopt and promulgate by rule and regulation such authorized controls as he or she deems necessary for carrying out the intent of section 46-656.55. He or she shall conduct one or more public hearings prior to the adoption of controls. Notice of any such additional hearings shall be given in the manner provided in section 46-656.53. The enforcement of controls adopted pursuant to this section shall be the responsibility of the Department of ~~Water~~ Natural Resources.

Sec. 214. Section 46-656.61, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.61. The Interrelated Water Review Committee of the Nebraska Natural Resources Commission is created. The committee shall consist of the Governor and two commission members selected by the commission. The two commission members selected by the commission shall be selected only after a request for a decision by a district or the Department of ~~Water~~ Natural Resources, and such members shall not reside or have an interest in real property in a district all or a portion of which is included in the current or proposed management area for integrated management of hydrologically connected ground water and surface water. The committee shall have the authority to determine which position will prevail when differences of opinion occur between districts and the ~~Department of Water Resources~~ department on the questions of the need for, or adequacy of, district action plans and whether the power to specify ground water controls shall vest in the Director of ~~Water~~ Natural Resources pursuant to section 46-656.60. The entity requesting a decision shall state in writing the differences of opinion and what decision the entity requests the committee to make.

Sec. 215. Section 46-656.62, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.62. The Director of ~~Water~~ Natural Resources shall adopt and promulgate, in accordance with the Administrative Procedure Act, such rules and regulations as are necessary to the discharge of duties assigned to the director or the Department of ~~Water~~ Natural Resources by the Nebraska Ground Water Management and Protection Act.

Sec. 216. Section 46-656.63, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.63. Any person who violates any of the provisions of sections 46-656.35 to 46-656.62 for which a penalty is not otherwise provided, other than the requirements ~~of~~ imposed on a district, the Director of ~~Water~~ Natural Resources, or the Department of ~~Water~~ Natural Resources, shall be subject to a civil penalty of not more than five hundred dollars. Each day of continued violation shall constitute a separate offense.

Sec. 217. Section 46-656.65, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.65. In the administration of the Nebraska Ground Water Management and Protection Act, all actions of the Director of Environmental Quality, the Director of ~~Water~~ Natural Resources, and the districts shall be consistent with the provisions of section 46-613.

Sec. 218. Section 46-656.66, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.66. Any person aggrieved by any order of the district, the Director of Environmental Quality, or the Director of ~~Water~~ Natural Resources issued pursuant to the Nebraska Ground Water Management and Protection Act may appeal the order. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 219. Section 46-656.67, Reissue Revised Statutes of Nebraska, is amended to read:

46-656.67. The Interrelated Water Management Fund is created. The State Treasurer shall credit to the fund, for the purpose of conducting studies to determine the cause of current or potential conflicts between ground water users and surface water appropriators, disputes over interstate compacts or decrees, or difficulties fulfilling the provisions of other formal state contracts and agreements, such money as is specifically appropriated and such funds, fees, donations, gifts, or services or devises or bequests of real or personal property received by the Department of ~~Water~~ Natural Resources from any federal, state, public, or private source, to be used by the department for the purpose of funding studies as described in this section. The department may use its budget authority to request appropriations specifically for the purpose of funding studies described in this section. The department shall allocate money from the fund for use by the department, by any state agency, board, or commission, or by any political subdivision of the state, by agreement, or by private organizations or firms as may be contracted with by the department. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 220. Section 46-676, Reissue Revised Statutes of Nebraska, is amended to read:

46-676. For purposes of ~~sections 46-675 to 46-690~~ the Industrial Ground Water Regulatory Act:

- (1) The definitions found in section 46-656.07 shall be are used;
- (2) Department means the Department of Natural Resources; and
- (3) Director means the Director of Natural Resources.

Sec. 221. Section 46-678.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-678.01. Any person who desires to withdraw and transfer a total of less than one hundred fifty acre-feet of ground water per year from aquifers located in the State of Nebraska for industrial purposes to other property within the state which is owned or leased by such person shall provide written notice to the ~~Department of Water Resources~~ department and install a water meter or meters that meet the approval of the department. Such notice shall include the amount of the proposed transfer, the point of withdrawal, and the point of delivery and shall be published once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the point of withdrawal is located. The withdrawal and transfer may be made without a permit so long as (1) the property which includes the point of withdrawal and the property which includes the point of delivery are owned or leased by the same person, (2) the water is used by such person, and (3) a total of less than one hundred fifty acre-feet of ground water per year is transferred from all sources to the property which includes the point of delivery.

Sec. 222. Section 46-686.01, Reissue Revised Statutes of Nebraska,

is amended to read:

46-686.01. The director shall have jurisdiction over any ground water withdrawal and transfer made under section 46-678.01. Any person using ground water at the time a notice to transfer is filed under such section whose wells thereafter suffer an unanticipated decline in ground water levels may petition the director for a hearing. Such petition shall specifically set forth the cause and extent of the ground water decline as well as the nature and extent of any injury resulting from that decline. If at such hearing the injured party presents evidence showing that the ground water levels declined as a result of such transfer and shows the nature and extent of any resulting injury, the director may issue an order terminating or conditioning the transfer to eliminate any further injury. If the injured party prevails and an order is issued pursuant to this section, the order shall provide that the person filing the notice of transfer shall pay the costs of the ~~Department of Water Resources~~ department and of the injured party, including reasonable attorney's fees. The injured party may maintain a civil action against the person filing the notice of transfer to recover the costs of a hydrologic evaluation. The order of the director may be appealed to the Court of Appeals.

Sec. 223. Section 46-691, Reissue Revised Statutes of Nebraska, is amended to read:

46-691. (1) Any person who withdraws ground water for agricultural purposes, or for any purpose pursuant to a ground water remediation plan as required under the Environmental Protection Act, including the providing of water for domestic purposes, from aquifers located within the State of Nebraska may transfer the use of the ground water off the overlying land if the ground water is put to a reasonable and beneficial use within the State of Nebraska and is used for an agricultural purpose, or for any purpose pursuant to a ground water remediation plan as required under the Environmental Protection Act, including the providing of water for domestic purposes, after transfer, and if such withdrawal, transfer, and use (a) will not significantly adversely affect any other water user, (b) is consistent with all applicable statutes and rules and regulations, and (c) is in the public interest. For purposes of this section, domestic has the same meaning as in section 46-613.

(2) Any affected party may object to the transfer of ground water by filing written objections, specifically stating the grounds for such objection, in the office of the natural resources district containing the land from which the ground water is withdrawn. Upon the filing of such objections or on its own initiative, the natural resources district shall conduct a preliminary investigation to determine if the withdrawal, transfer, and use of ground water is consistent with the requirements of subsection (1) of this section. Following the preliminary investigation, if the district has reason to believe that the withdrawal, transfer, or use may not comply with any rule or regulation of the district, it may utilize its authority under the Nebraska Ground Water Management and Protection Act to prohibit such withdrawal, transfer, or use. If the district has reason to believe that the withdrawal, transfer, and use is consistent with all rules and regulations of the district but may not comply with one or more other requirements of subsection (1) of this section, the district shall request that the Department of ~~Water~~ Natural Resources hold a hearing on such transfer.

(3) At the hearing, all interested persons may appear and present testimony. Agencies or political subdivisions of this state and the appropriate natural resources districts shall offer as evidence any information in their possession which they deem relevant to the purposes of the hearing. After the hearing, if the Director of ~~Water~~ Natural Resources finds that the withdrawal, transfer, or use of ground water is contrary to the requirements of subsection (1) of this section, he or she shall issue a cease and desist order prohibiting the withdrawal and transfer.

(4) The director may adopt and promulgate rules and regulations to carry out this section.

Sec. 224. Section 46-692, Reissue Revised Statutes of Nebraska, is amended to read:

46-692. (1) For purposes of this section:

(a) Measuring device means any accurate method used to measure total volume of water pumped or diverted annually; and

(b) Well means a water well to be used for other than domestic purposes which is capable of pumping more than fifty gallons per minute and which is located in the alluvial aquifer of the Republican River Basin as determined and delineated on a map provided by the Department of ~~Water~~ Natural Resources.

(2) It is the intent of the Legislature to appropriate five hundred thousand dollars each year for FY1998-99, FY1999-00, and FY2000-01 for a

cost-share program to install measuring devices on wells in the alluvial aquifer of the Republican River Basin and on surface water diversion works from the Republican River and its tributaries. The money shall be appropriated to a separate account within the Nebraska Soil and Water Conservation Fund for cost sharing on the purchase and installation of measuring devices ~~on eligible wells~~ if every natural resources district covering any portion of the alluvial aquifer of the Republican River Basin has established by October 1, 1998, a program requiring the installation of measuring devices on a minimum of ninety percent of active eligible wells by ~~April~~ June 1, 2001, and adopts and promulgates rules and regulations within a reasonable time governing the program.

(3) To be eligible for cost-share assistance under this section, a surface water diversion works must have a valid surface water appropriation and a well must meet the definition of a well in subsection (1) of this section and the measuring device shall be purchased, installed, and operational by ~~April~~ June 1, 2001. If eligible for cost sharing under this section, fifty percent of the cost of purchase and installation of the measuring device, up to a maximum state share of six hundred dollars per well or diversion works, may be provided through the cost-share program.

(4) Any owner or operator of a well upon which cost-share funds are expended under this section shall be responsible for reporting water use to the natural resources district in which the well is located in a manner prescribed by the natural resources district. Any owner or operator of a surface water diversion works upon which cost-share funds are expended under this section shall be responsible for reporting water use to the Department of Natural Resources in a manner prescribed by the department.

(5) If the requirements of subsections (2) and (3) of this section have not been met by ~~April~~ June 1, 2001, the natural resources district shall remit to the state an amount equal to the cost-share assistance provided to the natural resources district under such subsections. Any owner or operator of a well upon which cost-share funds are expended shall not be responsible for any repayment requirements under this section.

Sec. 225. Section 46-801, Reissue Revised Statutes of Nebraska, is amended to read:

46-801. No person shall drain, lower, or in any manner reduce or divert the water supply of any natural or perennial lake, if the area exceeds twenty acres at low water stage or if the lake is of such depth and character as to have more economic importance for aquaculture, hunting, or other purpose than the bed of such lake would have for agricultural purposes. Any person intending to drain, lower, divert, or in any way reduce the waters or water supply of any natural or perennial lake shall, before commencing the construction of any such work for drainage or diversion, make application to the Department of ~~Water~~ Natural Resources for a permit to do so.

Sec. 226. Section 46-802, Reissue Revised Statutes of Nebraska, is amended to read:

46-802. On the receipt of such application in the form prescribed by the Department of ~~Water~~ Natural Resources, the department shall cause the same to be recorded in its office. The department shall make a careful examination to ascertain whether it sets forth all the facts necessary to enable the department to determine the nature and extent of the proposed work of drainage and diversion. If such an examination shows the application to be in any way defective, it shall return the same to the applicant for correction.

Sec. 227. Section 46-803, Reissue Revised Statutes of Nebraska, is amended to read:

46-803. If the proposed work of drainage or diversion will not result in injury or damage to any person and will not be otherwise detrimental to the public welfare but will result in economic benefit to the state, the Department of ~~Water~~ Natural Resources shall approve the same by endorsement thereon. It shall make a record of such endorsement thereon in some proper manner in its office. It shall also return the same so endorsed to the applicant. Such applicant shall, upon receipt thereof, be authorized to proceed with the work and to take such measures as may be necessary to its completion.

Sec. 228. Section 46-804, Reissue Revised Statutes of Nebraska, is amended to read:

46-804. If it appears to the Department of ~~Water~~ Natural Resources that the proposed works of drainage or diversion will result in injury or damage to any person or will be detrimental to the public welfare and not result in economic benefit to the state, the department shall refuse to approve the application. The party making such application shall not prosecute such work so long as such refusal shall continue in force.

Sec. 229. Section 46-1001, Reissue Revised Statutes of Nebraska, is amended to read:

46-1001. As used in sections 46-1001 to 46-1020, unless the context otherwise requires:

(1) District ~~shall mean~~ means a rural water district organized pursuant to sections 46-1001 to 46-1020;

(2) Board ~~shall mean~~ means the governing body of a district;

(3) The terms county board and county clerk ~~shall mean~~, respectively, the county board and county clerk of the county in which the greatest portion of the territory of any existing or proposed rural water district is located;

(4) Participating member ~~shall mean~~ means an individual, firm, partnership, limited liability company, association, or corporation which owns land located within a district and which has subscribed to one or more benefit units of such district; and

(5) Director ~~shall mean~~ means the Director of ~~Water~~ Natural Resources.

Sec. 230. Section 46-1004, Reissue Revised Statutes of Nebraska, is amended to read:

46-1004. Whenever a petition as provided in section 46-1003 is filed with the county clerk, ~~he~~ the county clerk shall thereupon give notice to the county board of the filing and pendency of such petition and the county board shall forthwith fix a time and place within thirty days ~~from~~ after the date of filing of the petition for a hearing of the same, and the county clerk shall, at least seven days before the date fixed for such hearing, give or send by registered or certified mail written notice thereof to each of the petitioners, and shall transmit to the ~~Director of Water Resources~~ director one copy of the petition and notice of the time and place the same is set for consideration. The county clerk shall also, at least seven days before the date fixed for such hearing, cause to be published in a newspaper of general circulation in the county a notice of the hearing. The published notice shall (1) define the boundaries of the proposed district; (2) state the time and place of hearing; (3) state that all owners of land within such boundaries may appear and be heard; and (4) state that a rural water district, if incorporated, shall have no power or authority to levy any taxes whatsoever.

Sec. 231. Section 46-1005, Reissue Revised Statutes of Nebraska, is amended to read:

46-1005. At the time and place set for the hearing and consideration of the petition, it shall be the duty of the county board to ascertain (1) whether proper notice of the hearing has been given to the signers of the petition, the ~~Director of Water Resources~~ director, and ~~to the~~ landowners in the district as required by section 46-1004; (2) whether lands within the area defined in the petition are without an adequate water supply; (3) whether the construction and maintenance of ponds, ~~or~~ reservoirs, pipelines, ~~or~~ wells, ~~or~~ check dams, ~~or~~ pumping installations, or any other facility for the storage, transportation, or utilization of water, or the construction and maintenance of any combination of such proposed projects are necessary for the improvement of the area. ~~The~~ PROVIDED, the county board shall make no affirmative finding that any proposed project is necessary if the construction and maintenance of such project would encourage the cultivation of lands which are submarginal and which should be devoted to other uses in the public interest. ~~The~~ AND PROVIDED FURTHER, the county board shall make no affirmative finding that any proposed project is necessary unless the ~~Director of Water Resources~~ director has approved such project; (4) whether such improvement or works will be conducive to and will tend to promote the public health, convenience, and welfare; and (5) whether the boundaries of the proposed district lie within five miles of any incorporated city or village, and whether approval for incorporation of the district has been given by the governing body of such city or village. If upon such consideration it ~~shall be~~ is found that such petition is in conformity with the requirements of sections 46-1001 to 46-1020, the county board shall thereupon immediately declare the district within the boundaries defined in the petition to constitute a public corporation and to be incorporated as a rural water district under the name of Rural Water District No., County, Nebraska (inserting number in order of incorporation and name of county) and thereupon shall enter upon its records full minutes of such hearing, together with a declaration that thenceforth such district shall constitute a body politic and corporate under such corporate name for the purposes of sections 46-1001 to 46-1020.

Sec. 232. Section 46-1011, Reissue Revised Statutes of Nebraska, is amended to read:

46-1011. Plans and specifications for any proposed improvement

authorized by sections 46-1001 to 46-1020 shall be filed with the ~~Director of Water Resources~~ director, the Department of Health and Human Services Regulation and Licensure, and ~~with~~ the secretary of the district. No construction of any such improvement shall begin until the plans and specifications for such improvement have been approved by the ~~Director of Water Resources~~ director and the Department of Health and Human Services Regulation and Licensure, except that if the improvement involves a public water supply system as defined in section 71-5301, only the Department of Health and Human Services Regulation and Licensure shall be required to review the plans and specifications for such improvement and approve the same if in compliance with Chapter 71, article 53, and departmental regulations adopted thereunder.

The total benefits of any such improvement shall be divided into a suitable number of benefit units. Each landowner within the district shall subscribe to a number of such units in proportion to the extent he or she desires to participate in the benefits of the improvements. As long as the capacity of the district's facilities permits, participating members of the district may subscribe to additional units upon payment of a unit fee for each such unit. Owners of land located within the district who are not participating members may subscribe to such units as the board in its discretion may grant, and upon payment of the unit fee for each such unit shall be entitled to the same rights as original participating members. If the capacity of the district's facilities permits, the district may sell water to persons engaged in hauling water and to any political subdivision organized under the laws of the State of Nebraska.

Sec. 233. Section 46-1023, Reissue Revised Statutes of Nebraska, is amended to read:

46-1023. Whenever a petition as provided in section 46-1022 is filed with the county clerk, ~~he~~ the county clerk shall thereupon give notice to the county board of the filing and pendency of such petition and the county board shall forthwith fix a time and place within thirty days ~~from~~ after the date of filing of the petition for a hearing of the same, and the county clerk shall, at least seven days before the date fixed for such hearing, give or send by registered or certified mail written notice thereof to the ~~chairman~~ chairperson of each district seeking consolidation, and shall transmit to the ~~Director of Water Resources~~ director one copy of the petition and notice of the time and place the same is set for hearing. The county clerk shall also, at least seven days before the date fixed for such hearing, cause a notice of the hearing to be published in a newspaper of general circulation in the county. The published notice shall (1) identify by name the districts seeking consolidation; (2) state the time and place of the hearing; (3) state that all interested persons may appear and be heard; and (4) state that a consolidated water district shall have no power or authority to levy any taxes whatsoever.

Sec. 234. Section 46-1204.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1204.01. Abandoned water well shall mean any water well the use of which has been accomplished or permanently discontinued, which has been decommissioned as described in the rules and regulations of the Department of Health and Human Services Regulation and Licensure, and the owner of which has filed a notice of abandonment with the Department of ~~Water~~ Natural Resources if required by subsection (2) of section 46-602.

Sec. 235. Section 46-1217, Reissue Revised Statutes of Nebraska, is amended to read:

46-1217. There is hereby created a Water Well Standards and Contractors' Licensing Board. The board shall be composed of nine members, five of whom shall be appointed by the Governor as follows: (1) A water well contractor representing irrigation water well contractors, (2) a water well contractor representing domestic water well contractors, (3) a water well contractor representing municipal and industrial water well contractors, (4) a pump installation contractor, and (5) a manufacturer or supplier of water well or pumping equipment. The director or his or her designated representative of the Department of Health and Human Services Regulation and Licensure, the director or his or her designated representative of the Department of Environmental Quality, the director or his or her designated representative of the Department of ~~Water~~ Natural Resources, and the director or his or her designated representative of the Conservation and Survey Division of the University of Nebraska shall also serve as members of the board. Each member shall be a resident of the state. Each appointed member of the board shall have had at least five years of experience in the business of his or her category prior to appointment and shall be actively engaged in such business at the time of appointment and while serving on the board. Each member representing a category subject to licensing under the Water Well Standards

and Contractors' Licensing Act, with the exception of members initially appointed, shall be licensed by the department pursuant to such act. In making appointments, the Governor may consider recommendations made by the trade associations of each category.

Sec. 236. Section 46-1224, Revised Statutes Supplement, 1999, is amended to read:

46-1224. (1) Except as provided in subsections (2) through (6) of this section, the board shall set reasonable fees in an amount calculated to recover the costs incurred by the department and the board in administering and carrying out the purposes of the Water Well Standards and Contractors' Licensing Act. Except as provided in subsection (4) of this section, the fees shall be paid to the department and remitted to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund, which fund is hereby created. Such fund shall be used by the department and the board for the purpose of administering the Water Well Standards and Contractors' Licensing Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The board shall set an application fee of no more than twenty-five dollars regardless of the number of licenses or certificates for which the application is being made. An individual may apply for one or more licenses and one or more certificates under a single application. Application fees paid shall be retained by the department whether such initial license or certificate is issued or denied.

(3) The board shall set a single license fee at not less than fifty dollars nor more than two hundred dollars annually and a certification fee at not less than twenty-five nor more than forty dollars annually. An individual who is licensed both as a pump installation contractor and a water well contractor shall pay a fee of not less than seventy-five dollars and not more than three hundred dollars. An individual who is certified as both a pump installation supervisor and water well drilling supervisor shall pay a fee of not less than thirty-five dollars and not more than fifty dollars.

(4) The board shall set a fee of not less than twenty-five dollars and not more than forty dollars for each water well which is required to be registered and which is designed and constructed to pump less than fifty gallons per minute and each monitoring and observation well and a fee of not less than forty dollars and not more than eighty dollars for each water well which is required to be registered and which is designed and constructed to pump fifty gallons per minute or more. For water wells permitted pursuant to the Industrial Ground Water Regulatory Act, the fee set pursuant to this subsection shall be collected for each of the first ten such water wells registered, and for each group of ten or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. For a series of two or more water wells completed and pumped into a common carrier, as defined in section 46-601.01, as part of a single site plan for irrigation purposes, the fee set pursuant to this subsection shall be collected for each of the first two such water wells registered. For a series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground, the fee set pursuant to this subsection shall be collected as if only one water well was being registered. For water wells constructed as part of a single site plan for monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground and for water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, the fee set pursuant to this subsection shall be collected for each of the first five such water wells registered, and for each group of five or fewer such water wells registered thereafter, the fee shall be collected as if only one water well was being registered. The fees shall be remitted to the Director of ~~Water~~ Natural Resources with the registration form required by section 46-602 and shall be in addition to the fee in section 46-606. The director shall remit the fee to the State Treasurer for credit to the Water Well Standards and Contractors' Licensing Fund.

(5) The late fee for a late application by a licensee shall be five hundred dollars, and the late fee for a late application by a certificate holder shall be two hundred dollars.

(6) The board shall set an application fee for a declaratory ruling or variance of not less than fifty dollars and not more than one hundred dollars.

Sec. 237. Section 46-1401, Reissue Revised Statutes of Nebraska, is amended to read:

46-1401. The Legislature finds that accelerating the

decommissioning of illegal water wells will be an asset to the State of Nebraska and good for the general welfare of the citizens of the state. The Legislature further finds that completing such decommissioning can be most appropriately accomplished by accelerating, ~~in a manner deemed appropriate by the Nebraska Natural Resources Commission,~~ state financial input into the efforts currently being conducted. It is therefor the intent of the Legislature to embark upon an accelerated program for the decommissioning of Nebraska's illegal water wells and to recommend that the State of Nebraska and the Legislature annually appropriate ninety-nine thousand dollars from the General Fund to carry out this accelerated program during the years required for its completion.

Sec. 238. Section 46-1403, Reissue Revised Statutes of Nebraska, is amended to read:

46-1403. There is hereby created the Water Well Decommissioning Fund. The State Treasurer shall credit to the fund for the uses and purposes of sections 46-1401 ~~and 46-1403~~ to 46-1405 such money as is specifically appropriated and such funds, fees, donations, gifts, services, or devises or bequests of real or personal property received by the ~~Nebraska Department of Natural Resources Commission~~ from any source, federal, state, public, or private, to be used by the ~~commission~~ department for the purpose of accelerating the decommissioning of illegal water wells. The ~~commission~~ department shall allocate money from the fund for purposes of sections 46-1401 ~~and 46-1403~~ to 46-1405. The fund shall be exempt from provisions relating to lapsing of appropriations. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 239. Section 46-1404, Reissue Revised Statutes of Nebraska, is amended to read:

46-1404. The Water Well Decommissioning Fund shall be allocated by contractual agreement with natural resources districts for the purpose of accelerating the decommissioning of illegal water wells throughout the state. The initial allocations each fiscal year shall be made by the ~~Nebraska Department of Natural Resources Commission~~ to natural resources districts in a proportion based on the number of illegal water wells decommissioned in each district in the previous fiscal year which were part of the district's cost-share program to the total number of illegal water wells decommissioned in the state in the previous fiscal year which were part of a district cost-share program. The allocations may be adjusted on or after March 1 of any year if the ~~commission~~ Director of Natural Resources determines that one or more districts cannot reasonably be expected to use their full allocation for that fiscal year. Actual disbursement to each district shall be on a reimbursement basis and shall not exceed the amount expended by the district consistent with sections 46-1401 ~~and 46-1403~~ to 46-1405. The ~~commission~~ Nebraska Natural Resources Commission shall adopt and promulgate rules and regulations to carry out such sections.

Sec. 240. Section 49-506, Revised Statutes Supplement, 1999, is amended to read:

49-506. After the Secretary of State has made the distribution provided by section 49-503, he or she shall deliver additional copies of the session laws and the journal of the Legislature pursuant to this section.

One copy of the session laws shall be delivered to the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court and Court of Appeals, the State Court Administrator, the State Fire Marshal, the Department of Administrative Services, the Department of Aeronautics, the Department of Agriculture, the Department of Banking and Finance, the State Department of Education, the Department of Environmental Quality, the Department of Insurance, the Department of Labor, the Department of Motor Vehicles, the Department of Property Assessment and Taxation, the Department of Revenue, the Department of Roads, the Department of Veterans' Affairs, the Department of ~~Water~~ Natural Resources, the Military Department, the Nebraska State Patrol, the Nebraska Commission on Law Enforcement and Criminal Justice, each of the Nebraska state colleges, the Game and Parks Commission, the Nebraska Library Commission, the Nebraska Liquor Control Commission, ~~the Nebraska Natural Resources Commission,~~ the Nebraska Accountability and Disclosure Commission, the Public Service Commission, the State Real Estate Commission, the Nebraska State Historical Society, the Public Employees Retirement Board, the Risk Manager, the Legislative Fiscal Analyst, the Public Counsel, the materiel division of the Department of Administrative Services, the State Records Administrator, the budget division of the Department of Administrative Services, the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services Finance and Support,

the Tax Equalization and Review Commission, the inmate library at all state penal and correctional institutions, and the Library of Congress; two copies to the Governor, the Secretary of State, the Nebraska Workers' Compensation Court, the Commission of Industrial Relations, and the Coordinating Commission for Postsecondary Education, one of which shall be for use by the community colleges; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General; eight copies to the Clerk of the Legislature; nine copies to the Revisor of Statutes; sixteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law.

One copy of the journal of the Legislature shall be delivered to the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court and Court of Appeals, the State Court Administrator, the Nebraska State Historical Society, the Legislative Fiscal Analyst, the Tax Equalization and Review Commission, and the Library of Congress; two copies to the Secretary of State, the Commission of Industrial Relations, and the Nebraska Workers' Compensation Court; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General and the Revisor of Statutes; eight copies to the Clerk of the Legislature; thirteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law. The remaining copies shall be delivered to the State Librarian who shall use the same, so far as required for exchange purposes, in building up the State Library and in the manner specified in sections 49-507 to 49-509.

Sec. 241. Section 49-617, Revised Statutes Supplement, 1999, is amended to read:

49-617. The Revisor of Statutes shall cause the statutes to be printed. The printer shall deliver all completed copies to the Supreme Court. These copies shall be held and disposed of by the court as follows: Sixty copies to the State Library to exchange for statutes of other states; five copies to the State Library to keep for daily use; not to exceed twenty-five copies to the Legislative Council for bill drafting and related services to the Legislature and executive state officers; as many copies to the Attorney General as he or she has attorneys on his or her staff; up to sixteen copies to the State Court Administrator; twelve copies to the Tax Commissioner; eight copies to the Nebraska Publications Clearinghouse; six copies to the Public Service Commission; four copies to the Secretary of State; four copies to the Clerk of the Legislature for use in his or her office and three copies to be maintained in the legislative chamber, one copy on each side of the chamber and one copy at the desk of the Clerk of the Legislature, under control of the sergeant at arms; two copies each to the Governor of the state, the Chief Justice and each judge of the Supreme Court, each judge of the Court of Appeals, the Clerk of the Supreme Court, the Reporter of the Supreme Court and Court of Appeals, the Auditor of Public Accounts, the Commissioner of Labor, and the Revisor of Statutes; one copy each to the Secretary of State of the United States, each Indian tribal court located in the State of Nebraska, the library of the Supreme Court of the United States, the Adjutant General, the Air National Guard, the Commissioner of Education, the State Treasurer, the Board of Educational Lands and Funds, the Director of Agriculture, the Director of Administrative Services, the Director of Aeronautics, the Director of Economic Development, the director of the Public Employees Retirement Board, the Director-State Engineer, the Director of Banking and Finance, the Director of Insurance, the Director of Motor Vehicles, the Property Tax Administrator, the Director of Veterans' Affairs, the Director of ~~Water~~ Natural Resources, the Director of Correctional Services, the Nebraska Emergency Operating Center, each judge of the Nebraska Workers' Compensation Court, each judge of the Commission of Industrial Relations, the Nebraska Liquor Control Commission, ~~the Nebraska Natural Resources Commission,~~ the State Real Estate Commission, the Tax Equalization and Review Commission, the secretary of the Game and Parks Commission, the Board of Pardons, the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services Finance and Support, each state institution under the Department of Health and Human Services, each state institution under the State Department of Education, the State Surveyor, the Nebraska State Patrol, the materiel division of the Department of Administrative Services, the personnel division of the Department of Administrative Services, the Nebraska Motor Vehicle Industry Licensing Board, the Board of Trustees of the Nebraska State Colleges, each of the Nebraska state colleges, each district judge of the State of Nebraska, each judge of the county court, each judge of a separate juvenile court, the Lieutenant Governor, each United States Senator from Nebraska, each United States Representative from Nebraska, each clerk of the

district court for the use of the district court, the clerk of the Nebraska Workers' Compensation Court, each clerk of the county court, each county attorney, each county public defender, each county law library, and the inmate library at all state penal and correctional institutions, and each member of the Legislature shall be entitled to two complete sets, and two complete sets of such volumes as are necessary to update previously issued volumes, but each member of the Legislature and each judge of any court referred to in this section shall be entitled, on request, to an additional complete set. Copies of the statutes distributed without charge, as listed in this section, shall be the property of the state or governmental subdivision of the state and not the personal property of the particular person receiving a copy. Distribution of statutes to the library of the College of Law of the University of Nebraska shall be as provided in sections 85-176 and 85-177.

Sec. 242. Section 54-2404.02, Revised Statutes Supplement, 1999, is amended to read:

54-2404.02. A map delineating segments and watershed boundaries for cold water class A streams, as designated prior to May 25, 1999, and prepared by the ~~department~~ Department of Environmental Quality and the ~~Nebraska Department of Natural Resources, Commission,~~ shall be maintained by the ~~department~~ Department of Environmental Quality and used by the department for determinations made concerning cold water class A streams under the Livestock Waste Management Act unless changed by the Environmental Quality Council. Beginning on May 25, 1999, the council may designate and may redesignate previously designated waters of this state as cold water class A streams for purposes of the act based on the determination by the council that the waters provide or could provide habitat of sufficient water volume or flow, water quality, substrate composition, and water temperature capable of maintaining year-round populations of cold water biota, including reproduction of a salmonoid (trout) population. The council shall not designate or redesignate a stream as a cold water class A stream unless the stream has supported the reproduction of a salmonoid (trout) population within the previous five years. The department shall revise and maintain the cold water class A stream map to incorporate all designations and redesignations of the council.

Sec. 243. Section 54-2412, Revised Statutes Supplement, 1999, is amended to read:

54-2412. (1) An applicant for a permit for a livestock waste control facility under the Livestock Waste Management Act shall, before issuance of a permit by the Department of Environmental Quality, obtain any necessary approvals from the Department of ~~Water~~ Natural Resources under section 46-257 and certify such approvals to the Department of Environmental Quality. The Department of Environmental Quality, with the concurrence of the Department of ~~Water~~ Natural Resources, may require the applicant to obtain approval from the Department of ~~Water~~ Natural Resources for any dam or lagoon structure, the failure of which could result in a significant discharge into waters of the state and have a significant impact on the environment. When such approval is required, the Department of ~~Water~~ Natural Resources shall approve or deny the dam or lagoon structure within sixty days after the request is made. The Department of Environmental Quality may provide for the payment of such costs of the Department of ~~Water~~ Natural Resources with revenue generated under section 54-2408.

(2) The department may require an engineering evaluation or assessment performed by a licensed professional engineer for an existing livestock waste control facility if after an inspection: (a) The department determines that the facility has (i) visible signs of structural breakage below the permanent pool, (ii) signs of discharge or proven discharge due to structural weakness, (iii) improper maintenance, or (iv) inadequate capacity; or (b) the department has reason to believe that an existing livestock waste control facility has violated or threatens to violate the Environmental Protection Act, the Livestock Waste Management Act, or any rules or regulations adopted and promulgated under such acts. Notwithstanding the Engineers and Architects Regulation Act, new class I livestock waste control facilities are exempt from the Engineers and Architects Regulation Act.

Sec. 244. Section 56-101, Reissue Revised Statutes of Nebraska, is amended to read:

56-101. The power of eminent domain may be exercised by (1) any person, ~~desiring who desires~~ to erect a dam across any watercourse for the purpose of building a water grist, saw, carding, or fulling mill, ~~or of erecting any machinery to be propelled by water,~~ and who is the owner of the lands, on which he or she desires to build such mill or erect such machinery, on one side of such watercourse and not of the lands of the opposite side against or upon which he or she would abut ~~his~~ the dam; or (2) any person who is the owner of the lands on which he or she desires to erect any such mill or

machinery on both sides of such watercourse; or (3) any person who shall have erected such mill and milldam on his or her own lands. ~~Any + PROVIDED,~~ such person shall first obtain a permit from the Department of ~~Water~~ Natural Resources to use the waters of such watercourse for ~~the such~~ purposes. ~~aforsaid.~~ The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Sec. 245. Section 66-1105, Reissue Revised Statutes of Nebraska, is amended to read:

66-1105. Any person who desires to withdraw ground water within the State of Nebraska for geothermal resource development shall, prior to commencing construction of any wells, obtain from the Director of ~~Water~~ Natural Resources a permit to authorize the withdrawal, transfer, and further use or reinjection of such ground water. The Department of ~~Water~~ Natural Resources shall adopt and promulgate rules and regulations governing the issuance of such permits, consistent with sections 66-1101 to 66-1106 and with Chapter 46, article 6. Such rules and regulations shall provide for consultation with the Department of Environmental Quality pursuant to the issuance of such permits and shall be compatible with rules and regulations adopted and promulgated by the Department of Environmental Quality under the Environmental Protection Act. Any geothermal fluids produced incident to the development and production of geothermal resources shall be reinjected into the same geologic formation from which they were extracted in substantially the same volume and substantially the same or higher quality as when extracted unless the permit issued in accordance with this section authorizes further uses or processing other than those incident to reinjection.

Sec. 246. Section 81-101, Revised Statutes Supplement, 1999, is amended to read:

81-101. The civil administration of the laws of the state is vested in the Governor. For the purpose of aiding the Governor in the execution and administration of the laws, the executive and administrative work shall be divided into the following departments: (1) Department of Agriculture; (2) Department of Labor; (3) Department of Roads; (4) Department of ~~Water~~ Natural Resources; (5) Department of Banking and Finance; (6) Department of Insurance; (7) Department of Motor Vehicles; (8) Department of Administrative Services; (9) Department of Economic Development; (10) Department of Correctional Services; (11) Nebraska State Patrol; (12) Department of Health and Human Services; (13) Department of Health and Human Services Regulation and Licensure; (14) Department of Health and Human Services Finance and Support; and (15) Department of Property Assessment and Taxation.

Sec. 247. Section 81-102, Revised Statutes Supplement, 1999, is amended to read:

81-102. The Governor shall appoint heads for the various departments, subject to confirmation by a majority vote of the members elected to the Legislature. Such appointments shall be submitted to the Legislature within sixty calendar days following the first Thursday after the first Tuesday in each odd-numbered year. The officers shall be designated as follows: (1) The Director of Agriculture for the Department of Agriculture; (2) the Commissioner of Labor for the Department of Labor; (3) the Director-State Engineer for the Department of Roads; (4) the Director of ~~Water~~ Natural Resources for the Department of ~~Water~~ Natural Resources; (5) the Director of Banking and Finance for the Department of Banking and Finance; (6) the Director of Insurance for the Department of Insurance; (7) the Director of Motor Vehicles for the Department of Motor Vehicles; (8) the Director of Administrative Services for the Department of Administrative Services; (9) the Director of Correctional Services for the Department of Correctional Services; (10) the Director of Economic Development for the Department of Economic Development; (11) the Superintendent of Law Enforcement and Public Safety for the Nebraska State Patrol; (12) the Director of Health and Human Services for the Department of Health and Human Services; (13) the Director of Regulation and Licensure for the Department of Health and Human Services Regulation and Licensure; (14) the Director of Finance and Support for the Department of Health and Human Services Finance and Support; and (15) the Property Tax Administrator for the Department of Property Assessment and Taxation. Whoever shall be so nominated by the Governor and shall fail to receive the number of votes requisite for confirmation, shall not be subject to nomination or appointment for this or any other appointive state office requiring confirmation by the Legislature during the period for which his or her appointment was sought. In case of a vacancy in any of such offices during the recess of the Legislature, the Governor shall make a temporary appointment until the next meeting of the Legislature, when he or she shall nominate some person to fill such office. Any person so nominated who is confirmed by the Legislature, shall hold his or her office during the remainder of the term if

a specific term has been provided by law, otherwise during the pleasure of the Governor subject to the provisions of this section; except any such officers may be removed by the Governor pursuant to Article IV of the Constitution of Nebraska.

Sec. 248. Section 81-15,170, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,170. The Nebraska Environmental Trust Board is hereby created. The board shall consist of the Director of Environmental Quality, the Director of Regulation and Licensure, ~~the Director of Water Resources,~~ the Director of Natural Resources, the Director of Agriculture, the secretary of the Game and Parks Commission, and nine citizens appointed by the Governor with the approval of a majority of the Legislature. The citizen members shall begin serving immediately following notice of nomination and prior to approval by the Legislature. The citizen members shall represent the general public and shall have demonstrated competence, experience, and interest in the environment of the state. Two of the citizen appointees shall also have experience with private financing of public-purpose projects. Three appointees shall be chosen from each of the three congressional districts. For administrative purposes only, the board shall be part of the Game and Parks Commission.

Sec. 249. Section 81-2304, Reissue Revised Statutes of Nebraska, is amended to read:

81-2304. There is hereby created the Intergovernmental Data Communications Advisory Council. The council shall consist of thirteen members as follows:

(1) One person shall be a representative of the intergovernmental data services division of the Department of Administrative Services, who shall serve as the chairperson of the council;

(2) One person shall be a representative of the information management services division of the Department of Administrative Services;

(3) One person shall be a representative of the division of communications of the Department of Administrative Services;

(4) One person shall be appointed by the Governor as a representative of state government;

(5) One person shall be appointed by the Executive Board of the Legislative Council as a representative of the Legislature;

(6) One person shall be appointed by the Chief Justice of the Supreme Court as a representative of the court system;

(7) Two elected county officials shall be appointed by the Governor as representatives of county government;

(8) Two elected city or village officials shall be appointed by the Governor as representatives of municipal government;

(9) One person shall be appointed by the Governor as a representative of the local data processing division of a political subdivision;

(10) One person shall be a representative of the ~~Nebraska Department of Natural Resources Commission~~ data bank; and

(11) One person shall be a representative of the records management division of the Secretary of State's office.

Sec. 250. Section 81-2602, Reissue Revised Statutes of Nebraska, is amended to read:

81-2602. The Geographic Information System Steering Committee is hereby created and shall consist of nineteen members as follows:

(1) The director or designee of the Department of Administrative Services, the Department of Environmental Quality, the Department of Health and Human Services Regulation and Licensure, the Conservation and Survey Division of the University of Nebraska, the ~~Nebraska Department of Natural Resources, Commission,~~ and the Governor's Policy Research Office;

(2) The Director-State Engineer or designee;

(3) The State Surveyor or designee;

(4) The Clerk of the Legislature or designee;

(5) The secretary of the Game and Parks Commission or designee;

(6) The Property Tax Administrator or designee;

(7) One representative of federal agencies appointed by the Governor;

(8) One representative of the natural resources districts nominated by the Nebraska Association of Resources Districts and appointed by the Governor;

(9) One representative of the public power districts appointed by the Governor;

(10) Two representatives of the counties nominated by the Nebraska Association of County Officials and appointed by the Governor;

(11) One representative of the municipalities nominated by the League of Nebraska Municipalities and appointed by the Governor; and

(12) Two members at large appointed by the Governor.

The appointed members shall serve for terms of four years, except that of the initial members appointed by the Governor, one of the representatives of the counties shall be appointed for one year and the other shall be appointed for three years, one of the members at large shall be appointed for one year and the other for three years, and the representative of the public power districts shall be appointed for two years. Their successors shall be appointed for four-year terms. Any vacancy on the committee shall be filled in the same manner as the original appointment, and the person selected to fill such vacancy shall have the same qualifications as the member whose vacancy is being filled.

The members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 251. Section 81-3449, Reissue Revised Statutes of Nebraska, is amended to read:

81-3449. The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of (a) a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space or (b) a one-story commercial or industrial building or structure of less than five thousand square feet of above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space;

(2) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons;

(3) Any public works project with contemplated expenditures for a completed project that do not exceed eighty thousand dollars;

(4) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(5) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accreditation Board;

(6) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;

(7) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture if such employees are acting under the direct supervision of an architect;

(8) The offering by an organization of a combination of services involved in the practice of architecture and construction services if:

(a) An architect or person otherwise permitted under subdivision (10) of this section to offer architectural services participates substantially in all material aspects of the offering;

(b) There is written disclosure at the time of the offering that an architect is engaged by and contractually responsible to such organization;

(c) Such organization agrees that the architect will have direct supervision of the work and that such architect's services will not be terminated without the consent of the person engaging the organization; and

(d) The rendering of architectural services by such architect will conform to the act and the rules and regulations;

(9) A public service provider or an organization who employs a design professional from performing professional services for itself;

(10) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards from offering to render the professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the act. The nonresident shall notify the board in writing that (a) he or she holds a

National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services, (b) he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;

(11) The practice of any other certified trade or legally recognized profession;

(12) Financial institutions making disbursements of funds in connection with construction projects;

(13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of ~~Water~~ Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality; and

(14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

Sec. 252. Section 81-3453, Reissue Revised Statutes of Nebraska, is amended to read:

81-3453. The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of (a) a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space or (b) a one-story commercial or industrial building or structure of less than five thousand square feet above grade finished space which does not exceed thirty feet in height unless such building or structure, or the remodeling or repairing thereof, provides for the employment, housing, or assembly of twenty or more persons. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space;

(2) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons;

(3) Any public works project with contemplated expenditures for the completed project that do not exceed eighty thousand dollars;

(4) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(5) The teaching, including research and service, of engineering subjects in a college or university offering an Accrediting Board for Engineering and Technology accredited engineering curriculum of four years or more;

(6) The act does not prevent a public service provider or an organization who employs a design professional from performing professional services for itself;

(7) The practice of any other certified trade or legally recognized profession;

(8) The offer to practice engineering by a person not a resident of and having no established place of business in this state if the person is legally qualified by licensure to practice engineering in his or her own state or country. The person shall make application to the board in writing and after payment of a fee established by the board may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to such applicant with respect to any other work not set forth in the permit;

(9) The work of an employee or a subordinate of a person holding a certificate of licensure under the act or an employee of a person practicing lawfully under subdivision (8) of this section if the work is done under the direct supervision of a person holding a certificate of licensure or a person practicing lawfully under such subdivision;

(10) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(11) Financial institutions making disbursements of funds in

connection with construction projects;

(12) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of ~~Water~~ Natural Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality;

(13) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;

(14) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;

(15) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply; and

(16) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission.

Sec. 253. Section 85-162.03, Reissue Revised Statutes of Nebraska, is amended to read:

85-162.03. In carrying out sections 85-162.01 to 85-162.05, the State Forester shall cooperate with (1) any agency or bureau of the United States, including, but not limited to, the Forest Service, the Natural Resources Conservation Service, the Farm Service Agency, the Bureau of Reclamation, the Corps of Engineers, and the Bureau of Outdoor Recreation, (2) any agency or bureau of the State of Nebraska or its political subdivisions, including, but not limited to, the Game and Parks Commission, the ~~Nebraska Department of Natural Resources, Commission,~~ the State Fire Marshal, the Department of Agriculture, the Adjutant General, the Department of Economic Development, and the Conservation and Survey Division of the University of Nebraska, and (3) any incorporated municipality of the state or any political subdivision of the state, including, but not limited to, rural fire districts, natural resources districts, and weed control districts.

Sec. 254. This act becomes operative on July 1, 2000.

Sec. 255. Original sections 2-1502, 2-1503.01 to 2-1504, 2-1505, 2-1568, 2-1575, 2-1577, 2-1578, 2-1579, 2-1585, 2-1587, 2-1589, 2-1590, 2-1592 to 2-1595, 2-1597, 2-1598, 2-15,100, 2-15,101, 2-15,103, 2-15,105, 2-15,106, 2-15,122, 2-15,123, 2-2626, 2-3208, 2-3210, 2-3211, 2-3212, 2-3240, 2-3257, 2-3276, 2-3277, 2-4215, 16-6,106, 25-1062.01, 25-1064, 25-2159, 25-2160, 31-415, 31-508, 31-509, 31-515, 31-516, 31-1003, 31-1008, 31-1015, 31-1017 to 31-1023, 33-105, 46-106, 46-122, 46-190, 46-192, 46-193, 46-199, 46-1,155, 46-1,157, 46-205, 46-208 to 46-210, 46-212, 46-212.01, 46-213, 46-215 to 46-219, 46-226, 46-226.03, 46-227, 46-229, 46-229.01, 46-229.04, 46-229.05, 46-230, 46-231, 46-233, 46-233.01, 46-234, 46-235, 46-235.02 to 46-238, 46-240.01 to 46-242, 46-250, 46-252, 46-254, 46-256 to 46-258, 46-261, 46-263.02, 46-270, 46-273, 46-277, 46-278, 46-288 to 46-296, 46-2,101, 46-2,105, 46-2,108 to 46-2,115, 46-2,116.01 to 46-2,120, 46-2,122 to 46-2,125, 46-2,128, 46-2,130, 46-302 to 46-305, 46-312, 46-315, 46-514, 46-516, 46-541, 46-583, 46-604, 46-610, 46-613.01, 46-613.02, 46-637 to 46-642, 46-644 to 46-646, 46-648, 46-649, 46-653, 46-654, 46-656.05, 46-656.07, 46-656.12, 46-656.14 to 46-656.16, 46-656.19, 46-656.25, 46-656.28, 46-656.30, 46-656.31, 46-656.33, 46-656.38, 46-656.40, 46-656.50 to 46-656.63, 46-656.65 to 46-656.67, 46-676, 46-678.01, 46-686.01, 46-691, 46-692, 46-701 to 46-704, 46-801 to 46-804, 46-1001, 46-1004, 46-1005, 46-1011, 46-1023, 46-1204.01, 46-1217, 46-1401, 46-1403, 46-1404, 56-101, 66-1105, 81-15,170, 81-2304, 81-2602, 81-3449, 81-3453, and 85-162.03, Reissue Revised Statutes of Nebraska, sections 2-1570, 2-1588, and 2-3202, Revised Statutes Supplement, 1998, and sections 2-1503, 2-1547, 2-1584, 2-1596, 2-3222, 2-3254, 2-4901, 25-1920, 46-602, 46-606, 46-1224, 49-506, 49-617, 54-2404.02, 54-2412, 81-101, and 81-102, Revised Statutes Supplement, 1999, are repealed.

Sec. 256. The following sections are outright repealed: Sections 2-1504.02, 2-1504.03, 2-1506, 2-1506.01, 2-1507, 2-15,104, 2-15,121, 2-3203.02, and 46-212.02, Reissue Revised Statutes of Nebraska.

Sec. 257. Since an emergency exists, this act takes effect when passed and approved according to law.