Prepared by the North Dakota Legislative Council staff for the Garrison Diversion Overview Committee

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NEBRASKA NATURAL RESOURCES DISTRICTS - HISTORY, ORGANIZATION, AND POWERS

This memorandum discusses the history, organization, and powers of Nebraska natural resources districts. In 1969 the Nebraska Legislature established 24 natural resources districts, charging them with the responsibility of developing facilities, works, and programs to manage, protect, and develop the state's natural resources. As a result of a merger, there are 23 natural resources districts in Nebraska. The districts were officially named in a manner indicating their relative river basin location and boundaries were watershed-based rather than based on political boundaries. A map of Nebraska indicating the boundaries of its natural resources districts is attached as Appendix A.

By the 1960s there were more than 500 special purpose districts in Nebraska, including irrigation districts that were created in 1895; drainage districts created in 1905; soil conservation districts created in 1937, which were later named soil and water conservation districts in the 1950s; watershed districts created in 1959; rural water districts created in 1967; advisory watershed improvement boards; reclamation districts; and sanitary improvement districts and sanitary drainage districts. In addition, state agencies were empowered to deal with natural resources issues involving fish and game, insects, predatory animal control, weeds, fertilizer and pesticide use, energy, environmental control, water and waste management, air pollution, public water supplies, road construction, irrigation, and surface and ground water.

This piecemeal approach to natural resource management was generally perceived as ineffective because of the overlapping authority, responsibilities, and geographic boundaries of existing entities. The solution devised by the Nebraska Legislature was for the state to create a system of natural resources districts that could deal with a wide variety of natural resource-related problems and opportunities. These districts were given statutory responsibility in 12 specific areas and given autonomy and taxing authority to provide local response to their natural resources challenges. The Revised Statutes of Nebraska Section 2-32-29 provides that the purposes of natural resources districts are to develop and execute plans, facilities, works, and programs relating to erosion prevention and control; prevention of damages from flood water and sediment; flood prevention and control; soil conservation; water supply for any beneficial uses; development, management, utilization, and conservation of ground water and surface water; pollution control; solid waste disposal and sanitary drainage; drainage improvement and channel rectification; development and management of fish and wildlife habitat; development and management of recreational and park facilities; and forestry and range management.

In establishing boundaries, Section 2-32-03 requires the entire state to be divided into natural resources districts. The primary objective was to establish boundaries which provide effective coordination, planning, development, and general management of areas that have related resources problems. These areas were to be determined according to hydrologic patterns. The recognized river basins of the state were utilized in determining and establishing the boundaries for districts and where necessary for more efficient development and general management, two or more districts were created within a basin. Boundaries of districts were to follow approximate hydrologic patterns except where doing so would divide a section, a city or village, or produce similar incongruities that might hinder the effective operation of the district. However, the law specified that existing boundaries or political subdivision or voting precincts could be followed wherever feasible. Districts were required to be of sufficient size to provide adequate finances and administration for plans of improvement and the number of districts could not be less than 16 nor more than 28.

The law establishing natural resources districts governed the assumption of the assets, liabilities, and obligations of existing soil and water conservation districts, watershed conservancy districts, watershed districts, advisory watershed improvement boards, and watershed planning boards whose territory was included within the boundaries of a natural resources district. The law also contains procedures for changing the boundaries of districts, dividing districts, or merging districts. The legislation contains provisions for nominating

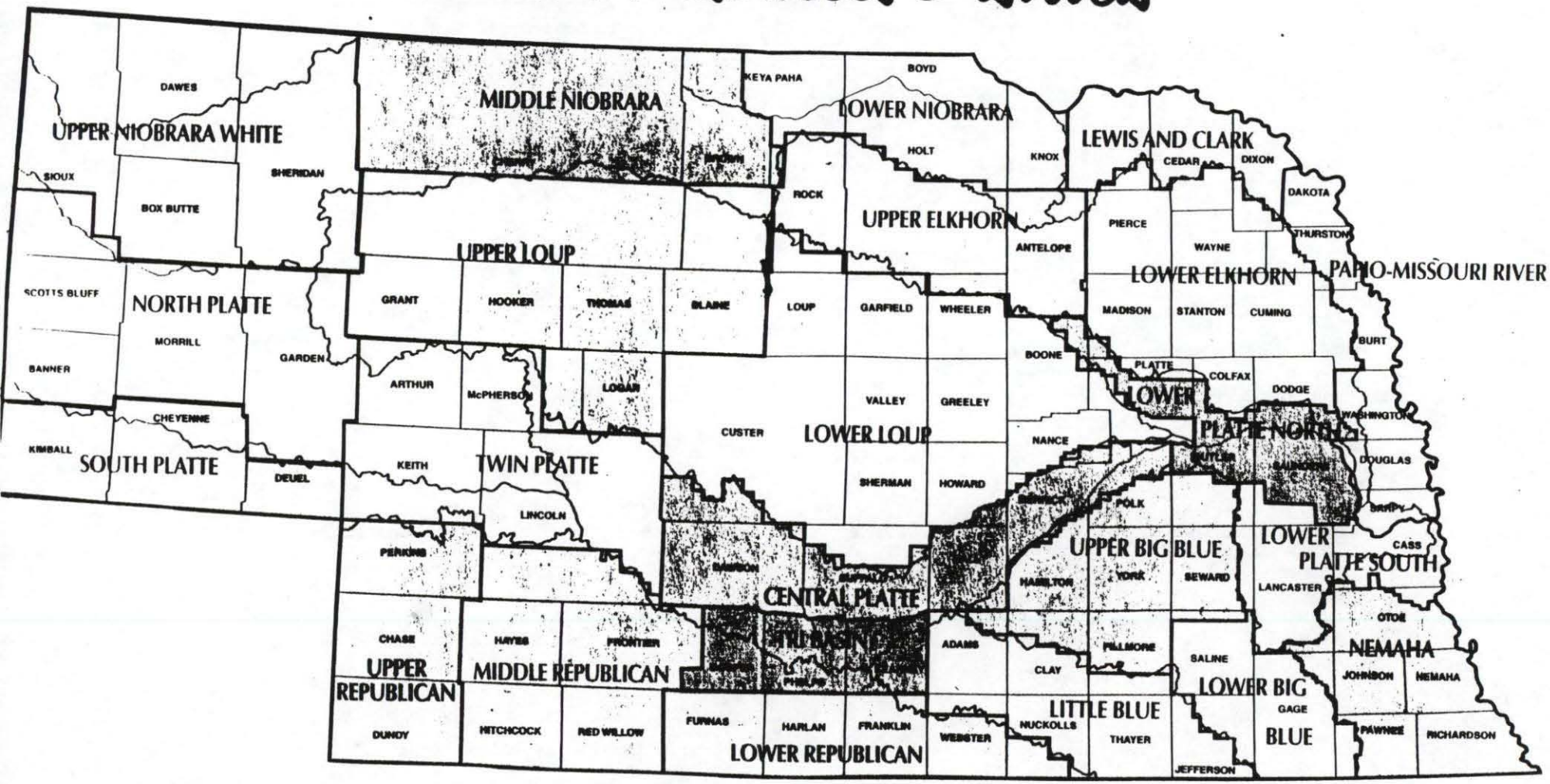
and electing a board of directors and filling vacancies on the board.

Districts have the power and authority to levy a tax of not to exceed four and one-half cents on each $100 of actual valuation annually on all the taxable property within the district and to levy a higher tax if authorized by a majority vote. Districts also have the power and authority to issue revenue bonds for the purpose of financing facilities. Other powers are enumerated in Section 2-32-28 and include the authority to receive and accept gifts; establish advisory groups; employ necessary personnel to carry out the purposes of the district; purchase liability, property damage, workers' compensation, and other types of insurance; borrow money; adopt rules; and invite the local governing body of any municipality or county to designate a representative to advise and counsel the board on programs and policies that may affect the property, water supply, or other interests of the municipality or county. Natural resources districts have the power to contract for the construction of projects, contract with the United States for water supply and water distribution and drainage systems under any Act of Congress provided for or permitting the contract, acquire project works undertaken by the United States, and act as agent of the United States in connection with the acquisition, construction, operation, maintenance, or management or any project within the district's boundaries.

A detailed history of Nebraska's natural resources districts is attached as Appendix B, and a copy of the relevant portions governing natural resources districts of the Revised Statutes of Nebraska is attached as Appendix C.

ATTACH:3

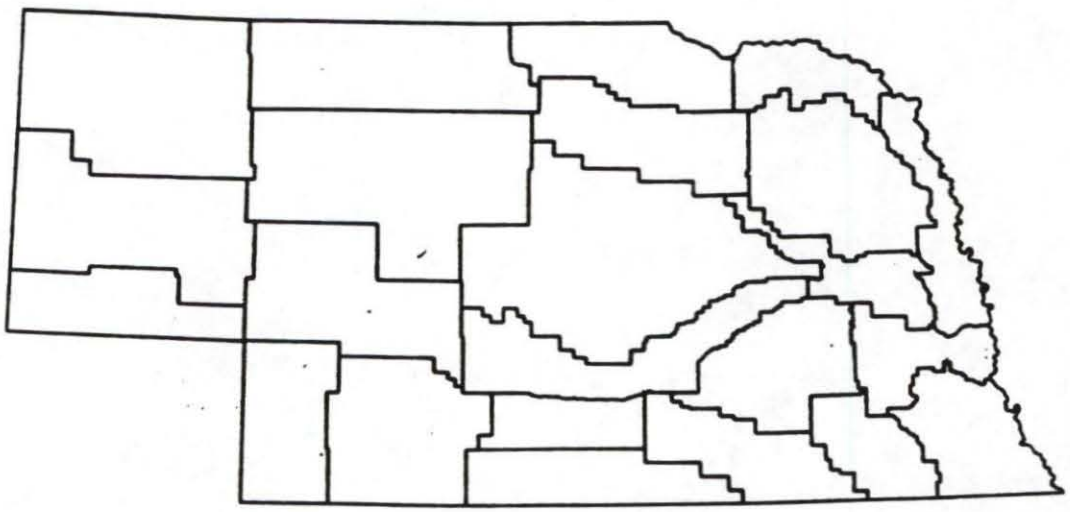
Natural Resources Districts



APPENDIX A

A History
Of

Nebraska's Natural Resources Districts



Compiled By
Hazel M. Jenkins

Edited By
Robert B. Hyer

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INTRODUCTION

With the complexity of society ever increasing, the function of government in providing the framework from which a healthy and productive society may grow continually becomes a more intricate labyrinth of "give and take." Just as small groups of local people rely on state and federal government to carry on affairs beyond the scope of their ability or jurisdiction, so too must the larger governmental units rely on an effective local subdivision of government for implementation of its programs. But, without proper geographical organization of local governmental subdivision, the merits of many programs are lost.

In Nebraska a problem of this sort became evident when large water projects, the impact of which spread beyond long established county lines and randomly selected boundaries, made determination of proper sponsorship virtually impossible. A profusion of special purpose districts had been developed in an attempt to solve local water-related problems as they arose. But the puzzle of overlapping authorities and responsibilities (and even boundaries) provided confusion at best. Legislators often found themselves in a bewildering situation as the question of project sponsorship turned from one of "whom" to "which one."

In 1969 the 80th Unicameral resolved the problem with the passage of L.B. #1357 creating natural resources districts (NRDs). The boundaries of these new subdivisions of state government were established primarily in accordance with Nebraska's naturally delineated river basins on the premise that natural boundaries would provide a better opportunity for dealing with resource-related problems than would boundaries established because of other considerations. As delineated, the boundaries provided for 24 natural resources districts; and on July 1, 1972, some 154 special purpose districts previously established in the state to solve special problems were merged into and became part of the new multi-purpose districts. *See page ii.

Some of the advantages of natural resources districts are readily apparent. Program implementation related to land and water resources now lends itself, in most situations, to natural resources districts. Problems common to individuals and communities within a basin can be more easily dealt with. Local funding of projects has become less troublesome because of the greater tax base of these larger governmental units. Elected boards of directors form the governing bodies of each NRD.

With the history of NRDs still young, however, full potential of the natural resources districts concept has not yet been realized. While NRDs were originally envisioned for water development projects, it is being discovered that districts are effective vehicles for introducing, implementing and coordinating a number of different programs. Water quality

planning, waste disposal, recycling, land use planning, education and information are only a few of the areas being explored for future NRD involvement. Only time will prove the ability or inability of these districts to cope with these and many other resource-related issues.

It was once said that reorganizing and restructuring Nebraska's conservation district system into NRDs would take a revolution. It did not. Even now, some observers feel that natural resources districts would not work in other states despite their success in Nebraska. Even though each state varies considerably in its resources, agriculture, industrial development, population, geography and many other features, use of the natural resources district organization plan may provide a starting point for the solution to many states' resources development problems. It is hoped that this paper will prove to be of value to other states and to all others interested in learning of the trials and tribulations encountered in the formulation of the NRD concept, the conversion of that concept to a reality and the early attempts at implementation of that reality to provide for an efficient, viable entity of local government.

*Update: As of January 5, 1989 the Middle Missouri Tribs and Papio Natural Resources Districts merged into one NRD, the *Papio-Missouri River NRD*. This action represents the first significant change in NRD boundaries since 1972. The merger grew out of the conclusion that the Middle Missouri Tribs NRD did not have adequate financial resources to deal with the resource needs of the area.

EVOLUTION OF THE NRD CONCEPT

Enactment of the natural resources district concept was not an overnight operation; rather, in an indirect manner it had been coming about over a period of many, many years. In 1939, an Interim Legislative Council Study Committee studied the problem of multiplicity of special purpose districts and found that at that time there were 172 special purpose water districts in the State of Nebraska. During the period from 1895, when the first irrigation district was created, to 1967, there were 13 different types of special purpose resource-related organizations created by the State Legislature. These included: Irrigation Districts in 1895; Drainage Districts in 1905; Soil Conservation Districts in 1937 (Changed to Soil and Water Conservation Districts in the late 1950's); Watershed Districts in 1959; Rural Water Districts in 1967; as well as Watershed Planning Boards; Advisory Watershed Improvement Boards; Reclamation Districts; Mosquito Abatement Districts; Public Power and Irrigation Districts; Sanitary Improvement Districts; and Sanitary Drainage Districts. In fact, a total of 500 resource-related special purpose districts covered the state by the late 1960's.

In more recent years, much of the legislation relating to conservation districts had been leading to the gradual assumption of more and more responsibilities and authorities by these districts. As an example, between 1957 and 1969, the following changes occurred: (1) In 1957 the Watershed Conservancy District Act was enacted to provide a local entity of government with authority to sponsor flood control projects; (2) in the late 1950's the name of soil conservation districts was changed to include the words "and water. . .;" (3) Soil and Water Conservation Districts were authorized to receive county financial assistance and did in fact receive both county and state financial assistance; (4) authorities of these districts were broadened to include recreation, fish and wildlife, and water quality; (5) the election of SWCD supervisors was to be held during the state's general election instead of special elections; and (6) a general leadership role of local district officials and the State Soil and Water Conservation Commission began to emerge in the broad field of natural resources development.

Because of the piecemeal fashion in which special purpose districts were created, a situation of overlapping authorities and duplicate responsibilities became increasingly evident. As a result of this two-fold problem, the subject of reorganizing and restructuring local units of government became the subject of heavy conversation in the 1960's.

THE PLAN FOR A NEW CONCEPT

In 1964 the District Outlook Committee of the National Association of Soil and Water Conservation Districts studied the problems associated with such a multiplicity of local resource-related organizations. The Committee recognized that a strong local unit of

government was needed - one that could more comprehensively tackle resource problems. They further recognized that special purpose districts would continue to form because of the limited authorities granted past resource organizations - particularly soil and water conservation districts. Although they analyzed the situation adequately, their recommendations were less than adequate and quite ambiguous. They concluded that soil and water conservation districts should be strengthened with no guidance as disarray of special purpose districts and their coordination problems.

It was during 1966 that much of the groundwork was laid for eventual reorganization efforts in Nebraska. Recommendations for reorganization legislation were made to the Legislative Council Study Committee on Water and to the Board of Directors of the Nebraska Association of Soil and Water Conservation Districts. As an outgrowth of these recommendations, and after much thought and deliberation, Resolution #18 was presented to the delegates of the 26th Annual Conference of the Nebraska Association of Soil and Water Conservation Districts at Kearney, Nebraska in September of 1966. This resolution called for legislation to be considered to reorganize Soil and Water Conservation Districts along hydrologic units rather than county lines and that such newly formed districts be of sufficient size to facilitate economy of operation and effectiveness of purpose. It also called for districts to be granted the necessary tools to carry out and sponsor comprehensive programs of land and water development, and that such districts be governed by locally elected representatives, both rural and urban, to assure local control.

This resolution was passed, but not without considerable debate and reservation on the part of some of the delegates.

During the period immediately following this conference, there was a great deal of correspondence emanating both from the office of the Nebraska Soil and Water Conservation Commission and from officials of the Nebraska Association of Soil and Water Conservation Districts. The purpose of this effort by both of these groups was to keep the local people informed on developing plans for reorganization.

Meetings were held with state and federal officials at which time proposed legislation was discussed. Preliminary boundaries were drawn for various numbers of districts throughout the state, and comments were requested from many different agency personnel.

A series of area meetings throughout the state was called late in 1966 during which reorganization was discussed at great lengths. Needless to say, the subject did not meet with favor with all of the local people, nor with all agency personnel.

Early in 1967, the Commission staff visited many of the local districts where the primary topic of conversation was reorganization. Commission staff members were well aware that many of the supervisors were only cautiously receptive to the idea of reorganization at this point, even though they felt something was needed to strengthen the district system.

Correspondence and meetings with local, state and federal officials continued on to the time of the State Association's annual conference on September 17, 18, and 19, 1967 in Lincoln. At that conference, Resolution No. 2 was introduced. Resolution No. 2 stated that the State Association, in cooperation with the Nebraska Soil and Water Conservation Commission and other state and local agencies, would make every effort to complete Studies regarding reorganization and restructuring of the conservancy district system. It further stated that the president appoint a committee to report at the next annual meeting in order that legislative action might be taken during the 1969 session of the Nebraska Legislature. This resolution was passed unanimously. Yet it was evident that SWCD supervisors and watershed directors were not yet ready to accept the entire concept of reorganization at the local level even though they were agreeable to studying the problem.

Governor Norbert Tiemann, in an address to the 1967 State Conference, also came out in favor of reorganization by calling for "a functional realignment of local water agencies in Nebraska."

During the following few months, Commission staff members felt more reassured as local districts became more willing to sit down and discuss possible reorganization.

The State Association, at their annual summer board meeting at Long Pine, Nebraska, again thoroughly discussed the subject and was assured support by most of the local, state and federal agencies represented. A series of preconference meetings was called by the Association for the main purpose of education about the concept of multi-purpose districts.

Many sessions with state and federal officials were also held during the summer of 1968 in an effort to supply as much information as possible to all those seeking it.

The State Association held their 1968 annual conference in North Platte, a session which undoubtedly will be recorded as one of the most historic meetings ever held dealing with resource development. Warren Fairchild, Executive Secretary of the Nebraska Soil and Water Conservation Commission, Warren Patefield, President of the State Association, and Phil Glick, Legal Counsel for the U. S. Water Resources Council, were scheduled as Conference speakers. All three strongly advocated reorganization efforts and urged the delegates to carefully consider the merits.

After a fiery business session during which Resolution No. 25 was introduced, the resolution was finally passed with a recorded vote of 57 for and 42 against. The resolution called for legislation to be enacted to reorganize and consolidate soil and water conservation districts, watershed conservancy districts, watershed planning boards, and watershed districts along hydrologic lines where possible, and other special purpose soil and water resource districts be encouraged to join in such reorganization. It was obvious at this point that there was bitter opposition building against the reorganization of local resource districts.

Numerous meetings were held, slide presentations and visual materials prepared, and many pieces of correspondence written in the few months following passage of Resolution No. 25.

Early in 1969 the booklet, "Modernization of Local Resource District Legislation" was prepared by the Commission staff in the form of a "Special Recommendation" of the State Water Plan. After approval by the Technical Advisory Board and Special Representative Committees of the Commission, it was given final approval by the Commission in March of 1969.

Also during March 1969, natural resources legislation calling for reorganization was drafted. After revision and amendment, the legislation was introduced into the 81st Legislature on April 1, 1969, by Senators Maurice A. Kremer of Aurora, C. F. Moulton of Omaha, George Syas of Omaha, and Herb Nore of Genoa, and came to be known as L.B. #1357.

Copies of the bill as well as the publication "Modernization of Local Resources District Legislation" were distributed to all local supervisors and directors during a series of statewide area meetings called by the Association early in April. Many pieces of correspondence emanated from the office of the State Commission to the local people in an effort to keep them informed about the legislation and its progress. The Commission staff spent considerable time meeting with local boards for this purpose. All amendments made to the bill were forwarded to the local boards for their review and comments.

A public hearing before the Legislature's Agriculture and Recreation Committee was held on May 1, 1969. A large number of persons were in attendance to testify at the two and one-half hour hearing with thirty-one persons appearing in favor and sixteen in opposition. Even with this, it was becoming more and more evident that the opposition to the legislation was becoming more organized and more inclusive.

Members of certain SWCD's and watershed boards in southeast Nebraska organized themselves into a group known as the "Non-Paid Association of Soil and Water Conservation Districts" to actively oppose the legislation. They hired a professional lobbyist to act for them in the Legislature and also printed brochures containing their views on the proposed legislation. What effect this opposition really had on the Legislature will never be fully known. At the least, it stimulated many senators to examine the bill more thoroughly than otherwise might have been the case.

The reorganization bill remained with the Legislature late into the session and Senators looked forward to the September State Association Convention as an indication of statewide support or opposition.

On September 14-16, 1969, the State Association held its annual conference in South Sioux City, Nebraska. During this conference, Resolution No. 20 was introduced by several southeastern Nebraska SWCDs and watershed boards. Basically, the resolution called for opposition to the compulsory reorganization of 154 special purpose districts into natural resources districts as set forth in L.B. #1357. The resolution was defeated. In spite of this opposition, this state conference was termed a very successful meeting and the discussions, resolutions adopted, and other business transacted ended in considerably strengthening local support for the bill.

Two days following the convention on September 18, 1969, at 4:40 p.m., L.B. #1357 was passed by the Nebraska Legislature by a vote of 29 for, 9 against and 11 not voting.

Thus, the wheels were then set in motion for the Commission to carry out its responsibility for complying with the provisions of the new law.

OPERATIONS AFTER ADOPTION OF L.B. #1357

Even though extensive discussion and many meetings had been held prior to the passage of L.B. #1357, the year following was also a critical period. It is unfortunate that a complete record of all the public meetings was not kept so that a more accurate picture of the trials, tribulations, problems and eventual solutions could be reconstructed, but it did not seem important at the time. It could be considered a conservative estimate that at least 200 such meetings were held during that interim period with local boards and various local civic groups, including area and statewide meetings.

Immediately after passage of the law, the Commission assigned two staff members to work full time on the implementation of these new districts. All other staff members spent as much time as was possible assisting these people. As adopted in 1969, L.B. #1357 called for Natural Resources Districts to commence operation on January 1, 1972. This permitted the 1971 Legislature to reassess the legislation and to pass upon Commission determinations such as the appropriate number of districts and their boundaries. The law at this point specified that the number of districts should be between 25 and 50.

Shortly after adoption of L.B. #1357, a Task Force was brought together to work out district boundary lines. This Task Force was composed of persons from various groups and agencies - local, state and federal - all of whom had a great deal of knowledge of the State of Nebraska. Besides representatives of the Commission, other agencies working on this Task Force were the Soil Conservation Service, Bureau of Reclamation, Corps of Engineers, Department of Water Resources, UNL - Conservation and Survey Division, Game and Parks Commission, Department of Health, and Cooperative Extension Service. Also called in from time to time were representatives of the State Tax Commissioner, Department of Economic Development, State Office of Planning and Programming, and the Secretary of State's office.

Meeting for all-day sessions on ten different days, their assignment was to delineate boundaries for the districts by dividing the state into common resource problem areas. Their first recommendation to the Commission was a map outlining boundaries for 28 districts. This proposal was presented to the Commission at a special meeting on January 5, 1970. On January 15, 1970, the Commission accepted the boundary delineations as submitted by the Task Force and asked for submission of the proposed boundaries to the local people at a series of statewide meetings to be held later the same month. After those meetings, the Commission would review the boundaries in light of the local recommendations.

From January 19 to January 29, 1970, eight area meetings were held across Nebraska during which boundaries were discussed. Many local problems kept surfacing such as those surrounding the area of Adams County and the three county area of the Central Nebraska Public Power and Irrigation District. The problem which had to be resolved was whether or not Adams County should be in the Tri-County area to the west from which most of their groundwater originates, or in the Little Blue area to the east into which most of the surface water from Adams County drains. (The problem was eventually compromised apparently to the satisfaction of all sides.)

Beginning the latter part of February, continuing through March and into early April of 1970, meetings were held in each of the proposed 28 natural resources districts. With only a few exceptions, these meetings were well attended and helpful to the Commission staff in obtaining local attitudes and ideas about boundary lines.

Following these meetings, and using the recommendations received from the local people, the Task Force prepared new boundary proposals and a map outlining 33 districts. The Task Force was again called into session and met for two days. A combined staff and Task Force report was presented to the Commission for their review on April 23, 1970. The Commission reviewed each of the boundary proposals at great length. It was evident that problems over some areas were still not yet resolved. Further comments were requested with a Commission determination scheduled for April 30, 1970.

At the Commission meeting on April 30, people representing many areas of the state were present to comment on and suggest changes in the boundary proposals to date. Following this meeting, the map outlining the 33 districts, as presented to the Commission on April 23 by the staff and as modified as a result of the suggestions made at the meeting on April 30, was printed for distribution. These were to be the boundary delineations to be presented at 18 public hearings to be held across the state during June of 1970.

Meanwhile, more intensive opposition was generating against the entire natural resources district concept. During March of 1970 a group calling themselves "Nebraskans for Nebraska Soil and Water, Inc.," an outgrowth of the "Non-Paid Association of Soil and Water Conservation Districts," was formed. Their chief objective was the repeal of L.B. #1357. Even though most of the opposition did originate in Southeast Nebraska, there was scattered opposition from various areas throughout the state. It is interesting to note that opposition to the formation of the soil conservation districts in the late 1930's came from this same southeast area of the state. More about this opposition group and the effect it had on the formation of NRDs will be discussed later.

During June and July of 1970, 18 separate public hearings were held at strategic points across Nebraska. These hearings dealt only with the number of districts and their boundaries and testimony was received only on these subjects. They were called by and conducted by the Commission according to its Rules and Regulations. The final hearing was held in Lincoln on July 31, 1970. Each hearing was taped and later transcribed so that all testimony was available to the Commission members for study before final boundary determinations were made. Since the law called for the boundary determinations to be

made by September 1, 1970, the Commission's program committee met in a two-day session on August 5 and 6, 1970. Pressures were great, particularly those involving Adams County and the dispute over whether it should go with the district to the east or the west as previously discussed. Further discussion was held at a Commission meeting on August 7, 1970, but final determination was not made until August 20.

In an effort to satisfy all concerned, the Commission chose to make Adams County a district by itself. Because of the earlier merger of two districts in the Elkhorn Basin, the number of districts remained at 33. This boundary arrangement was given final approval by the Commission on August 20, 1970.

LEGISLATIVE COUNCIL RECOMMENDATIONS

Early in August the Legislative Council Interim Study Committee on Water and Land Resources began a series of 33 hearings across the state - one in each of the 33 proposed NRDs - to further examine public opinion about NRDs. As a result of these hearings, a number of legislative changes for L.B. #1357 were recommended to the 1971 session of the Legislature.

The Committee in its report to the Legislature reported, "While this has been a very controversial measure, the Committee is strongly of the opinion that there is enough merit to a concept of natural resources districts that L.B. #1357 should be retained. . . ." The Committee did, however, recommend several amendments, including: (1) Reducing the number of NRDs from 33 to 20; (2) That the initial boards of directors of NRDs include directors of Groundwater Conservation Districts; (3) The election of permanent boards should be moved up to 1972 with it being mandatory rather than permissive as initially provided, and that subdistricts be established for election purposes. The elected board should also take office January 1, 1973 with staggered four year terms. The member at-large and the member from each subdistrict receiving the highest vote should serve terms of four years and the next highest for an initial term of two years; (4) NRDs should be restricted to a maximum tax levy of one mill instead of the suggested two mills unless a higher rate was approved by the voters of the district; (5) The authority to issue general obligation bonds should be eliminated; (6) Each NRD and SWCD should be required to prepare no later than August 1, 1975 a long-range six-year plan for its operations with an annual updating and a one-year certain plan. Failure to comply with this planning requirement should result in the withholding of any state funds from the non-complying NRD; (7) NRDs should be made subject to the Nebraska Uniform Budget Act of 1969, L.B. #1433, with a change in fiscal year for NRDs from July 1 to August 1; (8) The per diem for the NRD board members should be limited to $15.00 and the members of the initial boards to receive no mileage or expense reimbursement; (9) All reference to mosquito abatement districts should be eliminated from L.B. #1357; (10) Soil and Water Conservation Districts should be retained rather than mandatorily merged into NRDs. They should be encouraged to merge

with NRDs, but should be prohibited from merging with each other. The suggestion that these recommendations be drafted into legislation was soon to be carried out.

Because of the upcoming legislation, the Commission scheduled a series of 16 meetings across the state during the period of January 11-27, 1971. The meetings were designed to advise the local people of the effect of the proposed legislation, and to obtain their comments for assistance in developing testimony on the forthcoming bills.

EIGHT AMENDMENTS TO L.B. #1357

On January 29, 1971, a packet of eight bills was introduced by Senator Jules Burbach of Crofton incorporating the recommendations of the Legislative Committee. Those bills, numbered consecutively L.B. #537 through L.B. #544 inclusively, each dealt with one specific portion of the NRD Act. All of the bills were given public hearing and extensive debate by the Legislature's Committee on Agriculture and Recreation during the 1971 session.

One of the key proposals in that package of bills introduced in 1971 was the retention of soil and water conservation districts as separate entities of government, thereby taking them out of the mandatory consolidation phase originally proposed by the legislation and provided for in L.B. #1357. Although that proposal was specifically included in only one of the eight bills introduced, it had a total effect upon all of the bills because it was integrally involved with and was mentioned in each of the others. A note of this fact will be important in later discussion of the action taken on several of those bills in the Second Session of the 82nd Legislature during 1972.

Because of the volume of legislation introduced during the 1971 session of the Legislature and because of the controversial nature of some of these bills, the Committee and the full body of the Legislature did not have adequate time to sufficiently discuss and debate all of the issues contained within this package of bills. Thus, as an alternative to last minute haphazard amendment, the Legislature indefinitely postponed one of the eight bills, L.B. #439, and amended and adopted two others originally introduced in that session, L.B. #538 and L.B. 544. The other five bills, L.B. #537, #540, #541, #542, and #543 were forwarded to the Agriculture and Recreation Committee for further evaluation during the interim period between sessions. Because of their importance to the evolution of the NRD concept, a summary of the bills acted upon during the 1971 session of the Legislature is necessary.

As originally introduced, L.B. #537, and the remainder of the bill providing for a change in the fiscal year was indefinitely postponed.

L.B. #538 as originally introduced was designed to abolish the boundaries for the 33 NRDs as established by the Commission on August 20, 1970. It proposed the establishment

of 20 entirely different districts solely by the Legislature itself. After extensive amendment, L.B. #538 was passed in the following form: It directed that the state be redivided into NRDs by the Commission; that these delineations be completed by October 1, 1971; and that the criteria be as follows: ". . .establish boundaries which provide effective coordination, planning, development and general management of areas which have related resources problems. Such areas shall be determined according to the hydrologic patterns. The reorganized river basins of the state shall be utilized in determining and establishing the boundaries for natural resources districts and where necessary for more efficient development and general management, two or more districts shall be created within a basin. . . ." The bill went on to direct the Commission to delineate between 16 and 28 NRDs and abolished the 33 districts previously delineated by the Commission in 1970.

L.B. #544 as originally introduced was intended to prohibit the combining of two or more NRDs, to prohibit the dividing of one district into two or more, and to also prohibit the Commission from initiating action for a change in boundaries or for a merger of other special purpose districts. In final amended form, L.B. #544 directed only that mandatory merger not take place until July 1, 1972. This moved the date for NRDs to commence operation back six months from the previous January 1, 1972 deadline to allow the Legislature more time to evaluate the NRD concept before it became operative.

OPERATIONS DURING AMENDMENT OF L.B. 1357

It was late in the 1971 Legislative session when L.B. #544, moving the implementation date back from January 1, 1972 to July 1, 1972, was passed. As explained above, the Legislature felt this would give them one more opportunity (the 1972 session) to review the new districts, their boundaries, and make any alterations in the law itself they deemed necessary.

The Commission and its staff were now assigned the responsibility of drawing up new boundaries on modified river basin lines before the end of September 1971.

The wheels were again put into motion and the staff developed new boundary lines after reviewing all the testimony received at previous hearings and meetings. At a special meeting of the Commission on September 7, 1971, members reviewed proposals of the staff combined with those drawn by the Nebraska Association of Soil and Water Conservation Districts. As is evidenced by the minutes of that meeting, extensive discussion took place. There were several local delegations present to again request changes for their particular districts. Hydrologic lines were followed as closely as possible in most instances and a map delineating the boundaries for 24 natural resources districts was tentatively developed. The Commission agreed to meet on September 14 after the actual legal descriptions outlining the specific boundaries had been completed.

Again on September 14, there was still some opposition to certain boundaries and minor changes were made. Later that afternoon, action was taken to approve the proposalestablishing 24 natural resources districts as submitted. The districts were also officially named by the Commission in a manner indicating their relative river basin location as directed by law.

Now that the boundaries were hopefully settled, attention was given to the actual implementation and all the details that needed to be taken care of before such a merger could be realized. One of the first tasks completed was the preparation of a handbook for NRD directors, giving special guidance to the interim and initial boards.

During December of 1971, the Commission conducted a series of meetings - one in each of the 24 natural resources districts. The morning sessions were devoted to informational discussions about natural resources district organization, to which the new NRD directors, state senators, members of the press, Soil Conservation Service local representatives, and all other interested agency personnel and interested individuals were invited. The afternoon sessions were devoted to the discussion of the Framework Study of the Nebraska State Water Plan, with invitations to all of the same persons attending the morning sessions, in addition to all other persons interested in resource development in Nebraska.

At these meetings, the future NRD directors were encouraged to meet and form interim boards. Board authorities at this point in time were very limited. Any action the interim boards took, including the location for their office headquarters was unofficial. Thus, it was necessary that a complete and accurate set of minutes be kept and the actions ratified after July 1, 1972.

THE FIVE REMAINING BURBACH AMENDMENTS

Planning for implementation was further hampered by the fact that five of the eight legislative bills introduced in 1971 had not yet been acted upon. In addition, the overall effect upon the natural resources district legislation had not been adequately considered during the initial preparation of those five bills and it was apparent that a number of clarifying and correcting amendments needed to be adopted for each of those bills early in the 1972 Session. Fortunately, corrective amendments to L.B. #537, #540, #541, #542 and #543 were introduced by Senator Burbach on January 10, 1972, and the bills were acted upon as explained below.

L.B. #537 as originally introduced called for the preparation of a comprehensive long-range six-year plan to be updated annually along with a one-year certain plan to be prepared no later than August 1, 1975. This was to be one not only by NRDs, but by SWCDs as well. The bill also stated that failure of any district to comply with this requirement would result in withholding of any state funds that would otherwise be allocated to that district. This bill

was passed essentially unchanged with the additional requirement taken from L.B. #539 that NRDs were to comply with the Uniform Budget Act.

L.B. #541 as originally introduced directed SWCDs to comply with the same rules as NRDs regarding investment of excess funds. This bill as amended and passed authorized SWCDs to invest excess funds, or make loans to other SWCDs. It also stated that districts could make soil and water conservation machinery, equipment and services available to landowners as long as they were not in competition with private business or industry. Both of these bills were passed at a time when it was assumed that SWCDs would not be a part of the mandatory merger.

Because of the extensive nature of the proposed amendments to L.B. #542 and #543, it was decided that these should be printed in the Legislative Journal and acted upon the following day.

L.B. #542 proposed to change the name of the Soil and Water Conservation Commission to the Board of Natural Resources by January 1973. It would also change Commission membership to a 20-member board with each member representing one of the 20 NRDs as originally prepared in L.B. #538 the previous year. L.B. #542 as amended and passed changed the name of the Nebraska Soil and Water Conservation Commission to the Nebraska Natural Resources Commission, and stated that effective January 1, 1973, the Commission would consist of fourteen members as follows: The Director of the Conservation and Survey Division of the University of Nebraska, the Dean of the College of Agriculture of the University of Nebraska, the Director of the State Agricultural Extension Service, the Director of the Department of Water Resources, four members to be appointed by the Governor (one to represent pump irrigation interests, one to represent the Chambers of Commerce, one to represent municipal and industrial water users, and one to represent gravity irrigation interests), one district director from the state at-large and one district director or former district director from each of five areas of the state. Commencing the third Thursday after the first Tuesday in January 1975, the Legislature directed that the Nebraska Natural Resources Commission was to consist of 15 members, as follows: One NRD director each from twelve of the state's thirteen naturally delineated river basins (The White River-Hat Creek Basin was combined with the Niobrara Basin due to its size and similar problems.), and three members to be appointed by the Governor and confirmed by the Legislature - one representing municipal users of water, one representing surface water irrigators, and one representing groundwater irrigators. The Commission was also directed to establish a technical advisory committee to assist in the performance of its duties - this to consist of representatives from thirteen university, state and federal agencies. This bill also directed the Commission to encourage SWCDs to merge into NRDs, but did not require their mandatory merger.

L.B. #543 was probably the most extensive bill passed of the eight Burbach bills, especially after the lengthy amendments it received. It was originally intended to abolish the authority of an SWCD to sell fertilizer, seeds and seedlings; it would have restricted their ability to make machinery and other equipment available to landowners; it would have left SWCDs as separate entities with the ability to merge later if they so desired; it would have

and as passed did abolish all reference in L.B. #1357 to natural resources divisions of public power and irrigation districts; it also removed the Commission's authority to establish job qualifications for district employees; it added directors of groundwater conservation districts to the initial boards of directors of resources districts; it provided that natural resources districts were to be mandatorily subdivided instead of permissively as they were directed under the existing law; it would have moved the election of the permanent board of directors of natural resources districts up to 1972 from 1974; it required that soil and water conservation districts and groundwater conservation districts appoint one of their members as liaison advisor to the natural resources districts; and it provided that there would be no expenses for the members of the initial board for the first year and that per diem for subsequent years would be reduced from the originally proposed $25 to $15.

The original draft of L.B. #543 would also have struck soil and water conservation districts from the list of districts that were to be mandatorily merged, but failed to include them in the list of districts having the option to merge pursuant to what is now section 2-3201, 1973 Supplement. Senator Burbach's amendments, which corrected this mechanical error as well as many others, were adopted on January 11, 1972. No discussion developed at the time on the issue of voluntary versus mandatory merger. On the same morning, Senator Kremer offered five amendments. The effect of these amendments was to reinstate "Soil and Water Conservation Districts" in the list of districts to be mandatorily merged. Contrary to the Burbach amendments, extensive debate constituting eleven pages of the floor debates on L.B. #543 was heard at this time regarding the mandatory merger of soil and water conservation districts. A great deal of confusion developed as the topic of mandatory merger of SWCDs bounced around the chamber. At the conclusion, the Kremer amendments were adopted and SWCDs were to be mandatorily merged into NRDs. Because of the last-minute amendment, however, many inconsistences were created by the different treatment of SWCDs in the other bills adopted. In fact, portions of L.B. #543 still referred to SWCDs as though they were to remain separate entities of government. Notwithstanding these technical inconsistencies, legislative intent to mandatorily merge SWCDs was clear and all language suggesting the contrary was removed by Legislative Bills #335 and #337 in the 1973 Session of the Legislature.

Many other changes were also accomplished with passage of L.B. #543.

As adopted, it provided that the Legislature would have the power until January 1975 to change NRD boundaries, after which time the Commission would assume this authority.

This bill also included a section pertaining to the appointment of urban directors to the NRD boards and eliminated the section previously authorizing operation of solid waste disposal facilities. Additional provisions included within L.B. #543 specified criteria for establishing election nomination subdistricts, now required; directed the establishment of each NRD of an executive committee to be composed of not more than 21 members; and required NRDs being within the same river basin to meet at least twice annually for coordination of their activities.

L.B. #540, the last of the Burbach bills, was originally introduced to restrict the taxing authority of NRDs to one mill unless a higher rate was approved by the voters of the district. The bill also was intended to eliminate the authority of NRDs to issue general obligation bonds. The bill was adopted essentially unchanged from its original form.

PREPARATION FOR THE MERGER

Interim boards were formed in all but the Nemaha NRD in Southeast Nebraska. Attempts to organize such a board encountered resistance from local supervisors and directors.

The Commission attempted to give those interim boards as much assistance as possible and staff members were available for attendance at meetings whenever requested.

Some of the things the early boards had to consider were as follows as discussed in a memo from the Commission's Executive Secretary to the local boards late in 1971):

(1) *Office Location*. The law requires that each NRD maintain an office and that the minutes, records, books, etc. of the district be open to the public at reasonable business hours.

(2) *District Functions*. Knowledge of all ongoing functions of each district that will be merged into an NRD.

(3) *Equipment*. Estimate of how much equipment will be needed to carry on these functions and how much of this equipment will be assumed on July 1, 1972 from merging districts.

(4) *Assumption of Assets, Liabilities and Obligations*. Number of deeds, titles, etc. needing to be transferred. Need of a local attorney to assist in these transfers if an NRD divides any of the existing districts. Procedures to use to set values on assets, etc. Need for a local appraiser.

(5) *Number of Directors and Subdistricts*. Determination of the number of directors (5-21) and subdistricts for each NRD if the election date is moved ahead by the Legislature to 1972. The possibility of subdividing (2-10 areas). (NOTE: The election date for NRD directors was not changed and remained at 1974. A section dealing with the election and the manner in which districts were subdivided will appear later on.)

(6) *Personnel*. The number of staff necessary to begin operations. Consider retention of the clerical and technical assistance now provided to SCS. If any SWCDs were

divided by an NRD, and retention of assistance was desired, an agreement had to be worked out with the neighboring NRD for retention of this assistance.

(7) *Memorandums of Understanding*. If an NRD wished to continue cooperation with the SCS, a new Memorandum of Understanding needed to be drafted.

(8) *New Programs*. If there were any new programs which the NRD would like to initiate early in its period of operation, these should be considered.

(9) *Appointment of Executive Committees*.

(10) *Budgeting*. Budgeting to allow levy of taxes for the fiscal year beginning July 1, 1972.

(11) *Funding early operation*. As initial tax funds weren't received until December 1972, consideration of the need for extra money for the first five months of operation was necessary. Discussion of sources of funds were also conducted, such as from county flood control funds, borrowing, etc.

Early in January of 1972, each of the affected organizations were asked to submit a report reflecting the true status of their assets, liabilities, functions, agreements, contracts, etc. along with an estimate of the values as of June 30, 1972. A form for this purpose was supplied so that a uniform set of reports could be supplied to the interim boards for their use. Where affected districts were split by an NRD boundary, accurate apportionment percentage figures had to be made so that properly apportioned assets and liabilities could be determined between NRDs.

Later (but before June 30, 1972), the Commission contracted for an appraiser and a uniform appraisal was made across the state on all equipment and real estate owned by the affected districts. Copies of these appraisals were then made available to the respective NRDs for their use.

During March and April of 1972, a uniform bookkeeping system was developed by the Commission staff in cooperation with the State Auditor and other individuals. They also worked with the State Auditor on budget forms so that the information required would coincide with the accounting system. The Commission staff then held a series of meetings across the state to explain the new system to NRD staffs. Later, each NRD was visited several times to see that the system was being correctly implemented.

RULES AND REGULATIONS FOR NRDs

Commission staff also assisted the new NRDs with many details necessary to comply with State and Federal laws. Rules and regulations for the first boards were drawn up and

adopted by the Commission in accordance with its authority to promulgate such rules for the initial boards. Included were:

1. Transferring Social Security records from name of old districts to new.
2. Cancellation of Federal and State withholding identification numbers and making application for new ones.
3. Assisting in completion of State sales and income tax forms.
4. Application for nursery dealers' certificate.
5. Completion of first budget forms.
6. Application for gas tax permit.
7. Transfer of registration, license plates and titles of all motor vehicles and trailers.
8. Preparing and filing affidavits on real estate and land rights transfers.
9. Providing sample forms for:
   a. Transfer affidavit on water rights,
   b. Timekeeping forms,
   c. Expense form for directors and employees,
   d. Sales tax exemption form, and
   e. Resale certificate.
10. Assisting in seeing that districts each had proper liability and workmen's compensation insurance until some plan could be worked out on a statewide basis.

A checklist was provided to all the chairmen of the NRD interim boards to assist them in seeing that many of the above details were carried out. Many reports had to be completed by the affected districts and accounts in their names cancelled before NRDs became effective on July 1, 1972. Bank accounts, certificates of deposit, bonds and other securities all needed to be transferred to the respective NRD accounts.

A meeting of all NRD directors was called by the Commission on May 2, 1972 at Kearney, Nebraska. The purpose of this meeting was to discuss the necessary activities and responsibilities of the boards. The meeting proved very successful and provided those in attendance with a number of ideas and suggestions which they could utilize in their own districts. Twenty of the twenty-four NRDs had representatives at this meeting.

One of the provisions of L.B. #543 passed by the 1972 Legislature provided for urban appointees to the interim NRD boards to assist in operating the affairs of the district until the first election in 1974. In addition to the directors of all the merged districts and the groundwater conservation districts, the following urban representation was made to each board". . .one representative from each city of the second class within the district, one representative from each city of the first class within the district for each five thousand inhabitants, to the nearest five thousand, and seven representatives from each city of the primary class within the district, such representatives to be designated by the mayor with the approval of the city council, with the mayor and members of the council being eligible for such designation, except when the natural resources district includes a city of the metropolitan class, ten representatives of urban interests were to be designated by the county board of the county in which such city is located."

Notices were sent to all municipalities in the state urging them to make their appointments quickly so that these new directors could be notified of the first official meeting.

The Commission was required by law to convene the first official meeting of each board. These twenty-four meetings were called for the month of June 1972. A Commission member officially presided at each of these meetings. During these meetings the interim board chairman reported on the tentative commitments made by the interim board. His report included actions taken on the following items:

1. The executive committee;
2. The headquarters or office location;
3. The budget procedure;
4. Intangible assets; bank accounts, savings, time certificates, etc.;
5. Tangible assets; machinery, materials, real estate, etc.;
6. Insurance coverage, both liability and property and workmen's compensation;
7. The need for and the availability of surety bonds;
8. Employees and employment;
9. Provisions made for notifying debtors, creditors and business contacts about the new NRD;
10. Application for permit numbers and account numbers;
11. Meeting notices, minutes, reports, forms, etc.;
12. Functions and requirements of affected districts to be completed by the NRD after July 1, 1972;
13. The standard bookkeeping system; and
14. The first official meeting.

This initial board of directors was required to select an executive committee which would have authority over all matters unless specifically limited at the time of its establishment. The number could not be more than twenty-one and members were selected by a majority vote of the board. An amendment did specify that the executive committee would establish the subdistricts for election purposes. (The election procedure will be discussed later in this paper.) This is one responsibility the full board could not retain, unless the full board constituted twenty-one or fewer members and it was decided that all members should constitute the executive committee. It was no longer a requirement that every affected organization be represented on the executive committee. The law did state, however, that there must be a municipal representative on the executive committee unless there were no city representatives on the board. In establishing the Executive Committee, due regard had to be given to the extent that works of improvement were located in rural areas, the extent to which population and taxable values were located in urban areas and the wishes of the people.

LEADING UP TO A LAWSUIT

As was discussed earlier, a group called "Nebraskans for Nebraska Soil and Water, Inc." was formed in March of 1970 after opposition for the Natural Resources District Concept was expressed by many individuals across the state.

There was a great deal of money spent, not only for lobbying purposes, but for the support of this opposition group (over $42,000 was reportedly pledged). Most of these funds could be traced to the treasuries of local watershed conservancy districts and soil and water conservation districts almost entirely from southeast Nebraska. Since most of this money was originally collected as taxes from within those districts, this was a very questionable expenditure and one which was never really resolved. The State Attorney General ruled that these were illegal expenditures and the proper approach for recovery of these funds would be a taxpayer's suit brought by some taxpayer living in a district where such contributions had been made. No such lawsuit was ever filed.

The Commission itself had no legal authority to recover any of these funds. However, the Commissions's Executive Secretary was directed to write letters to each of the directors of those districts illegally contributing funds advising them of the illegality of such expenditures. At the same time, several soil and water conservation districts were known to be giving away some of their assets to avoid transfer to the NRDs. Again, the Commission authorized the Executive Secretary to advise the districts that this was not legal and that they should be receiving fair market value for any assets given up.

An official resolution by the Commission was adopted on March 29, 1972, and transmitted to each district encouraging the recovery of these funds by the participating districts. It is believed that some of these funds were recovered although the amount remains unknown.

THE LAWSUIT AGAINST NRDs

On June 6, 1972, only 25 days before the NRDs were to become operative, the long anticipated lawsuit challenging the constitutionality of the natural resources district law was filed in Lancaster County District Court.

The NRD law was attacked on numerous constitutional grounds in a fourteen page petition, starting with the Legislature's adoption of the original law in 1969 and subsequent amendments in later sessions. The lawsuit asked the court for a restraining order and temporary injunction to halt the State from merging 154 special purpose districts into 24 natural resources districts on July 1, 1972. Upon a final hearing on the merits of the lawsuit,

the petition asked a declaratory judgment enjoining the State from merging special purpose districts into NRDs. The suit contended that the NRD law violated the Nebraska Constitution on several points, including:

(1) Members of a restructured State Soil and Water Conservation Commission, which would govern NRDs, were appointed, violating citizens' voting franchise;
(2) This Commission was vested with legislative, executive and judicial powers;
(3) Various legislative bills comprising the NRD law each contained more than one subject and the titles of the bills did not clearly express the contents;
(4) The NRD laws contained procedures that constitute and provide for the taking of private property without due process of law and the taking of private property for works of public improvement without just compensation; and
(5) Taken as a whole, NRD laws were so indefinite, ambiguous and incomprehensible as to be incapable of enforcement or performance by the citizens, electors and taxpayers of the state. They also felt that the NRD law violated the one-man, one-vote principle and that NRD directors were arbitrarily chosen or selected.

The lawsuit was filed on behalf of the Richardson County Soil and Water Conservation District and two are landowners (who were also directors of watershed conservancy districts).

OUTCOME OF THE LAWSUIT

On June 24, 1972, Lancaster County District Court Judge William Hastings took the request for a temporary injunction to block the formation of the 24 NRDs under advisement. On June 29, he refused to grant such an injunction. However, Judge Hastings did temporarily enjoin the NRDs from transferring, liquidating, depleting or co-mingling any of the assets of the 154 special purpose districts being merged into NRDs, except as was necessary to continue the present level of operations and pay current obligations and liabilities on contracts.

For all practical purposes, the first natural resources districts ever to be created in the United States went into full operation on July 1, 1972. The injunction merely prohibited the use of any assets of the 154 merging districts in any geographical area other than within the original boundaries of each individual special purpose district. An exception to the rule was the authority to use available funds for administration purposes, such as paying salaries. What the injunction did do was to create the necessity for a very cumbersome bookkeeping system. A separate set of ledgers had to be maintained for each of the merged districts as well as a master ledger. For some NRDs this meant having as many as 28 separate ledgers and was most frustrating and time consuming.

Names of several other organizations also changed at this time. The Nebraska Soil and Water Conservation Commission then became known as the Nebraska Natural Resources Commission, and the Nebraska Association of Soil and Water Conservation Districts became the Nebraska Association of Resources Districts, both changes reflecting the newly restructured and reorganized system.

It was not until July of 1973 that the District Court issued a final order that the NRD law was for the most part constitutional. The only feature held unconstitutional by the court was that relating to the four ex officio members of the Commission. The State Attorney General indicated he would want to appeal this ruling because of its effect on many other state commissions and boards, as well as the Natural Resources Commission. At this point, the plaintiffs indicated they would file a notice of appeal to the State Supreme Court - which they did on July 26, 1973.

On April 18, 1974, the State Supreme Court upheld the constitutionality of Nebraska's Natural Resources District System. The Supreme Court did, however, agree with the lower court that three ex officio members on the Commission (University employees) were unconstitutionally appointed, but the fourth member, the Director of the Department of Water Resources, was constitutionally serving. The plaintiffs filed for a rehearing, but this was denied by the Court during July 1974. As a result of this decision, the Governor was given the authority to make appointments to fill the three vacancies on the Commission.

At last the long battle of the constitutionality of natural resources districts was settled. Even though it had apparently not hindered the progress of most NRDs, it did brighten the picture and left essentially no major stumbling blocks in the road for future progress and growth of natural resources districts.

THE FIRST ELECTION OF NRD BOARDS

Election of the first permanent NRD boards of directors soon became the major topic of concern. By January 1, 1974, the NRDs had submitted their recommendations for the number of directors desired by their district to the Natural Resources Commission. The number of directors could range from 5 to 21. This decision was made after all interested persons in each district were given an opportunity to be heard at a public meeting.

The next step in the election procedure was to adopt subdistrict boundaries. As outlined in the Commission's Rules and Regulations, the following items were to be submitted by each NRD for approval of their subdistrict delineations:

(1) The subdivision map or a separate map showing the location of projects named or described on a separate tabulation;
(2) A separate tabulation of population and valuations of subdistricts and cities;

(3) Evidence of the determination of the wishes of the people;
(4) A map showing the subdistrict in detail;
(5) A separate compilation of legal descriptions, one for each subdistrict, by number;
(6) A narrative explaining the steps taken in arriving at the subdistrict arrangement;
(7) A numbering arrangement appearing on the map and utilized to identify legal descriptions.

These recommendations were all reviewed by the Commission and initial approval was given to all but one. That proposal was returned to the NRD for revision and was subsequently approved. After final approval on June 6, 1974, the Secretary of State was provided with the proper maps and legal descriptions of every subdistrict with each NRD.

Any registered elector could then become a candidate by filing, with the Commission, a nominating petition signed by 25 registered electors from the area to be represented. In the meantime, the Secretary of State held two separate sessions with County Clerks and Election Commissioners throughout the entire state at which this first election of NRD directors was discussed in detail. In order to make the first election go as smoothly as possible, the Commission provided packets of information to everyone directly involved with the election procedures. At the second session held on April 22, the County Clerks and Election Commissioners were provided with sufficient copies of nominating petitions, instructions for circulation of the petitions, and copies of maps of each subdistrict within that particular county to take care of all potential candidates within their region. The same information was also provided to each NRD as well as being available from the Commission.

The deadline for filing nomination petitions with the Commission was 5:00 p.m., August 9, 1974. Following that date the Commission certified and forwarded the slate of candidates for directors for every district in Nebraska to the Secretary of State, who in turn prepared sample ballots for the County Clerks or Election Commissioners involved. The necessary and usual election procedures were then followed as outlined in the Nebraska Statutes.

The State's general election was held on November 5, 1974 with the new directors taking office on January 9, 1975. The effect of the election was to reduce the number of directors for the 24 NRDs from 1,058 to 370.

The November election had 561 candidates for the 370 board positions across the state. Yet, there were 21 positions in 10 NRDs for which no candidates filed. These positions were later filled by appointment of the new boards after they were operative.

Newly elected directors and former directors gathered on January 16, 1975 in basin caucuses all across the state to select 12 individuals to become Commission members, each representing a river basin as designated by law. (The White River-Hat Creek Basin was combined with the Niobrara Basin because of its small size, population and similar resource problems.) The remaining three members were appointed by the Governor: One to represent municipal water users, one to represent surface water irrigators and one to represent groundwater irrigators. These 12 elected Commission members took office on

January 23, 1975 and at their initial meeting on that same day determined among themselves which six members would serve two-year terms and which six would serve four-year terms.

From earlier discussion, recollection will be made that a one mill levy could be collected by the NRDs. In most instances this has been sufficient to carry out their programs, but how long this will be true is becoming a pressing question. As projects have become more complex, the costs have risen. Mill levies during FY 74-75 ranged from .275 to 1.00 with from $14,482.67 to $527,763.00 in revenue coming into individual NRDs for their operation as a result of this tax, or a total of $4,525.470 across the state. Operating requirements range from $105,500 to $1,381,661 for an individual NRD, or a total of $14,028,208 across the state.

Just as the topography and climate of Nebraska varies greatly from one end of the state to the other, likewise the programs of the NRDs also vary greatly. In the short time that NRDs have been in existence, their programs and projects have grown, as have the number of staff employed by them. At the present time, all of the NRDs have offices open to the public five days a week and all have managers. Numbers of staff range from three or four to over twenty.

Many of the programs and projects inherited from the old districts are being carried on by the NRDs, but at the same time many new and more complex problems are now being faced. Some of these programs include: Grass seeding, range management, tree planting, rodent control, watershed projects, drainage problems, bank stabilization projects, groundwater problems, studies of floodwater runoff, groundwater recharge, flood plain management, clearing and snagging, educational programs, soil stewardship, awards programs, water quality studies, land treatment practices, erosion control, recreation development, fish and wildlife, soil surveys, channel improvement, cost sharing on county road structures and land treatment practices, irrigation management and development, demonstration farms, feedlot pollution control, rural water supplies, and cooperative city planning of parks and open space. Some NRDs are even talking about land use regulations and recycling. The potential for future resource programs sponsorship and leadership by NRDs is limited only by money and time.

EPILOGUE

The creation of a functional mechanism from a theory - an idea in the back of someone's mind - is a challenge par excellence. Many organizations and individuals spent untold numbers of hours in the formation of natural resources districts in Nebraska, not only before the law was passed, but in the succeeding weeks, months and years after its adoption in 1969. It has not been the intention to omit their contributions, because they, too, have played vital roles in the creation, passage, implementation and success of the natural resources district system.

It was the hope and dream of many individuals and groups that some day Nebraska would have a functional vehicle at the local level with not only the authority, but also the ability to achieve the coordination and comprehensive management of the state's land and water resources. This dream has now become a reality . . . The Natural Resources District Concept.

against any person violating or threatening to violate the act or the rules and regulations adopted and promulgated pursuant to the act. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

Source: Laws 1969, c. 8, § 9, p. 99; Laws 1977, LB 40, § 26; Laws 1988, LB 871, § 4.

2-3110. **Soil and Plant Analysis Laboratory Cash Fund; created; use; investment.** All fees collected by the director under the Nebraska Soil and Plant Analysis Laboratory Act shall be remitted by the director to the State Treasurer for deposit in the state treasury to the credit of the Soil and Plant Analysis Laboratory Cash Fund, which fund is hereby created. Such fund shall be used by the department to aid in defraying the expenses of administering the Nebraska Soil and Plant Analysis Laboratory Act. Any money in the special fund established for the Nebraska Soil and Plant Analysis Laboratory Act on July 9, 1988, shall be transferred to the Soil and Plant Analysis Laboratory Cash Fund. Any money in the Soil and Plant Analysis Laboratory Cash Fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Source: Laws 1969, c. 8, § 10, p. 99; Laws 1988, LB 871, § 5.

ARTICLE 32
NATURAL RESOURCES

Cross Reference
Nebraska Natural Resources Commission, see Chapter 2, article 15.

Section.

2-3201. Natural resources, declaration of intent. The Legislature hereby recognizes and declares that it is essential to the health and welfare of the people of the State of Nebraska to conserve, protect, develop, and manage the natural resources of this state. The Legislature further recognizes the significant achievements that have been made in the conservation, protection, development, and management of our natural resources and declares that the most efficient and economical method of accelerating these achievements is by creating natural resources districts encompassing all of the area of the state. The Legislature further declares that the functions performed by soil and water conservation districts, watershed conservancy districts, watershed districts, advisory watershed improvement boards, and watershed planning boards shall be consolidated and made functions of natural resources districts. The governing boards of such districts and boards shall complete, before July 1, 1972, the necessary transfers and other arrangements so that such boards may on that date begin the operation of natural resources districts. The Legislature further declares that other special-purpose districts, including rural water districts, ground water conservation districts, drainage districts, reclamation districts, and irrigation districts, are hereby encouraged to cooperate with and, if appropriate, to merge with natural resources districts.

Source: Laws 1969, c. 9, § 1, p. 100; Laws 1971, LB 544, § 1; Laws 1972, LB 543, § 1; Laws 1973, LB 335, § 1; Laws 1991, LB 15, § 1.

The statutes providing for natural resources districts held to be constitutional. Neeman v. Nebraska Nat. Resources Commission, 191 Neb. 672, 217 N.W.2d 166.

2-3202. Terms, defined. As used in Chapter 2, article 32, unless the context otherwise requires:

(1) Commission shall mean the Nebraska Natural Resources Commission;

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

(3) Board shall mean the board of directors of a district;

(4) Director shall mean a member of the board;

(5) Other special-purpose districts shall mean rural water districts, ground water conservation districts, drainage districts, reclamation districts, and irrigation districts; and

(6) Manager shall mean the chief executive hired by a majority vote of the board to be the supervising officer of the district.

Source: Laws 1969, c. 9, § 2, p. 101; Laws 1972, LB 543, § 2; Laws 1973, LB 335, § 2; Laws 1984, LB 861, § 1; Laws 1988, LB 1045, § 1.

Cross Reference
Nebraska Natural Resources Commission, see section 2-1504.

2-3203. Natural resources districts; establishment. In furtherance of the policy set forth in section 2-3201, the entire area of the State of Nebraska shall be divided into natural resources districts. The Nebraska Natural Resources Commission is hereby authorized and directed to determine and establish the exact number, and the boundaries of such districts. Boundaries of natural resources districts shall be established on or before October 1, 1971. When establishing such boundaries the commission shall employ the following guidelines and criteria:

(1) The primary objective shall be to establish boundaries which provide effective coordination, planning, development and general management of areas which have related resources problems. Such areas shall be determined according to the hydrologic patterns. The recognized river basins of the state shall be utilized in determining and establishing the boundaries for districts and where necessary for more efficient development and general management two or more districts shall be created within a basin;

(2) Boundaries of districts shall follow approximate hydrologic patterns except where doing so would divide a section, a city or village, or produce similar incongruities which might hinder the effective operation of the districts;

(3) Existing boundaries of political subdivisions or voting precincts may be followed wherever feasible. Districts shall be of sufficient size to provide adequate finances and administration for plans of improvement; and

(4) The number of districts shall be not less than sixteen nor more than twenty-eight.

Source: Laws 1969, c. 9, § 3, p. 101; Laws 1971, LB 538, § 1.

2-3203.01. Repealed. Laws 1982, LB 592, § 2.

2-3203.02. Commission; study district composition. Notwithstanding the provisions of section 2-3203, the Legislature hereby directs the Nebraska Natural Resources Commission to study the composition of the state's natural resources districts in existence on August 30, 1987, and formulate and recommend to the Legislature a plan which provides for natural resources districts which will equitably and economically manage, conserve, develop, and protect the state's natural resources. Such a plan shall be completed and presented to the Legislature no later than two years from August 30, 1987.

Source: Laws 1987, LB 148, § 1.

2-3204. Commission; rules and regulations; appeals from commission orders; procedure. (1) The commission shall adopt and promulgate appropriate rules and regulations for all commission hearings authorized by sections 2-1502 to 2-1504, 2-1507, and 2-3201 to 2-3257. All such hearings shall be subject to the provisions of the Administrative Procedure Act.

(2) Appeals from commission determinations and orders entered pursuant to sections 2-1502 to 2-1504, 2-1507, and 2-3201 to 2-3257 may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1969, c. 9, § 4, p. 103; Laws 1972, LB 543, § 3; Laws 1983, LB 36, § 3; Laws 1988, LB 352, § 6.

Cross Reference

Administrative Procedure Act, see section 84-920.

2-3205. Repealed. Laws 1987, LB 1, § 16.

2-3206. Districts; assumption of assets and liabilities; apportionment; taxes; special fund. (1) Each district established pursuant to section 2-3203 shall assume, on July 1, 1972, all assets, liabilities, and obligations of any soil and water conservation district, watershed conservancy district, watershed district, advisory watershed improvement board, and watershed planning board, whose territory is included within the boundaries of such natural resources district. When the jurisdiction of any soil and water conservation district, watershed conservancy district, watershed district, advisory watershed improvement board, or watershed planning board, is included within two or more natural resources districts, the commission shall determine the apportionment of any assets, liabilities, and obligations. Such apportionment shall be based on the proportionate land area included in each district. Physical assets attached to the land shall be assumed by the district in which they are located. The value of attached physical assets shall be considered in the apportionment of the assets, liabilities and obligations, and any such assets may be encumbered or otherwise liquidated by the assuming district to effect the proper apportionment. When any other special-purpose district is merged with a natural resources district as contemplated by section 2-3201 and in the manner provided in sections 2-3207 to 2-3212, the assets, liabilities, and obligations of such special-purpose district shall similarly be assumed by the natural resources district.

(2) All taxes levied in 1971 by the counties of this state pursuant to sections 2-1560 and 31-827 for watershed districts and watershed conservancy districts shall be treated as assets of such watershed districts and watershed conservancy districts and when funds are not available or paid to such districts on account of such levies until after July 1, 1972, such funds shall be paid to the order of the natural resources district or districts within the boundaries of which such watershed district or watershed conservancy district lies, and in the proportionate amounts as other assets are to be divided. Tax funds in possession of or payable to each watershed district and watershed conservancy district at the time of merger shall be put in a special fund of the natural resources district or districts receiving the assets of such watershed district or watershed conservancy district and such funds shall be expended within the boundaries of such watershed district or watershed conservancy district and for projects begun or planned by such districts.

Source: Laws 1969, c. 9, § 6, p. 104; Laws 1971, LB 544, § 3; Laws 1972, LB 543, § 4.

2-3207. Districts; change of boundaries, division, or merger. With the approval of the affected natural resources districts, the commission may change the boundaries of natural resources districts, merge two or more such districts into a single district, divide one district into two or more new districts, or divide and merge one district into two or more other existing districts. The commission may also provide for the merger with such districts of other special-purpose districts as enumerated in section 2-3201. In exercising such powers, the commission shall be bound by the criteria and procedures provided by sections 2-3201 to 2-3212.

Source: Laws 1969, c. 9, § 7, p. 105; Laws 1972, LB 543, § 5; Laws 1988, LB 1045, § 2.

2-3208. Districts; proposed changes; procedure. A hearing 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 set forth any proposed new boundaries and such other information as the commission requires.

Source: Laws 1969, c. 9, § 8, p. 106; Laws 1988, LB 1045, § 3.

2-3209. **Repealed.** Laws 1988, LB 1045, § 12.

2-3210. **Districts; change of boundaries, division, or merger; notice.** Within sixty days after such proposal for a change of boundaries, division, or merger is made and filed with the commission, the commission shall begin publication of the notices for a public hearing 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.

Source: Laws 1969, c. 9, § 10, p. 106; Laws 1988, LB 1045, § 4.

2-3211. **Districts; change of boundaries, division, or merger; hearing; order; notice.** 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, shall make such other determinations as are required by sections 2-3211.01 and 2-3211.02, 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.

Source: Laws 1969, c. 9, § 11, p. 107; Laws 1988, LB 1045, § 5.

2-3211.01. **Districts; change of boundaries, division, or merger; assets, liabilities, obligations, tax receipts; treatment.** (1) Each new natural resources district established by merging two or more natural resources districts in their entirety shall assume all assets, liabilities, and obligations of such merged districts on the effective date of the merger.

(2) Whenever a change of boundaries, division of one district into two or more new districts, or division and merger of one district into two or more existing districts takes place, the commission shall determine the apportionment of any assets, liabilities, and obligations. Such apportionment shall be based on all relevant factors including, but not limited to, the proportionate land areas involved in the change, division, or merger and the extent to which particular assets, liabilities, or obligations are related to specific land areas. Interests in real estate and improvements to real estate shall be assumed by the district in which they are located on

the effective date of the change, division, or merger. The value of such interests in real estate and improvements shall be considered in the apportionment, and any such assets may be encumbered or otherwise liquidated by the assuming district to effect the proper apportionment.

(3) All taxes levied pursuant to section 2-3225, 46-673, or 46-674.19 and all assessments levied pursuant to sections 2-3254 to 2-3254.06 prior to the change of boundaries, division, or merger shall be apportioned by the commission on the basis of the relationship between the intended uses of such taxes or assessments and the land areas involved in the change, division, or merger. Taxes or assessments levied pursuant to sections 2-3254 to 2-3254.06, 46-673, and 46-674.19 which are in the possession of or payable to a district at the time of the change, division, or merger and taxes or assessments in the possession of or payable to any other special-purpose district merged into a natural resources district shall be put into a special fund by the district receiving such assets and shall be expended as nearly as practicable for the purposes for which they were levied or assessed.

Source: Laws 1988, LB 1045, § 6.

2-3211.02. **Districts; change of boundaries, division, or merger; naming or renaming.** If a change of boundaries, division, or merger requires the naming of a newly created natural resources district or the renaming of one or more existing districts, names shall be given by the commission at the time the change, division, or merger is approved. The board of directors of a district may recommend that a specific name be approved.

Source: Laws 1988, LB 1045, § 7.

2-3211.03. **Districts; change of boundaries, division, or merger; commission; duties.** In making the determinations required by sections 2-3211 to 2-3211.02, the commission shall, whenever consistent with applicable law and the state's interests, give effect to the desires of the affected natural resources districts including the terms of any written agreements between or among such districts.

Source: Laws 1988, LB 1045, § 8.

2-3212. **Districts; change of boundaries, division, or merger; application; contents; filing; when effective; Secretary of State, duties.** 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 certifying that the change, division, or merger is in accordance with the procedures pre-

scribed in sections 2-3207 to 2-3212 and setting forth any new boundary line or other information as in the judgment of the commission 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.

Source: Laws 1969, c. 9, § 12, p. 107; Laws 1988, LB 1045, § 9.

2-3212.01. Merger and transfer of existing districts or boards; effect. Mergers and transfers of existing districts or boards into natural resources districts pursuant to sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01 shall not be construed as being discontinuances or dissolutions of those districts or boards as may be provided for by statute outside sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01.

Source: Laws 1969, c. 9, § 59, p. 134; R.S.1943, (1987), § 2-3259.

2-3213. Board of directors; membership; commission, duties; change in number of directors; executive committee. (1) Except as provided in subsections (2) and (3) of this section, each district shall be governed by a board of directors of five, seven, nine, eleven, thirteen, fifteen, seventeen, nineteen, or twenty-one members. The commission shall determine the number of directors and in making such determination shall consider the complexity of the foreseeable programs and the population and land area of the district. Districts shall be political subdivisions of the state, shall have perpetual succession, and may sue and be sued in the name of the district.

(2) At least six months prior to the primary election, the board of directors of any natural resources district may request that the number of directors for the district be changed. Such request shall be directed to the commission and shall be accompanied by proposed new subdistrict boundaries to accommodate the increase or decrease in the number of directors and a plan to accomplish such change. In determining whether to approve such requested changes, the commission shall utilize the criteria found in subsection (1) of this section and in subsection (1) of section 2-3214, but the commission shall have the authority only to approve or deny the request and not to specify any other number of directors. Except as provided in subsection (5) of this section, no director's term of office shall be shortened as a result of any change in numbers. Any reduction in the number of directors shall be made as directors take office during the two succeeding elections or more quickly if the reduction can be made by not filling vacancies on the board and if desired by the board and approved by the

commission. If necessary to preserve staggered terms for directors when the reduction in number is made in whole or in part through unfilled vacancies, the board shall request and the commission may approve a one-time election of one or more directors for a two-year term. The Director of Natural Resources shall inform the Secretary of State whenever any such one-time elections have been approved. Notwithstanding subsection (1) of this section, the district may be governed by an even number of directors during the two-year transition to a board of reduced number.

(3) Whenever any change of boundaries, division, or merger results in a natural resources district director residing in a district other than the one to which such director was elected to serve, such director shall automatically become a director of the board of the district in which he or she then resides. Except as provided in subsection (5) of this section, all such directors shall continue to serve in office until the expiration of the term of office for which they were elected. Directors or supervisors of other special-purpose districts merged into a natural resources district shall not become members of the natural resources district board but may be appointed as advisors in accordance with section 2-3228. No later than six months after any change, division, or merger, each affected board, in accordance with the procedures and criteria found in this section and section 2-3214, shall submit to the commission for approval a recommended number of directors for the district as it then exists, the option chosen for nomination and election of directors, and, if appropriate, new subdistrict boundaries.

(4) To facilitate the task of administration of any board increased in size by a change of boundaries or merger, such board may appoint an executive committee to conduct the business of the board in the interim until board size reductions can be made in accordance with this section. An executive committee shall be empowered to act for the full board in all matters within its purview unless specifically limited by the board in the establishment and appointment of the executive committee.

(5) Notwithstanding the provisions of section 2-3214 and subsections (3) and (4) of this section, the board of directors of any natural resources district established by merging two or more districts in their entirety may request that all directors be nominated and elected at the first primary and general elections following the year in which such merger becomes effective. In districts which have one director elected from each subdistrict, each director elected from an even-numbered subdistrict shall be elected for a two-year term and each director from an odd-numbered district and any member to be elected at large shall be elected for a four-year term. In districts which have two directors elected from each subdistrict, the four candidates receiving the highest number of votes at the primary election shall be carried over to the general election, and at such general election the candidate receiving the highest number of votes shall be

elected for a four-year term and the candidate receiving the second highest number of votes shall be elected for a two-year term. Thereafter each director shall be elected for a four-year term.

Source: Laws 1969, c. 9, § 13, p. 108; Laws 1971, LB 544, § 4; Laws 1972, LB 543, § 6; Laws 1973, LB 335, § 3; Laws 1978, LB 411, § 2; Laws 1981, LB 81, § 1; Laws 1986, LB 302, § 1; Laws 1986, LB 124, § 1; Laws 1987, LB 148, § 2; Laws 1988, LB 1045, § 10.

2-3214. Board of directors; nomination; election; term; subdistricts; election expenses. (1) District directors shall be elected for four-year terms at the general election of the state. Directors shall be elected on a separate nonpartisan ballot as provided in sections 32-535 and 32-537 and shall pay no filing fee. Nominating papers shall be filed with the Secretary of State or his or her designee. The board of directors may choose to: (a) Nominate candidates from subdistricts and from the district at large which shall be elected by the qualified electors of the entire district; (b) nominate and elect each candidate from the district at large; or (c) nominate and elect candidates from subdistricts of substantially equal population except that any at-large candidate would be nominated and elected by the qualified electors of the entire district. Unless the board of directors determines that the nomination and election of all directors will be at large, the board shall, subject to the approval of the commission, strive to divide the district into subdistricts of substantially equal population, except that commencing with the primary election in 1988, no subdistrict shall have a population greater than three times the population of any other subdistrict within the district. Such subdistricts shall be consecutively numbered and shall be established with due regard to all factors including, but not limited to, the location of works of improvement and the distribution of population and taxable values within the district. The boundaries and numbering of such subdistricts shall be designated at least six months prior to the primary election. Registered electors residing within the district shall be eligible for nomination as candidates for any at-large position or, in those districts that have established subdistricts, as candidates from the subdistrict within which they reside. Unless the district has been divided into subdistricts with substantially equal population, all directors shall be elected by the qualified electors of the entire district and all electors shall vote on the candidates representing each subdistrict and any at-large candidates. If a district has been divided into subdistricts with substantially equal population, the board of directors may determine that directors shall be elected only by the electors of the subdistrict except that an at-large director may be elected by electors of the entire district.

(2) Except in those districts which have elected to have a single director serve from each subdistrict, the number of subdistricts for a district shall equal a number which is one less than a majority of directors for the district. In those districts which have elected to have a single director serve from each subdistrict, the number of subdistricts shall equal a number which is equal to the total number of directors of the district or which is one less than the total number of directors for the district if there is an at-large candidate. The ballots shall list each nomination subdistrict and candidates therefrom and also the at-large candidates. In those districts which have chosen to nominate and elect each candidate from the district at large, the ballot shall indicate that all of the candidates are at-large candidates. Registered electors may each cast a number of votes not larger than the total number of directors to be elected. The candidate receiving the most votes in each listed subdistrict, or the district at large when applicable, shall be elected. Whenever the number of directors to be elected exceeds the number of subdistricts, or whenever the term of the at-large director expires in those districts which have elected to have a single director serve from each subdistrict, candidates may file as a candidate from the district at large, in which case the ballots shall list such candidates under an appropriate heading.

(3) The Secretary of State shall certify to the county clerk or election commissioner involved the names of the candidates on a sample ballot. The county clerk or election commissioner shall have the necessary ballots printed and distributed to the designated polling places. Local election judges shall determine the appropriate ballot for voters. All registered electors who have legal residence in the district shall be eligible to vote. The county clerk or election commissioner shall forward to the Secretary of State pursuant to law the official canvass of the votes cast in the county for directors. The state canvassing board shall canvass the results of the election of directors for natural resources districts. The Secretary of State shall mail an election certificate to each candidate elected. Elected directors shall take their oath of office in the same manner provided for county officials.

(4) The Secretary of State and the county clerk or election commissioner shall have the power and authority to do those things necessary to carry out the provisions and intent of this section. Except as otherwise provided in this section, the district, after each primary or general election, shall pay to each county wherein the name of one or more candidates appears upon the ballot the following election expenses: (a) Counties having a population of less than three thousand inhabitants, fifty dollars; (b) counties having a population of three thousand but less than nine thousand inhabitants, one hundred dollars; (c) counties having a population of nine thousand but less than fourteen thousand inhabitants, one hundred twenty-five dollars; (d) counties having a population of fourteen

thousand but less than twenty thousand inhabitants, one hundred fifty dollars; (e) counties having a population of twenty thousand but less than sixty thousand inhabitants, one hundred seventy-five dollars; (f) counties having a population of sixty thousand but less than one hundred thousand inhabitants, seven hundred fifty dollars; (g) counties having a population of one hundred thousand but less than two hundred thousand inhabitants, fifteen hundred dollars; and (h) counties having a population of two hundred thousand inhabitants or more, two thousand fifty dollars. When the name of one or more candidates of a district appears on ballots in less than one-half of the precincts of the counties, the cost to the district shall be no more than fifty percent of the expenses established by this section. If the actual expenses to the county in district elections provided for in this section are less than the amounts established in this section, such actual expenses shall be the amount paid by the district to the county. The population of a county for purposes of this section shall be the population as determined by the most recent federal decennial census.

In addition to the costs above provided, the natural resources district shall pay the publication cost of the sample primary and general election ballots appearing in the newspaper and shall pay the actual printing costs for the official ballots used for the election. Election expenses shall be due and payable for each natural resources district within thirty days after the receipt of the statement from the county.

(5) The district shall furnish to the Secretary of State and county clerk or election commissioner such maps and additional information as they may reasonably require in the proper performance of their duties in the conduct of elections and certification of the results of the same.

(6) Subject to the approval of the commission and at least six months prior to the primary election, the board of directors may elect to have a single director serve from each subdistrict.

Source: Laws 1969, c. 9, § 14, p. 110; Laws 1972, LB 543, § 7; Laws 1974, LB 641, § 1; Laws 1986, LB 302, § 2; Laws 1987, LB 148, § 3.

2-3215. Board; vacancy; how filled. A vacancy on the board shall exist in the event of the death, disability, resignation, or removal from the district or subdistrict of any director. After notice and hearing, a vacancy shall also exist in the event of the absence of any director from more than two consecutive regular meetings of the board unless such absences are excused by a majority of the remaining board members. In the event of a vacancy from any of such causes or otherwise, such vacancy shall be filled by the board of directors. The person so appointed shall have the same qualifications as the person whom he or she succeeds. Such appointments shall be in writing, for the remainder of the unexpired term, and until a

successor is elected and qualified. The written appointment shall be filed with the Secretary of State.

Source: Laws 1969, c. 9, § 15, p. 112; Laws 1972, LB 543, § 8; Laws 1985, LB 569, § 1; Laws 1988, LB 1045, § 11.

2-3216. Repealed. Laws 1984, LB 975, § 14.

2-3216.01 to 2-3216.06. Repealed. Laws 1986, LB 548, § 15.

Note: Laws 1986, LB 548, repealed provisions of law governing conflict of interest on contracts. Provisions now applicable are sections 49-14,103.01 to 49-14,103.07.

2-3217. Officers; election; bond; premium. The board shall elect the officers of the district, including a chairman, vice-chairman, secretary, and treasurer. The offices of secretary and treasurer may be held by one person, and such person need not be a member of the board. The officers and employees of the district authorized to handle funds shall furnish and maintain a corporate surety bond in an amount not less than fifty thousand dollars, nor more than the amount of all money coming into their possession or control, to be determined by the governing board. Such bond shall be in a form and with sureties approved by the board of directors, and after approval shall be filed with the Secretary of State. The premium on such bond shall be paid by the district.

Source: Laws 1969, c. 9, § 17, p. 112; Laws 1973, LB 206, § 2.

2-3218. Members of board; compensation; expenses. Board members shall be compensated for their actual and necessary expenses incurred in connection with their duties. Each board may provide a per diem payment for directors of not to exceed fifty dollars for each day that such director attends meetings of the board or is engaged in matters concerning the district, but no director shall receive more than two thousand dollars in any one year. Such per diem payments shall be in addition to and separate from compensation for expenses.

Source: Laws 1969, c. 9, § 18, p. 113; Laws 1972, LB 543, § 9; Laws 1981, LB 204, § 10; Laws 1986, LB 374, § 1; Laws 1991, LB 264, § 1.

2-3219. Board; meetings; time; place; notice. (1) The board shall hold regularly scheduled monthly meetings at which meetings the board shall take such action and make such determinations as are required by sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01. A majority of the voting members of the board shall constitute a quorum, and the concurrence of a majority of a quorum shall be sufficient to take action and make determinations. Within ninety days of the creation of any natural resources dis-

trict, the board thereof shall, by appropriate rules and regulations, designate the regular time and place such meetings are to be held. At the first meeting of each year, the board shall review its program for the preceding year and outline its plans for the following year. At the first regularly scheduled meeting after the completion of the yearly audit required by section 2-3223, it shall present a report of the financial condition of the district and open discussion relevant to the same. Notice shall be given of all board meetings pursuant to section 84-1411.

(2) The boards of directors of the natural resources districts within each river basin shall meet jointly at least twice a year at such times and places as may be mutually agreed upon for the purpose of receiving and coordinating their efforts for the maximum benefit of the basin.

Source: Laws 1969, c. 9, § 19, p. 113; Laws 1972, LB 543, § 10; Laws 1988, LB 812, § 1.

2-3220. Board; minutes; records; monthly publication of expenditures; publication fee; public inspection. The board shall cause to be kept accurate minutes of its meetings and accurate records and books of account, conforming to approved methods of bookkeeping prescribed by the Auditor of Public Accounts, clearly setting out and reflecting the entire operation, management and business of the district. It shall be the duty of the board to prepare and publish each month in a newspaper or newspapers which provide general coverage of the district, a detailed list of all expenditures of the district for the preceding month. Any newspaper utilized by the district shall publish such list of expenditures for a fee no greater than the rate provided by law for the publication of proceedings of county boards. Such publication shall set forth the amount of each claim approved, the purpose of the claim, and the name of the claimant. Such books and records shall be kept at the principal office of the district or at such other regularly maintained office or offices of the district as shall be designated by the board, with due regard to the convenience of the district, its customers, and electors. Such books and records shall at reasonable business hours be open to public inspection.

Source: Laws 1969, c. 9, § 20, p. 114; Laws 1975, LB 404, § 2.

2-3221. Repealed. Laws 1972, LB 543, § 18.

2-3222. Board; copy of certain documents; furnish to commission. The board shall furnish to the commission copies of such rules, regulations, orders, contracts, forms, plans, audits, agreements, minutes of their meetings and other documents as they shall plan to adopt or employ, and such other information concerning their activities as the commission may require in the performance of its duties under sections 2-1502 to

2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01.

Source: Laws 1969, c. 9, § 22, p. 114.

2-3223. Fiscal year; audit; filing; failure to file; withhold funds. The fiscal year of the district shall begin July 1 and end June 30. The board of directors, at the close of each year's business, shall cause an audit of the books, records and financial affairs of the district to be made by a public accountant or firm of such accountants, who shall be selected by the district. The audit shall be in a form prescribed by the Auditor of Public Accounts. Such audits shall show (1) the gross income from all sources of the district for the previous year; (2) the amount expended during the previous year for maintenance; (3) the amount expended during the previous year for improvements and other such programs, including detailed information on bidding and notices of requests for bids and the disposition thereof; (4) the amount of depreciation of the property of the district during the previous year; (5) the number of employees as of June 30 of each year; (6) the salaries paid employees; and (7) all other facts necessary to give an accurate and comprehensive view of the cost of operating, maintaining, and improving the district.

An authenticated copy of the audit shall be filed with the Auditor of Public Accounts within six months after the end of the fiscal year. Upon the failure by the district to file the audit report within such time, the Auditor of Public Accounts shall notify the county treasurer or treasurers within the district who shall withhold distribution of all tax funds to which the district may be entitled pursuant to section 2-3225.

Source: Laws 1969, c. 9, § 23, p. 114; Laws 1972, LB 107, § 1; Laws 1975, LB 404, § 3.

2-3223.01. Audit; failure to file; publication of failure; individuals responsible; penalty. (1) If any district fails to file a copy of the audit within the required time, pursuant to section 2-3223, the name of the district, the officers, and the board of directors of the district shall be published in a newspaper or newspapers which provide general coverage of the district, which publication shall state the failure of the district and its directors, with publication costs to be paid by the district.

(2) Any officer or member of the board of directors responsible for such failure to file shall be guilty of a Class IV misdemeanor.

Source: Laws 1975, LB 404, § 4; Laws 1977, LB 40, § 27.

2-3224. Funds of districts; disbursement; treasurer's bond; secretary report changes. Funds of the district shall be paid out or expended only upon the authorization or approval of the board of directors and by check, draft, warrant, or other instrument in writing, signed by the treas-

urer, assistant treasurer, or such other officer, employee or agent of the district as shall be authorized by the treasurer to sign in his behalf; *Provided,* such authorization shall be in writing and filed with the secretary of the district; *and provided further,* in the event that the treasurer's bond shall not expressly insure the district against loss resulting from the fraudulent, illegal, negligent, or otherwise wrongful or unauthorized acts or conduct by or on the part of any and every person thus authorized, there shall be procured and filed with the secretary of the district, together with the authorization, a corporate surety bond, effective for protection against such loss, in such form and amount and with such corporate surety as shall be approved in writing by the signed endorsement thereon of any two officers of the district other than the treasurer. The secretary shall report to the board at each meeting any such bonds filed, or any change in the status of any such bonds, since the last previous meeting of the board.

Source: Laws 1969, c. 9, § 24, p. 115.

2-3225. Districts; tax; levy; limitation; use; collection. Each district shall have the power and authority to levy a tax of not to exceed four and one-half cents on each one hundred dollars of actual valuation annually on all of the taxable property, except intangible property, within such district unless a higher levy shall be authorized by a majority vote of those voting on the issue at a regular election on a referendum question submitted by resolution of the board of directors and certified to the Secretary of State on or before August 25 of the election year. The proceeds of such tax shall be used, together with any other funds which the district may receive from any source, for the operation of the district. When adopted by the board, the levy shall be certified by the secretary to the county clerk of each county which in whole or in part is included within the district. Such levy shall be handled by the counties in the same manner as other levies, and proceeds shall be remitted to the district treasurer. Such levy shall not be considered a part of the general county levy and shall not be considered in connection with any limitation on levies of such counties.

Source: Laws 1969, c. 9, § 25, p. 115; Laws 1972, LB 540, § 1; Laws 1975, LB 577, § 19; Laws 1979, LB 187, § 10; Laws 1981, LB 110, § 1; Laws 1987, LB 148, § 4.

2-3226. Districts; bonds; issuance. Each district shall have the power and authority to issue revenue bonds for the purpose of financing construction of facilities authorized by sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01. Issuance of revenue bonds must be approved by two-thirds of the members of the board of directors of the district. The district shall pledge sufficient revenue from any revenue-producing facility con-

structed with the aid of revenue bonds for the payment of principal and interest on such bonds, and shall establish rates for such facilities at a sufficient level to provide for the operation of such facilities and for the bond payments.

Source: Laws 1969, c. 9, § 26, p. 116; Laws 1971, LB 534, § 1; Laws 1972, LB 540, § 2.

2-3227. Districts; funds; investment. Each district may 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 needs of the district, (1) in certificates of deposit of banks which are members of the Federal Deposit Insurance Corporation except that whenever the amount deposited exceeds the amount of insurance available thereon, the excess shall be secured in the same manner as for the deposit of public funds, (2) in certificates of deposit of capital stock financial institutions as provided by section 77-2366, (3) in loan associations in the State of Nebraska to the extent that deposits therein are insured by the Federal Savings and Loan Insurance Corporation, (4) in its own bonds, (5) in treasury notes or bonds of the United States, or (6) in bonds or debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration. Investments in bonds or treasury notes 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 section. 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 section shall be performed under such rules and regulations as shall be prescribed by the board.

Source: Laws 1969, c. 9, § 27, p. 117; Laws 1972, LB 206, § 3; Laws 1989, LB 33, § 1.

2-3228. Districts; powers. Each district shall have the power and authority to:

(1) Receive and accept donations, gifts, grants, bequests, appropriations, or other contributions in money, services, materials, or otherwise from the United States or any of its agencies, from the state or any of its

agencies or political subdivisions, or from any person as defined in section 49-801 and use or expend all such contributions in carrying on its operations;

(2) Establish advisory groups by appointing persons within the district, pay necessary and proper expenses of such groups as the board shall determine, and dissolve such groups;

(3) Employ such persons as are necessary to carry out the purposes of sections 2-3201 to 2-3257 and, in addition to other compensation provided, establish and fund a pension plan designed and intended for the benefit of all permanent full-time employees of the district. Any recognized method of funding a pension plan may be employed. Employee contribution shall be required to fund at least fifty percent of the benefits, and past service benefits may be included. The district shall pay all costs of any such past service benefits, which may be retroactive to July 1, 1972, and the plan may be integrated with old age and survivors' insurance, generally known as social security. A uniform pension plan, including the method for jointly funding such plan, shall be established for all districts in the state. A district may elect not to participate in such a plan but shall not establish an independent plan;

(4) Purchase liability, property damage, workers' compensation, and other types of insurance as in the judgment of the board are necessary to protect the assets of the district;

(5) Borrow money to carry out such sections;

(6) Adopt and promulgate rules and regulations to carry out the purposes of such sections; and

(7) Invite the local governing body of any municipality or county to designate a representative to advise and counsel with the board on programs and policies that may affect the property, water supply, or other interests of such municipality or county.

Source: Laws 1969, c. 9, § 28, p. 118; Laws 1975, LB 404, § 5; Laws 1983, LB 36, § 4; Laws 1985, LB 387, § 1; Laws 1991, LB 15, § 2.

2-3229. Districts; purpose. The purposes of natural resources districts shall be to develop and execute, through the exercise of powers and authorities contained in sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, (5) water supply for any beneficial uses, (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, (8) solid waste disposal and sanitary drainage, (9) drainage improvement and channel rectification, (10) development and management of fish and wildlife

habitat, (11) development and management of recreational and park facilities, and (12) forestry and range management. The development and execution of such plans or programs within Nebraska planning and development regions shall be undertaken only if a properly designated regional planning body for the area affected shall find that such plans and programs are not in conflict with the goals, objectives, or plans of the regional planning body. Such planning body shall be accorded a period of thirty days to review and comment upon the plans and programs of natural resources districts. Failure to reply within thirty days shall be conclusive that the proposed plans and programs have been endorsed by the regional planning body; *Provided*, that negative comments on plans or programs by the regional planning body shall not delay action by the natural resources district or its agent when such plans and programs are specifically recommended in a functional plan that has been approved by the Legislature. The same thirty-day review period shall be provided for the central state planning agency. The execution of such plans and programs as authorized by this section may not be undertaken if as a result of this review the central state planning agency shall find that such plans and programs are in conflict with state policies and plans approved by the Legislature. Failure to reply within thirty days shall be conclusive that the proposed plans and programs have been endorsed by the central state planning agency. As to development and management of fish and wildlife habitat and development and management of recreational and park facilities, such plans, facilities, works, and programs shall be in conformance with any outdoor recreation plan for Nebraska and any fish and wildlife plan for Nebraska as developed by the Game and Parks Commission.

Source: Laws 1969, c. 9, § 29, p. 118; Laws 1972, LB 543, § 11; Laws 1981, LB 326, § 9; Laws 1982, LB 565, § 1.

Cross Reference
Nebraska planning and development regions, see sections 84-142 to 84-150

2-3230. Districts; facilities and works; powers. Each district shall have the power and authority to construct and maintain works and establish and maintain facilities across or along any public street, alley, road, or highway and in, upon, or over any public lands which 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; *Provided*, that the district shall promptly restore any such street, highway, or other property to its former state of usefulness as nearly as may be possible, 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 protec-

tion of the public during periods of construction. The district shall not be required to pay any license or permit fees, or file any bonds, but may be required to pay reasonable inspection fees.

Source: Laws 1969, c. 9, § 30, p. 120.

2-3230.01. Natural resources districts; construction; approval of other special-purpose district affected. A natural resources district having within, or partially within its boundary, the irrigation service area of an operational irrigation district, reclamation district, or public power and irrigation district, shall, prior to construction of any project within such irrigation service area that would have a direct effect upon the conveyance, distribution, use, recovery, reuse and drainage of water, obtain approval of such project by the governing board of the irrigation district, reclamation district or public power and irrigation district whose irrigation service area is so affected.

Source: Laws 1971, LB 626, § 3.

2-3231. Districts; contracts; powers. Each district shall have the power and authority to:

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

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

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

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

Source: Laws 1969, c. 9, § 31, p. 120.

2-3232. Districts; studies, investigations, surveys, demonstrations; powers. Each district shall have the power and authority to:

(1) Make studies, investigations, or surveys and do research as may be necessary to carry out the purposes of sections 2-3201 to 2-3257, to enter upon any land, after notifying the owner or occupier, for the purpose of conducting such studies, investigations, surveys, and research, and to publish and disseminate the results. Entry upon any property pursuant to this section shall not be considered to be legal trespass, and no damage shall be recoverable on that account alone. In case of any actual or demonstrable damage to premises, the district shall pay the owner of the premises the amount of the damages. Upon failure of the landowner and the district to agree upon the amount of damage, the landowner, in addition to any other available remedy, may file a petition as provided in section 76-705. To avoid duplication of effort, any such studies, investigations, surveys, research, or dissemination shall be in cooperation and coordination with the programs of the University of Nebraska, or any department thereof, and any other appropriate state agencies; and

(2) Conduct demonstration projects within the district on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district, upon obtaining the consent of the owners of such land or the necessary rights and interest in such lands, in order to demonstrate by example the means, methods, and measures by which soil and water resources may be conserved and soil erosion in the form of soil blowing and soil washing may be prevented and controlled. Demonstration projects shall be coordinated with the programs of the Agricultural Research Division of the University of Nebraska.

Source: Laws 1969, c. 9, § 32, p. 121; Laws 1991, LB 663, § 32. Operative date January 1, 1992.

2-3233. Districts; water rights, waterworks, and property; acquisition; disposal. Each district shall have the power and authority to acquire and dispose of water rights in accordance with Chapter 46, article 2, and to acquire by grant, purchase, bequest, devise, or lease, and to hold and use waterworks, personal property, interests or title in real property, and to sell, lease, encumber or otherwise dispose of such waterworks and property. Each district shall also have the power and authority to acquire, construct, own, operate, control, maintain and use any and all such works and facilities, both within and without the district, necessary to carry out the provisions of sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01, and furnish water service for domestic, irrigation, power, manufacturing and other beneficial purposes.

Source: Laws 1969, c. 9, § 33, p. 122.

A water right applicant has no transferable property right in a mere application to divert water. In re Applications A-15145, A-15146, A-15147, and A-15148, 230 Neb. 580, 433 N.W.2d 161 (1988).

2-3234. Districts; eminent domain; powers. Each district shall have the power and authority to exercise the power of eminent domain when necessary to carry out the purposes of sections 2-1502 to 2-1504, 2-1507, 2-3201 to 2-3257, 31-101.01, 31-301.01, 31-401.01, 46-613.01, 46-614.01, and 46-1001.01 within the limits of the district or outside its boundaries. Exercise of eminent domain shall be governed by the provisions of sections 76-704 to 76-724; *Provided*, that whenever any district seeks to acquire the right to interfere with the use of any water being used for power purposes in accordance with sections 46-204, 70-668, 70-669, and 70-672, and shall be unable to agree with the user of such water upon the compensation to be paid for such interference, the procedure to condemn property shall be followed in the manner set forth in sections 76-704 to 76-724, and no other property shall be included in such condemnation. No district shall contract for delivery of water to persons within the corporate limits of any village, city, or metropolitan utilities district, nor in competition therewith outside such corporate limits, except by consent of and written agreement with the governing body of such political subdivision. A village, city, or metropolitan utilities district may negotiate and, if necessary, exercise the power of eminent domain for the acquisition of water supply facilities of the district which are within its boundaries.

Source: Laws 1969, c. 9, § 34, p. 122; Laws 1972, LB 543, § 12.

2-3234.01. Districts; grant easements. A district may grant easements across real estate under its ownership for purposes which are in the public interest and do not adversely affect the primary purpose for which such real estate is owned by the district.

Source: Laws 1984, LB 861, § 14.

2-3235. Districts; cooperation; agreements; authorized; contributions; materials and services to landowners; terms. (1) Each district shall have the power and authority to cooperate with or to enter into agreement with and, within the limits of appropriations available, to furnish financial or other aid to any cooperator, any agency, governmental or otherwise, or any owner or occupier of lands within the district for the carrying out of projects for benefit of the district as authorized by sections 2-3201 to 2-3257, subject to such conditions as the board may deem necessary to advance the purposes of such sections.

(2) As a condition to the extending of any benefits under such sections to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the directors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits and may require landowners to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.

(3) Each district may make available, on such terms as it shall prescribe, to landowners within the district specialized equipment, materials, and services which are not readily available from other sources and which will assist such landowners to carry on operations upon their lands for the conservation of soil and water resources and for the prevention and control of soil erosion. Whenever reasonably possible, purchases or contracts for such equipment shall be made from retail establishments.

Source: Laws 1969, c. 9, § 35, p. 123; Laws 1991, LB 15, § 3.

2-3236. Districts; appointment as fiscal agent of United States; powers. Each district shall have the power and authority to accept appointment of the district as fiscal agent of the United States, or authorization of the district by the United States to make collections of money for and on behalf of the United States in connection with any federal project, whereupon the district shall have full power to do any and all things required by the federal statutes in connection therewith, and all things required by the rules and regulations established by any department of the federal government in regard thereto.

Source: Laws 1969, c. 9, § 36, p. 123.

2-3237. Repealed. Laws 1975, LB 577, § 26.

2-3238. Districts; develop, store, and transport water; water service; powers; limitation. Each district shall have the power and authority to develop, store and transport water, and to provide, contract for, and furnish water service for domestic purposes, irrigation, milling, manufacturing, mining, metallurgical, and any and all other beneficial uses, and to fix the terms and rates therefor. Each district may acquire, construct, operate, and maintain dams, reservoirs, ground water storage areas, canals, conduits, pipelines, tunnels, and any and all works, facilities, improvements, and property necessary therefor. No district shall contract for delivery of water for irrigation uses within any area served by any irrigation district, public power and irrigation district, or reclamation district, except by consent of and written agreement with such irrigation district, public power and irrigation district, or reclamation district.

Source: Laws 1969, c. 9, § 38, p. 125.

2-3239. Districts; assessment of benefits; powers. Each district shall have the power and authority 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 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; *Provided*, 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.

Source: Laws 1969, c. 9, § 39, p. 125.

2-3240. Districts; certain activities; laws, rules, and regulations applicable. 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.

Source: Laws 1969, c. 9, § 40, p. 126.

2-3241. Districts; additional powers. Each district shall have the power and authority to provide technical and other assistance as may be necessary or desirable in rural areas to abate the lowering of water quality in the state caused by sedimentation, effluent from feedlots, and runoff from cropland areas containing agricultural chemicals. Such assistance shall be coordinated with the programs and the stream quality standards as established by the Department of Environmental Control.

Source: Laws 1969, c. 9, § 41, p. 126; Laws 1972, LB 1045, § 2; Laws 1972, LB 543, § 13.

2-3242. Districts; water projects; powers. Each district shall have the power and authority to (1) build or construct, operate and maintain, any reservoir, dike or levee to prevent overflow of water, (2) drain any cropland subject to overflow by water, or drain wet land when desirable to make reasonable use of such land whether such condition is caused by surface water or ground water, or drain any land which will be improved by drainage, (3) locate and construct, straighten, widen, deepen, or alter and maintain any ditch, drain, stream, or watercourse, (4) riprap or otherwise protect the bank of any stream or ditch, and (5) construct, enlarge, extend, improve, or maintain any stream of drainage or system of control of surface water.

Source: 'Laws 1969, c. 9, § 42, p. 126.

2-3243. Districts; lands owned or controlled by state; preventive and control measures; powers. Each district shall have the power and authority to carry out preventive and control measures within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and other measures as may be determined feasible on lands owned or controlled by this state or any of its agencies, with the cooperation of the agency administering

and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owners of such lands or the necessary rights or interests in such lands.

Source: Laws 1969, c. 9, § 43, p. 127.

2-3244 to 2-3250. Repealed. Laws 1986, LB 474, § 16.

2-3251. Repealed. Laws 1972, LB 543, § 18.

2-3252. Districts; improvement project areas; powers; project funding. (1) Projects or portions of projects which the board determines to be of general benefit to the district shall be carried out with any available funds of the district, including proceeds from the district's tax levy pursuant to section 2-3225. Projects or portions of projects which the board determines to be of special benefit to a certain area within the district may be established and maintained pursuant to subsection (2) of this section.

(2) Each district may establish improvement project areas within the district for the purpose of carrying out projects authorized by law which result in special benefits to lands and property within such improvement project areas. Improvement project areas may include land within an adjoining district with the written consent of the board of directors of the adjoining district. When only a portion of a project results in special benefits to an area, an improvement project area may be established to finance and maintain such portion of the project, and the district shall finance and maintain the other portions of the project pursuant to subsection (1) of this section. Such improvement project areas may be established and the projects authorized after a hearing by the board, upon its own motion or by petitions, in the manner provided for by sections 2-3253 to 2-3255. The cost of any construction, capital improvements, or operation and maintenance involved in such special benefit portions of a project shall be recovered by the board by special assessment as provided in sections 2-3252 to 2-3254, 2-3254.04, and 2-3254.06. Any other costs related to such special benefit portion of a project may also be recovered by similar assessments. The board shall determine the amount of such special assessments and the period of time over which such special assessments shall be paid. When such projects result in the provision of continuing services such as the supply of revenue-producing water for any beneficial use, the persons receiving such special services shall be assessed for the cost of the service received in the manner provided in subsection (2) of section 2-3254. The reimbursable cost of the special benefit portions of such projects authorized in accordance with this section and as determined by the board of directors shall be assessed against the land within the improvement project area on the basis of benefits received in the manner provided in sub-

section (3) of section 2-3254 and section 2-3254.03. When a special-purpose district is merged with a natural resources district as provided by sections 2-3207 to 2-3212, the board may, without complying with the procedures outlined in sections 2-3252 to 2-3254.07, establish an improvement project area to carry out the functions of such special-purpose district and may adopt as its own any fee or assessment schedule or schedules previously adopted pursuant to law by such special-purpose district and in force and effect at the time of such merger. Any fees or assessments which are due or which become due under such adopted schedule or schedules shall be collected by the district in the manner provided by sections 2-3254 and 2-3254.03.

(3) Projects of a predominantly general benefit to a district with only an incidental special benefit, as determined by the board, may be developed and executed using any available funds of the district, including those from the tax levied pursuant to section 2-3225, without the establishment of an improvement project area or the levying of assessments or other charges.

Source: Laws 1969, c. 9, § 52, p. 130; Laws 1973, LB 206, § 4; Laws 1981, LB 388, § 1; Laws 1990, LB 969, § 1.

The determination of the feasibility of a general benefit project by the board of directors of a natural resources district, and the adoption and implementation of such a project, is a legislative function and is not within the scope of judicial review where the specific statutory requirements for such action have been met. Fisher & Trouble Creek v. Lower Platte No. Nat. Resources Dist., 212 Neb. 196, 322 N.W.2d 403 (1982).

2-3252.01. Repealed. Laws 1978, LB 783, § 7.

2-3253. Improvement project; proposal; petition; contents; hearing. (1) A hearing on a proposed improvement project area and the proposed project may be initiated by petition of landowners. All petitions filed with the board of the natural resources district must contain:

(a) A statement of the problem involved;

(b) A presentation of the project proposed;

(c) A description of the area to be affected by the project; and

(d) A request for a hearing.

(2) If there are twenty or less landowners in this defined area, then the signatures of at least one-fourth must be on the petition. If there are more then twenty, then the signature of ten landowners shall be sufficient. Any petition regarding a project which would provide a revenue-producing continuing service shall contain so many signatures of landowners as shall in the board's discretion indicate enough interest to generate sufficient revenue to recover any reimbursable costs should a project be authorized.

Source: Laws 1969, c. 9, § 53, p. 131; Laws 1973, LB 206, § 5.

2-3254. Improvement project; petition; hearing; notice; findings of board; apportionment of benefits; lien; publication; written objections; effect. (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 the goals, criteria, and policies of sections 2-3201 to 2-3262 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 conform with sections 2-3201 to 2-3262, 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 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 rather than the Director of Water 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 Resources and the Department of Health, 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 shall be required to review such plans and specifications and approve the same if in compliance with Chapter 71, article 53, and departmental regulations adopted thereunder. 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 herein 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 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 shall 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 shall 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.

Source: Laws 1969, c. 9, § 54, p. 131; Laws 1972, LB 543, § 14; Laws 1973, LB 206, § 6; Laws 1981, LB 326, § 10.

2-3254.01. Improvement project; determination of special benefits; effect. When determining the apportionment of benefits under section 2-3254, the board shall also make a determination as to what portion of the project will result in special benefits to lands and property and such determination, if not appealed as provided in section 2-3255, shall be conclusive as establishing the authority of the district to levy special assessments and issue bonds and warrants for such project.

Source: Laws 1981, LB 388, § 2.

2-3254.02. Improvement project; bonds; issued; when. When a project which would not result in the provision of revenue-producing continuing services has been completed, the district shall have the power to issue its negotiable bonds entitled improvement project area bonds for the purpose of paying the cost of the special benefit portion of the project. Such bonds shall be payable from money in the sinking fund established in section 2-3254.05, and be issued under the conditions in section 2-3254.07.

Source: Laws 1981, LB 388, § 3.

2-3254.03. Improvement project; financed with bonds; requirements; warrants issued; when. (1) Prior to awarding contracts for work in connection with any project the board proposes to finance in whole or in part by improvement project area bonds issued pursuant to section 2-3254.02, there shall be placed on file with the board an engineer's estimate of the total cost of such project. After any award of a contract for any such project, there shall be placed on file with the board a revised engineer's estimate of the total cost of that part of such project for which an award has been made. Such revised estimate shall be based upon the prices provided for in such contract. The revised estimate shall specifically state the estimated total cost of that part of the project for which

awards have been made and which relates to that portion of the project which will result in special benefits to an area.

(2) For the purpose of making partial payments as the work progresses, warrants may be issued by the district. Such warrants shall not be issued in an amount which exceeds the engineer's revised estimate for that part of the project for which awards have been made and which relates to that portion of the project which will result in special benefits to an area. Such warrants shall become due and payable not later than five years from the date of their issuance and shall draw interest at a rate fixed by the board and stated in such warrants from the date of presentation for registration and payment. The warrants shall be redeemed and paid from the proceeds of special assessments, from the sale of bonds issued and sold as provided for in section 2-3254.02, or from other available funds of the district, including proceeds from the tax levied pursuant to section 2-3225. The district may agree to pay annual or semiannual interest on all warrants issued by the district, and may issue warrants to pay such interest or issue warrants in return for cash to pay such interest. If determined appropriate by the board, the district may pay fees to fiscal agents in connection with the placement of warrants or bonds issued by the district.

Source: Laws 1981, LB 388, § 4.

2-3254.04. Improvement project; issuance of bonds; special assessment levy; hearing; notice; delinquent; interest. Before issuing any improvement project area bonds pursuant to section 2-3254.02, special assessments shall be levied by resolution of the board for the improvement project area. Such levy of special assessments shall be made after the holding of a hearing by the board for which notice shall be published at least once a week for three weeks in a newspaper of general circulation in the project improvement area. Such notice shall state the time and place for such meeting and that such meeting shall be held for the purpose of hearing all parties interested in the levying of assessments for special benefits by reason of the improvements. All special assessments shall become due within fifty days after the date of levy and may be paid within that time without interest. If not paid within the fifty days, they shall bear interest therefrom at the rate established by the board. Such assessment shall become delinquent in equal annual installments over a period of years which the board may determine at the time of making the levy. Delinquent installments shall bear interest until paid at the rate established by the board. If three or more installments shall become delinquent, the board may declare all of the remaining installments to be delinquent and such installments shall bear interest at the rate established by the board for delinquent installments and may be collected in the same manner as other delinquent installments.

Source: Laws 1981, LB 388, § 5.

2-3254.05. Improvement project; special assessment proceeds; sinking fund; use. The proceeds of all special assessments for an improvement project area shall constitute a sinking fund for the purposes of paying the cost of the special benefit portion of the project and for paying warrants and bonds issued pursuant to sections 2-3252 and 2-3254.01 to 2-3254.07 and shall, together with the interest payable upon such special assessments, be set aside and used to pay such costs, bonds, and warrants. Any money remaining in the sinking fund after fully discharging such costs, bonds, and warrants may be applied by the board for operation and maintenance expenses relating to such project or may be transferred to the general fund of the district. In any resolution authorizing the issuance of bonds or warrants, the board may provide that general funds of the district, including the proceeds from such district's tax levied pursuant to section 2-3225, shall be transferred and paid into the sinking fund to provide for the prompt payment of principal and interest on any bonds and warrants of the district which are to be paid from such sinking fund, as they become due.

Source: Laws 1981, LB 388, § 6.

2-3254.06. Improvement project; special assessments; lien; delinquency; foreclosure; sale final; when. (1) The natural resources district shall have a lien upon the real estate within its boundaries for all special assessments for improvement project areas which are due. Such lien shall be inferior only to general taxes levied by political subdivisions of the state. When such special assessments have become delinquent and the real property against which they are assessed has not been offered at any tax sale, the district may proceed in the district court in the county in which the real estate is situated to foreclose in its own name upon the lien in the same manner and with like effect as a foreclosure of a real estate mortgage, except that sections 77-1903 to 77-1917, shall govern in every case when applicable.

(2) Final confirmation of sale in such foreclosure proceedings and the issuance of a deed of sale to the district, or its assignee, cannot be had until two years have expired from the date of the sale held by the sheriff and until personal notice has been served on the occupants of the real property after such two-year period. The remedy granted in this section to a natural resources district for the collection of delinquent special assessments shall be cumulative and in addition to other existing methods.

Source: Laws 1981, LB 388, § 7.

2-3254.07. Improvement project; issuance of warrants or bonds; conditions. The following conditions shall apply when the board issues warrants or improvement project area bonds to fund the special benefit portion of a project:

(1) Neither the members of the board nor any person executing the warrants or bonds shall be liable personally thereon by reason of their issuance;

(2) The warrants or bonds shall be a debt of the district only and shall state this on their face;

(3) Warrants and bonds of the district are declared to be issued for an essential public and governmental purpose and to be public instruments, and together with interest and income thereon, shall be exempt from all taxes;

(4) Bonds shall be authorized by a majority vote of the board which shall determine the manner and place of their execution. The bonds may be issued in one or more series and shall bear such a date, be payable upon demand or mature at such a time, bear interest at such a rate, be in such a denomination, be in such form, be payable at such a place, and be subject to redemption prior to maturity upon such a term and with such notice, as the board may direct; and

(5) Bonds and warrants issued pursuant to sections 2-3252 and 2-3254.01 to 2-3254.07 may be sold in any manner and for such price as the board of directors may determine.

Source: Laws 1981, LB 388, § 8.

2-3255. Improvement projects; apportionment of benefits; appeal. From any order or decision of the board of directors of the natural resources district, an appeal may be taken to the district court by any person aggrieved by filing an undertaking in the sum of two hundred dollars with such sureties as may be approved by the clerk of the district court. Such undertaking shall be conditioned that the appellant will prosecute such appeal without delay and will pay all costs adjudged against him in the district court. Such undertaking shall be executed to the board of directors of the natural resources district and may be sued on in the name of the obligee. Where the project area is confined to the limits of one county, the appeal shall be taken to the district court of that county. When such project includes lands in two or more counties, the appeal shall be taken to the district court of the county in which the largest portion of the land which is claimed to be affected adversely by the order or decision appealed from lies. The appeal must be taken within thirty days after such decision or order has been entered by the secretary of the board of directors.

Source: Laws 1969, c. 9, § 55, p. 133.

2-3256. Structural works costing more than $40,000; supervision by registered engineer. All design or construction by a district of structural works costing more than forty thousand dollars shall be under the supervision of a registered engineer, except as provided in section 81-853.

Source: Laws 1969, c. 9, § 56, p. 133; Laws 1978, LB 420, § 1.

2-3257. Structural works; design; submit to Department of Water Resources; approve or disapprove. Detailed plans for the design of certain structural works by a district shall be submitted to the Department of Water Resources 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 submission. No construction work shall be started until the department has approved such plans.

Source: Laws 1969, c. 9, § 57, p. 133.

2-3258. Repealed. Laws 1987, LB 1, § 16.

2-3259. Transferred to section 2-3212.01.

2-3260. Repealed. Laws 1985, LB 18, § 1.

2-3261. Repealed. Laws 1977, LB 510, § 10.

2-3262. Districts, commissions; fees paid to attorneys; annual reports to Clerk of the Legislature. Each district and commission subject to Chapter 2, article 32, shall annually, on or before January 1 of each year commencing January 1, 1973, report to the Clerk of the Legislature a summary of all fees paid during the immediately preceding year to attorneys, lobbyists, and public relations representatives and to whom paid. Each member of the Legislature shall receive a copy of such report upon making a request for the report to the district chairperson or the director of the commission.

Source: Laws 1972, LB 543, § 16; Laws 1979, LB 322, § 2.

2-3263 to 2-3275. Transferred to sections 2-1586 to 2-1598.

2-3276. Districts; master plan; prepare and adopt; contents; review; filed. 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 Nebraska Natural Resources Commission.

Source: Laws 1978, LB 783, § 2.

Note: The Revisor of Statutes, as authorized by section 49-705(2)(g), has corrected a reference to the Nebraska Natural Resources Commission to correspond with section 2-1504.

2-3277. Districts; long-range implementation plan; prepare and adopt; contents; review; filing; commission; develop guidelines. Each district shall also prepare and adopt a long-range implementation plan which shall summarize planned district activities and include projections of financial, manpower, 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, 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 shall develop and make available to the districts suggested guidelines regarding the format and general content of such long-range implementation plans.

Source: Laws 1978, LB 783, § 3; Laws 1979, LB 412, § 3.

Note: The Revisor of Statutes, as authorized by section 49-705(2)(g), has corrected a reference to the Nebraska Natural Resources Commission to correspond with section 2-1504.

2-3278. Districts; individual project plans; file; coordinate plans. Each district shall also prepare and adopt any individual project plans as it deems necessary to carry out projects approved by the district. Project plans as developed involving state regulations or financing shall be filed with the appropriate agency. A project plan for any project shall also be filed with any of the agencies named in section 2-3277, if a timely request in writing is made by such agency. Each district shall consult with and coordinate its plans with those of other local implementation agencies.

Source: Laws 1978, LB 783, § 4.

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

Source: Laws 1978, LB 783, § 5; Laws 1981, LB 326, § 12.

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

Source: Laws 1978, LB 783, § 6.

2-3281. Court action; district, officer, or employee; party litigant; no bond required. No bond for cost, appeal, supersedeas, injunction, or attachment shall be required of any natural resources district or any officer, board, agent, or employee of any such district in any proceeding or court action in which the natural resources district or its officer, board, agent, or employee is a party litigant in its or his or her official capacity.

Source: Laws 1980, LB 884, § 1.

2-3282 to 2-3289. Transferred to sections 2-1599 to 2-15,106.

2-3290. District; land; use for recreational purposes. A district which owns, leases, or has an easement on land may allow the land to be used by the public for recreational purposes and may adopt and promulgate rules and regulations governing the use of such land as provided in sections 2-3292 to 2-32,100 unless the district does not have the right to use such land for recreational purposes. For purposes of sections 2-3234.01 and 2-3290 to 2-32,101, unless the context otherwise requires, recreation area shall mean land owned or leased by a district, or on which a district has an easement, which the district authorizes to be used by the public for recreational purposes.

Source: Laws 1984, LB 861, § 2.

2-3291. District; recreation area; emergency permission and revocation; procedure. The rules and regulations adopted and promulgated by a district to permit, prohibit, or otherwise govern activities in a recreation area as provided in sections 2-3292 to 2-32,100 may set out the circumstances under which the manager of the district may give permission for an activity in emergency situations or may, by the posting of appropriate signs, temporarily revoke permission for an activity or temporarily or permanently close a recreation area when revocation or closing is in the interest of public health, safety, or welfare or is for the protection or preservation of property. If the manager is unable, because of absence, to give or revoke permission as authorized in this section, or the manager's position is vacant, such authority shall vest in the chairperson of the board. If for the same reasons, the chairperson of the board is unable to give or revoke permission as authorized in this section, such authority

shall vest in a district representative designated by a majority vote of the board, and such action shall be recorded in the board minutes.

Source: Laws 1984, LB 861, § 3.

2-3292. District; recreation area; designation of camping and other areas; violation; penalty. (1) A district may designate camping areas in a recreation area, permit camping in a camping area, and prescribe such conditions as are reasonable and proper governing public use of a camping area, including, but not limited to, access to the camping area, area capacity, sanitation, opening and closing hours, public safety, fires, establishment and collection of fees where appropriate, protection of property, and zoning of activities. A district may also designate picnicking, hiking, backpacking, and other noncamping areas. The conditions for use of all such designated areas shall be posted on appropriate signs at the recreation area.

(2) Any person who camps, picnics, hikes, backpacks, or engages in any other unauthorized activity in a recreation area on land not designated as a camping, picnicking, hiking, backpacking, or similar area by the district or fails to observe the posted conditions governing use of such area shall be guilty of a Class V misdemeanor.

Source: Laws 1984, LB 861, § 4.

2-3293. District; recreation area; regulate use of fire; violation; penalty. (1) A district may regulate the use of any type of fire, including the smoking of tobacco in any form, and provide for the size, location, and conditions under which a fire may be established in a recreation area. A district may regulate the possession or use in a recreation area of any type of fireworks not prohibited by law.

(2) Any person who lights any type of fire, uses any fireworks, smokes tobacco in any form, or leaves unattended and unextinguished any fire of any type in any location in a recreation area when not permitted by a district shall be guilty of a Class V misdemeanor.

Source: Laws 1984, LB 861, § 5.

2-3294. District; recreation area; regulate pets and other animals; violation; penalty. (1) A district may permit pets, domestic animals, and poultry to be brought upon, possessed, grazed, maintained, or run at large in all or any portion of a recreation area.

(2) Any person who brings upon, possesses, grazes, maintains, or allows to run at large any pet, domestic animal, or poultry in a recreation area when not permitted by the district shall be guilty of a Class V misdemeanor.

Source: Laws 1984, LB 861, § 6.

2-3295. District; recreation area; permit hunting, fishing, trapping, weapons; violation; penalty. (1) A district may on a temporary or permanent basis permit hunting, fishing, trapping or other forms of fur harvesting, or the public use of firearms, bow and arrow, or any other projectile weapons or devices in all or any portion of a recreation area.

(2) Any person who hunts, fishes, traps, harvests fur, or uses firearms, bow and arrow, or any other projectile weapon or device in a recreation area when not permitted by the district shall be guilty of a Class V misdemeanor.

Source: Laws 1984, LB 861, § 7.

2-3296. District; recreation area; permit water-related activities; violation; penalty. (1) A district may permit and regulate swimming, bathing, boating, wading, water-skiing, the use of any floatation device, or any other water-related recreational activity in all or any portion of a recreation area and may provide for special conditions to apply to specific swimming, bathing, boating, wading, or water-skiing areas. Any special conditions shall be posted on appropriate signs in the areas to which they apply.

(2) Any person who swims, bathes, boats, wades, water-skis, uses any floatation device, or engages in any other water-related recreational activity in a recreation area when not permitted by a district shall be guilty of a Class V misdemeanor.

Source: Laws 1984, LB 861, § 8.

2-3297. District; recreation area; regulate real and personal property; violation; penalty. (1) A district may provide for the protection, use, or removal of any public real or personal property in a recreation area and may regulate or prohibit the construction or installation of any privately owned structure in a recreation area. A district may close all or any portion of a recreation area to any form of public use or access with the erection of appropriate signs, without the adoption and promulgation of formal written rules and regulations.

(2) Any person who, without the permission of the district, damages, destroys, uses, or removes any public real or personal property in a recreation area, constructs or installs any privately owned structure in a recreation area, or enters or remains upon all or any portion of a recreation area when appropriate signs or public notices prohibiting such activity have been erected or displayed shall be guilty of a Class V misdemeanor.

Source: Laws 1984, LB 861, § 9.

2-3298. Recreation area; abandoned vehicle; penalty. Any person who abandons any motor vehicle, trailer, or other conveyance in a recreation area shall be guilty of a Class V misdemeanor.

Source: Laws 1984, LB 861, § 10.

2-3299. District; recreation area; permit sales; violation; penalty. (1) A district may permit the sale, trade, or vending of any goods, products, or commodities of any type in a recreation area.

(2) Any person who sells, trades, or vends any goods, products, or commodities of any type in a recreation area when not permitted by the district shall be guilty of a Class V misdemeanor.

Source: Laws 1984, LB 861, § 11.

2-32,100. District; recreation area; regulate vehicle traffic; violation; penalty. A district may adopt and promulgate rules and regulations governing vehicle traffic in a recreation area as provided in Chapter 39, article 6. Any person who violates any such rule or regulation shall be guilty of a Class V misdemeanor.

Source: Laws 1984, LB 861, § 12.

2-32,101. District; recreation area; enforcement; procedures. Any law enforcement officer, including, but not limited to, any Game and Parks Commission conservation officer or deputy conservation officer, local police officer, member of the Nebraska State Patrol, or sheriff or deputy sheriff, is authorized to enforce the provisions of sections 2-3292 to 2-32,100 and any rules and regulations adopted and promulgated pursuant to such sections. A district shall not employ law enforcement personnel and shall be prohibited from expending any funds for such purpose. Each district shall provide a copy of its rules and regulations to the appropriate law enforcement officer. Any law enforcement officer may arrest and detain any person committing a violation of the rules and regulations in a recreation area or committing any misdemeanor or felony as provided by the laws of this state.

Source: Laws 1984, LB 861, § 13.

Note: The Revisor of Statutes, as authorized by section 49-705(2)(g), has corrected a reference to the Nebraska State Patrol to correspond with section 81-2001.

2-32,102. Natural resources; agreements with other states; authorized. The State of Nebraska may enter into agreements for the purpose of providing interstate cooperation and coordination in matters relating to natural resources with two or more of the following states: South Dakota, North Dakota, Montana, Wyoming, and Colorado. These states have cultural, economic, social, agricultural, and natural resources similarities as evidenced by such states' (1) past affiliations in interstate organizations such as the Old West Regional Commission and the Missouri River Basin Commission and (2) identity as reclamation states in the Upper and Lower Regions of the United States Bureau of Reclamation.

Source: Laws 1985, LB 705, § 1.

2-32,103. Missouri Basin Natural Resources Council; authorized. For purposes of fostering interstate cooperation and coordination between the states listed in section 2-32,102 on matters relating to natural resources, when two or more of such states agree to participate in any agreement pursuant to section 2-32,102, Nebraska may participate in the formation of a Missouri Basin Natural Resources Council, which is hereby authorized.

Source: Laws 1985, LB 705, § 2.

2-32,104. Council; member states; costs; how shared. Each state participating in the Missouri Basin Natural Resources Council shall pay an equal and proportionate share of money to (1) establish the council, (2) provide for the council's operations and overhead, (3) cover the expense of the member states' participating representatives who are not elected officials or state employees whose expenses are otherwise covered by the states, and (4) carry out the council's purposes.

Source: Laws 1985, LB 705, § 3.

2-32,105. Council; membership. The Missouri Basin Natural Resources Council shall consist of the following members:

(1) One senator appointed in the manner prescribed by the senate of such state, except that two senators may be appointed by the Governor of the State of Nebraska from the Unicameral Legislature of the State of Nebraska;

(2) One member of the house of representatives appointed in the manner prescribed by the house of representatives of such state;

(3) The director or head of the principal state agency that coordinates and regulates matters relating to natural resources in each state;

(4) The director or head of the principal state agency that conducts geological and ground water research, investigations, and monitoring in each state; and

(5) One member appointed by the Governor of each state who shall serve at the pleasure of the Governor.

Source: 'Laws 1985, LB 705, § 4.

2-32,106. Council; duties. The duties of the Missouri Basin Natural Resources Council shall be to:

(1) Collect and disseminate information on natural resources including studies, research, and policies between the states;

(2) Engender cooperation among and between the states on matters and issues relating to natural resources;

(3) Promote greater understanding and public awareness of the issues relating to natural resources in the states; and

(4) Make recommendations to the governors and legislatures of the states on matters relating to natural resources of mutual interest and concern in and between the states.

Source: Laws 1985, LB 705, § 5.

2-32,107. Council; powers. The Missouri Basin Natural Resources Council may establish offices, employ the necessary staff, sponsor activities and programs, and conduct such meetings as the council deems advisable.

Source: Laws 1985, LB 705, § 6.

2-32,108. Council; funding authorized; Governor; duty. For purposes of sections 2-32,102 to 2-32,108 there is hereby authorized an initial amount of fifty thousand dollars for the State of Nebraska to enter into agreements with the states listed in section 2-32,102 and to carry out the purpose and intent of sections 2-32,102 to 2-32,108 if such sum is matched by at least two other states listed in section 2-32,102. It is the intent of the Legislature that the funds authorized by this section shall be appropriated to the Governor, who shall be responsible for the implementation of sections 2-32,102 to 2-32,108.

Source: Laws 1985, LB 705, § 7.

ARTICLE 33

SOYBEAN DEVELOPMENT

Section.

(f) NEBRASKA GROUND WATER MANAGEMENT AND PROTECTION ACT

46-656. Transferred to section 46-656.02.

46-656.01. Act, how cited. Sections 46-656.01 to 46-656.67 shall be known and may be cited as the Nebraska Ground Water Management and Protection Act.

Source: Laws 1975, LB 577, § 24; Laws 1981, LB 146, § 12; Laws 1982, LB 375, § 22; Laws 1984, LB 1071, § 15; Laws 1986, LB 894, § 31; Laws 1991, LB 51, § 8; Laws 1994, LB 480, § 27; R. S. Supp., 1994, § 46-674; Laws 1996, LB 108, § 7.

46-656.02. Declaration of intent and purpose. The Legislature finds that ground water is one of the most valuable natural resources in the state and that an adequate supply of ground water is essential to the general welfare of the citizens of this state and to the present and future development of agriculture in the state. The Legislature recognizes its duty to define broad policy goals concerning the utilization and management of ground water and to ensure local implementation of those goals. Every landowner shall be entitled to a reasonable and beneficial use of the ground water underlying his or her land subject to the provisions of Chapter 46, article 6, and the Nebraska Ground Water Management and Protection Act and the correlative rights of other landowners when the ground water supply is insufficient for all users. The Legislature determines that the goal shall be to extend ground water reservoir life to the greatest extent practicable consistent with beneficial use of the ground water and best management practices. The Legislature further recognizes and declares that the management, protection, and conservation of ground water and the beneficial use thereof are essential to the economic prosperity and future well-being of the state and that the public interest demands procedures for the implementation of management practices to conserve and protect ground water supplies and to prevent the contamination or inefficient or improper use thereof. The Legislature recognizes the need to provide for orderly management systems in areas where management of ground water is necessary to achieve locally determined ground water management objectives and where available data, evidence, or other information indicates that present or potential ground water conditions, including subirrigation conditions, require the designation of areas with special regulation of

development and use. Nothing in the Nebraska Ground Water Management and Protection Act relating to the contamination of ground water is intended to limit the powers of the Department of Environmental Quality provided in Chapter 81, article 15.

Source: Laws 1975, LB 577, § 1; Laws 1981, LB 146, § 4; Laws 1982, LB 375, § 1; Laws 1983, LB 378, § 1; Laws 1984, LB 1071, § 1; Laws 1986, LB 894, § 20; Laws 1993, LB 3, § 7; R.S. 1943, (1993), § 46-656; Laws 1996, LB 108, § 8.

46-656.03. Management area; legislative findings. The Legislature also finds that:

(1) The levels of nitrate nitrogen and other contaminants in ground water in certain areas of the state are increasing;

(2) Long-term solutions should be implemented and efforts should be made to prevent the levels of ground water contaminants from becoming too high and to reduce high levels sufficiently to eliminate health hazards;

(3) Agriculture has been very productive and should continue to be an important industry to the State of Nebraska;

(4) Natural resources districts have the legal authority to regulate certain activities and, as local entities, are the preferred regulators of activities which may contribute to ground water contamination in both urban and rural areas;

(5) The Department of Environmental Quality should be given authority to regulate sources of contamination when necessary to prevent serious deterioration of ground water quality;

(6) The powers given to districts and the Department of Environmental Quality should be used to stabilize, reduce, and prevent the increase or spread of ground water contamination; and

(7) There is a need to provide for the orderly management of ground water quality in areas where available data, evidence, and other information indicate that present or potential ground water conditions require the designation of such areas as management areas.

Source: Laws 1986, LB 894, § 1; Laws 1993, LB 3, § 14; R.S. 1943, (1993), § 46-674.02; Laws 1996, LB 108, § 9.

46-656.04. Management area; sections, how construed. Nothing in sections 46-656.35 to 46-656.48 shall be construed to limit the powers of

the Department of Health and Human Services Regulation and Licensure provided in the Nebraska Safe Drinking Water Act.

Source: Laws 1986, LB 894, § 19; R.S. 1943, (1993), § 46-674.20; Laws 1996, LB 108, § 10; Laws 1996, LB 1044, § 261.

46-656.05. Legislative findings. 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 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.

Source: Laws 1996, LB 108, § 11.

46-656.06. Conflicts between ground and surface water use; legislative intent. The Legislature recognizes that ground water use or surface water use in one natural resources district may have adverse effects on water supplies in another district or in an adjoining state. The Legislature intends and expects that each natural resources district within which water use is causing external impacts will accept responsibility for ground water management in accordance with the Nebraska Ground Water Management and Protection Act in the same manner and to the same extent as if the conflicts between ground water use and surface water use were contained within the district.

Source: Laws 1996, LB 108, § 12.

46-656.07. Terms, defined. 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 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 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.

Source: Laws 1975, LB 577, § 2: Laws 1980, LB 643, § 9; Laws 1981, LB 146, § 5; Laws 1981, LB 325, § 1;, Laws 1982, LB 375, § 2; Laws 1983, LB 378, § 2; Laws 1984, LB 1071, § 2; Laws 1986, LB 886, § 5; Laws 1986, LB 894, § 21; Laws 1991, LB 51, § 1; Laws 1993, LB 3, § 8; Laws 1993, LB 121, § 279; Laws 1993, LB 131, § 24; Laws 1993, LB 439, § 1; Laws 1993, LB 789, § 5; R.S. 1943, (1993), § 46-657; Laws 1996, LB 108, § 13.

46-656.08. Natural resources district; powers; enumerated. Regardless of whether or not any portion of a district has been designated as a management area, in order to administer and enforce the Nebraska Ground Water Management and Protection Act and to effectuate the policy of the state to conserve ground water resources, a district may:

(1) Adopt and promulgate rules and regulations necessary to discharge the administrative duties assigned in the act;

(2) Require such reports from ground water users as may be necessary;

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

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

(5) Report to and consult with the Department of Environmental Quality on all matters concerning the entry of contamination or contaminating materials into ground water supplies; and

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

Source: Laws 1975, LB 577, § 8; Laws 1979, LB 26, § 2; Laws 1982, LB 375, § 18; Laws 1984, LB 1071, § 6; Laws 1986, LB 894, § 24; Laws 1993, LB 3, § 10; Laws 1993, LB 131, § 29; Laws 1995, LB 871, § 6; R.S. Supp., 1995, § 46-663; Laws 1996, LB 108, § 14.

46-656.09. Natural resources district; management area; rules and regulations; public hearing required; notice. Before any rule or regulation is adopted pursuant to section 46-656.08, a public hearing shall be held within the district. Notice of the hearing shall be given as provided in section 46-656.19.

Source: Laws 1980, LB 643, § 12; R.S. 1943, (1993), § 46-663.01; Laws 1996, LB 108, § 15.

46-656.10. Natural resources district; cease and desist order; violation; penalty. Any violation of a cease and desist order issued by a district pursuant to section 46-656.08 shall be a Class IV misdemeanor.

Source: Laws 1981, LB 146, § 8; R.S. Supp., 1981, § 46-674.01; Laws 1984, LB 1071, § 16; R.S. 1943, (1993), § 46-663.02; Laws 1996, LB 108, § 16.

46-656.11. Action to control or prevent runoff of water; natural resources district; rules and regulations; power to issue cease and desist orders; notice; hearing. (1) In order to conserve ground water supplies and to prevent the inefficient or improper runoff of such ground water, each person who uses ground water irrigation in the state shall take action to control or prevent the runoff of water used in such irrigation.

(2) Each district shall adopt, following public hearing, notice of which shall be given in the manner provided in section 46-656.19, rules and regulations necessary to control or prohibit surface runoff of water derived from ground water irrigation. Such rules and regulations shall prescribe (a) standards and criteria delineating what constitutes the inefficient or improper runoff of ground water used in irrigation, (b) procedures to prevent, control, and abate such runoff, (c) measures for the construction, modification, extension, or operation of remedial measures to prevent, control, or abate runoff of ground water used in irrigation, and (d) procedures for the enforcement of this section.

(3) Each district may, upon ten days' notice to the person affected, stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, issue cease and desist orders to enforce any of the provisions of this section or rules and regulations issued pursuant to this section.

Source: Laws 1975, LB 577, § 9; Laws 1978, LB 217, § 1; R.S. 1943, (1993), § 46-664; Laws 1996, LB 108, § 17.

46-656.12. Ground water management plan; preparation required; contents; management area designation; when. Each district shall prepare a ground water management plan based upon the best available information and submit such plan to the Director of Water 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.

Source: Laws 1982, LB 375, § 3; Laws 1983, LB 378, § 3; Laws 1984, LB 1106, § 37; R.S. 1943, (1993), § 46-673.01; Laws 1996, LB 108, § 18.

46-656.13. Ground water management plan preparation; district; solicit and utilize information. During preparation of a ground water management plan, the district shall actively solicit public comments and opinions and shall utilize and draw upon existing research, data, studies, or any other information which has been compiled by or is in the possession of state or federal agencies, natural resources districts, or any other subdivision of the state. State agencies, districts, and other subdivisions shall furnish information or data upon the request of any district preparing such a plan. A district shall not be required to initiate new studies or data-collection efforts or to develop computer models in order to prepare a plan.

Source: Laws 1982, LB 375, § 4; R.S. 1943, (1993), § 46-673.02; Laws 1996, LB 108, § 19.

46-656.14. Ground water management plan; director; review; duties. The Director of Water 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.

Source: Laws 1982, LB 375, § 5; Laws 1986, LB 894, § 27; Laws 1993, LB 3, § 12; R.S. 1943, (1993), § 46-673.03; Laws 1996, LB 108, § 20.

46-656.15. Ground water management plan; disapproved by director; district; duties. If the Director of Water 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.

Source: Laws 1982, LB 375, § 6; R.S. 1943, (1993), § 46-673.04; Laws 1996, LB 108, § 21.

46-656.16. Amendment of ground water management plan; contents; exception; modification. 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 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.

Source: Laws 1991, LB 51, § 7; Laws 1994, LB 480, § 26; Laws 1994, LB 1017, § 1; R.S. Supp., 1994, § 46-673.14; Laws 1996, LB 108, § 22.

46-656.17. District; failure to have or amend ground water management plan; effect on funding. (1) Any district which fails to comply with section 46-656.16 shall be ineligible to receive for fiscal

year 1996-97 any funds appropriated pursuant to sections 77-27,136 and 77-27,137.02.

(2) Any district which fails to have an approved ground water management plan pursuant to sections 46-656.12 to 46-656.16 by January 1, 1996, shall become eligible to receive funds enumerated in subsection (1) of this section for any subsequent fiscal year if the district has an approved ground water management plan pursuant to sections 46-656.12 to 46-656.16 by the March 1 immediately preceding the start of such fiscal year.

Source: Laws 1994, LB 480, § 28; R.S. Supp., 1994, § 46-673.15; Laws 1996, LB 108, § 23.

46-656.18. District; implementation of ground water management plan; duty. Each district shall, on or before January 1, 1997, begin implementation of an approved ground water management plan pursuant to sections 46-656.12 to 46-656.16 which specifically addresses ground water quality.

Source: Laws 1994, LB 480, § 29; R.S. Supp., 1994, § 46-673.16; Laws 1996, LB 108, § 24.

46-656.19. Management area; establishment; when; hearing; notice; procedure. Prior to proceeding toward establishing a management area, a management plan shall have been approved by the Director of Water 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 shall provide the text of all controls proposed for adoption by the district.

All interested persons shall be allowed to appear and present testimony. The hearing shall include testimony of a representative of the Department of Water 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.

Source: Laws 1982, LB 375, § 7; Laws 1986, LB 894, § 28; Laws 1991, LB 51, § 2; Laws 1993, LB 3, § 13; R.S. 1943, (1993), § 46-673.05; Laws 1996, LB 108, § 25.

46-656.20. Management area; designated; district; order; contents; duties; controls. Within ninety days after the hearing the district shall determine whether a management area shall be designated. If the district determines that no management area shall be established, the district shall issue an order to that effect.

If the district determines that a management area shall be established, the district shall by order designate the area as a management area and adopt one or more controls authorized by section 46-656.25 to be utilized within the area in order to achieve the ground water management objectives specified in the plan. 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.

Source: Laws 1982, LB 375, § 8; R.S. 1943, (1993), § 46-673.06; Laws 1996, LB 108, § 26.

46-656.21. Order; publication; effective; when. The district shall cause a copy of any order adopted pursuant to section 46-656.20 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 of which shall be not less than seven days prior to the date set for the effective date of the order.

Such order shall become effective on the date specified by the district.

Source: Laws 1982, LB 375, § 9; Laws 1986, LB 894, § 29; R.S. 1943, (1993), § 46-673.07; Laws 1996, LB 108, § 27.

46-656.22. Management plan; ground water management objectives; management area; modifications; dissolution; procedure. Modification of a district's ground water management plan or ground water management objectives may be accomplished utilizing the procedure established for the initial adoption of the plan. Modification of the boundaries of a district-designated management area 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.

Source: Laws 1982, LB 375, § 15; Laws 1991, LB 51, § 6; R.S. 1943, (1993), § 46-673.13; Laws 1996, LB 108, § 28.

46-656.23. Natural resources district; consult underground water storage permitholders; when. A district shall, prior to adopting or amending any rules and regulations for a management area, consult with any holders of permits for intentional or incidental underground water storage and recovery issued pursuant to section 46-226.02, 46-233, 46-240, 46-241, 46-242, or 46-297.

Source: Laws 1983, LB 198, § 22; R.S. 1943, (1993), § 46-666.01; Laws 1996, LB 108, § 29.

46-656.24. Management area; boundaries encompassing existing ground water conservation district; powers and duties of natural resources district, Director of Environmental Quality, or Director of Water Resources; termination of section. (1) Whenever the boundaries of a designated management area encompass either wholly or in part any existing ground water conservation district organized under sections 46-614 to 46-634, it shall be the duty of the natural resources district, the Director of Environmental Quality, or the Director of Water Resources, as the case may be, to actively consult with such ground water conservation district before adopting, amending, or repealing any control authorized by section 46-656.25 and before adopting methods, rules, and regulations for the enforcement of any adopted control.

(2) The natural resources district shall wherever possible utilize and draw upon existing research data, studies, data collection, or any other beneficial information which has been compiled by or is in the possession of ground water conservation districts, and in the interest of avoiding duplication of effort and the resultant unnecessary burden to the taxpayer, the ground water conservation district shall furnish such information or data upon the request of the district. Nothing in this section shall be interpreted to restrict the power of a ground water conservation district to collect data, undertake studies, or collect other information as prescribed in section 46-629, and such districts are hereby encouraged to actively exercise such authority.

(3) This section terminates on April 1, 1997.

Source: Laws 1975, LB 577, § 17; Laws 1982, LB 375, § 20; Laws 1984, LB 1071, § 14; R.S. 1943, (1993), § 46-672; Laws 1996, LB 108, § 30.

46-656.25. Natural resources district; controls authorized; uniformity, exception; different water allocations authorized; restrict issuance of permits; joint exercise of authority between districts. (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 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.

Source: Laws 1975, LB 577, § 11; Laws 1978, LB 217, § 2; Laws 1979, LB 26, § 4; Laws 1980, LB 643, § 13; Laws 1981, LB 146, § 9; Laws 1982, LB 375, § 19; Laws 1983, LB 506, § 1; Laws 1983, LB 23, § 7; Laws 1984, LB 1071, § 8; Laws 1986, LB 894, § 25; Laws 1993, LB 131, § 30; R.S. 1943, (1993), § 46-666; Laws 1996, LB 108, § 31.

46-656.26. Ground water allocation; limitations and conditions. (1) If allocation is adopted for use of ground water for irrigation purposes in a management area, the permissible withdrawal of ground water shall be allocated equally per irrigated acre except as permitted by subsections (4) through (6) of 46-656.25. Such allocation shall specify the total number of acre-inches that are allocated per irrigated acre per year, except that the district may allow a ground water user to average his or her allocation over any reasonable period of time not to exceed five years. A ground water user may use his or her allocation on all or any part of the irrigated acres to which the allocation applies.

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

Source: Laws 1982, LB 375, § 12; Laws 1991, LB 51, § 5; Laws 1993, LB 439, § 3; R.S. 1943, (1993), § 46-673.10; Laws 1996, LB 108, § 32.

46-656.27. District; review allocation, rotation, or reduction control; considerations. A district may annually and shall at least once every three years review any allocation, rotation, or reduction control imposed in a management area and shall adjust allocations, rotations, or reductions to accommodate new or additional uses or otherwise reflect findings of such review, consistent with the ground water management objectives. Such review shall consider new development or additional ground water uses within the area, more accurate data or information that was not available at the time of the allocation, rotation, or reduction order, the availability of supplemental water supplies, any changes in ground water recharge, and such other factors as the district deems appropriate.

Source: Laws 1982, LB 375, § 13; Laws 1993, LB 439, § 4; R.S. 1943, (1993), § 46-673.11; Laws 1996, LB 108, § 33.

46-656.28. Joint action plan for integrated management of ground and surface water; preparation; when; procedure; factors; notice; hearing; determination; order; publication; modification; water use monitored. (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 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 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 Resources and following preliminary investigation, the Director of Water 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, 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 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 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 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.

Source: Laws 1996, LB 108, § 34.

46-656.29. Construct water well in a management area; permit required; application; form; fee; contents; late permit application; fee. (1) Any person who intends to construct a water well in a management area in this state on land which he or she owns or controls shall, before commencing construction, apply with the district in which the water well will be located for a permit on forms provided by the district, except that (a) no permit shall be required for test holes or dewatering wells with an intended use of ninety days or less, (b) no permit shall be required for water wells designed and constructed to pump fifty gallons per minute or less, and (c) a district may provide by rule and regulation that a permit need not be obtained for water wells defined by the district to be replacement water wells. Forms shall be made available at each district in which management area is located, in whole or in part, and at such other places as may be deemed appropriate. The district shall review such application and issue or deny the permit within thirty days after the application is filed.

(2) A person shall apply for a permit under this section before he or she modifies a water well for which a permit was not required under subsection (1) of this section into one for which a permit would otherwise be required under such subsection.

(3) The application shall be accompanied by a seventeen-dollar-and-fifty-cent filing fee payable to the district and shall contain (a) the name and post office address of the applicant or applicants, (b) the nature of the proposed use, (c) the intended location of the proposed water well or other means of obtaining ground water, (d) the intended size, type, and description of the proposed water well and the estimated depth, if known, (e) the estimated capacity in gallons per minute, (f) the acreage and location by legal description of the land involved if the water is to be used for irrigation, (g) a description of the proposed use if other than for irrigation purposes, (h) the registration number of the water well being replaced if applicable, and (i) such other information as the district requires.

(4) Any person who has failed or in the future fails to obtain a permit required by subsection (1) or (2) of this section shall make application for a late permit on forms provided by the district.

(5) The application for a late permit shall be accompanied by a two-hundred-fifty-dollar fee payable to the district and shall contain the same information required in subsection (3) of this section.

Source: Laws 1975, LB 577, § 4; Laws 1980, LB 643, § 10; Laws 1981, LB 325, § 2; Laws 1982, LB 375, § 16; Laws 1983, LB 23, § 3; Laws 1984, LB 1071, § 3; Laws 1986, LB 894, § 23; Laws 1993, LB 131, § 25; Laws 1994, LB 981, § 8; Laws 1995, LB 145, § 2; R.S. Supp., 1994, § 46-659; Laws 1996, LB 108, § 35.

46-656.30. Permit; when denied; corrections allowed; fees nonrefundable. 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 Resources.

Source: Laws 1975, LB 577, § 5; Laws 1980, LB 643, § 11; Laws 1982, LB 375, § 17; Laws 1983, LB 23, § 4; Laws 1984, LB 1071, § 4; Laws 1993, LB 131, § 26; R.S., 1943, (1993) § 46-660; Laws 1996, LB 108, § 36.

46-656.31. Issuance of permit; no right to violate rules, regulations, or controls. 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 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.

Source: Laws 1975, LB 577, § 6; Laws 1983, LB 23, § 5; Laws 1984, LB 1071, § 5; Laws 1993, LB 131, § 27; R.S. 1943, (1993), § 46-661; Laws 1996, LB 108, § 37.

46-656.32. Issuance of permit; commence construction and complete water well within one year; failure; effect. When any permit is approved pursuant to section 46-656.30, the applicant shall commence construction as soon as possible after the date of approval and shall complete the construction and equip the water well prior to the date specified in the conditions of approval, which date shall be not more than one year after the date of approval, unless it is clearly demonstrated in the application that one year is an insufficient period of time for such construction. If the applicant fails to complete the project under the terms of the permit, the district may withdraw the permit.

Source: Laws 1975, LB 577, § 7; Laws 1983, LB 23, § 6; Laws 1993, LB 131, § 28; R.S. 1943, (1993), § 46-662; Laws 1996, LB 108, § 38.

46-656.33. Director of Water Resources; rules and regulations; Ground Water Management Fund; created; use; investment. All fees paid to the Director of Water 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.

Source: Laws 1975, LB 577, § 15; Laws 1984, LB 1071, § 12; Laws 1995, LB 7, § 42; R.S. Supp., 1995, § 46-670; Laws 1996, LB 108, § 39.

46-656.34. District encompassed in a management area; tax levy; purpose; administration. Each district encompassed in whole or in part by a management area shall have the power and authority to annually levy a tax not to exceed one and eight-tenths cents on each one hundred dollars annually on all of the taxable property within the district. Such levy, which shall be in addition to that authorized by section 2-3225, shall be utilized only for the costs of carrying out the Nebraska Ground Water Management and Protection Act within the district. Certification and collection of such levy shall be administered by the district and by the county or counties involved in the same manner as the levy authorized by section 2-3225.

Source: Laws 1975, LB 577, § 18; Laws 1979, LB 26, § 5; Laws 1981, LB 146, § 11; Laws 1982, LB 375, § 21; Laws 1986, LB 894, § 26; R.S. 1943, (1993), §46-673; Laws 1996, LB 108, § 40.

Note: Section 46-673 was amended by Laws 1996, LB 108, section 40, and repealed by Laws 1996, LB 1114, section 75. This section was also transferred to section 46-656.34. The repeal becomes operative July 1, 1998.

46-656.34. Repealed. Laws 1996, LB 1114, § 75.

(Operative date July 1, 1998.)

46-656.35. Management area; reports required. Each state agency and political subdivision shall promptly report to the Department of Environmental Quality any information which indicates that contamination is occurring.

Source: Laws 1986, LB 894, § 2; Laws 1993, LB 3, § 15; R.S. 1943, (1993), § 46-674.03; Laws 1996, LB 108, § 41.

46-656.36. Management area; Department of Environmental Quality; conduct study; when; report. If, as a result of information provided pursuant to section 46-656.35 or studies conducted by or otherwise available to the Department of Environmental Quality and following preliminary investigation, the Director of Environmental Quality makes a preliminary determination (1) that there is reason to believe that contamination of ground water is occurring or likely to occur in an area of the state in the reasonably foreseeable future and (2) that the natural resources district or districts in which the area is located have not designated a management area or have not implemented adequate controls to prevent such contamination from occurring, the department shall, in cooperation with any appropriate state agency and district, conduct a study to determine the source or sources of the contamination and the area affected by such contamination and shall issue a written report within one year of the initiation of the study. During the study, the department shall consider the relevant water quality portions of the management plan developed by each district pursuant to sections 46-656.12 to 46-656.16, whether the district has designated a management area encompassing the area studied, and whether the district has adopted any controls for the area.

Source: Laws 1986, LB 894, § 3; Laws 1993, LB 3, § 16; R.S. 1943, (1993), § 46-674.04; Laws 1996, LB 108, § 42.

46-656.37. Management area; contamination; point source; Director of Environmental Quality duties. 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 point sources, he or she shall expeditiously use the procedures authorized in the Environmental Protection Act to stabilize or reduce the level and prevent the increase or spread of such contamination.

Source: Laws 1986, LB 894, § 4; Laws 1993, LB 3, § 17; R.S. 1943, (1993), § 46-674.05; Laws 1996, LB 108, § 43.

46-656.38. Management area; contamination; not point source; Director of Environmental Quality; duties; hearing; notice. 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 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.

Source: Laws 1986, LB 894, § 5; Laws 1991, LB 51, § 9; Laws 1993, LB 3, § 18; R.S. 1943, (1993), § 46-674.06; Laws 1996, LB 108, § 44; Laws 1996, LB 1044, § 260.

46-656.39. Management area; designation or modification of boundaries; adoption of action plan; considerations; procedures; order. (1) When determining whether to designate or modify the boundaries of a management area or to require a district which has established a management area, a purpose of which is protection of water quality, to adopt an action plan for the affected area, the Director of Environmental Quality shall consider:

(a) Whether contamination of ground water has occurred or is likely to occur in the reasonably foreseeable future;

(b) Whether ground water users, including, but not limited to, domestic, municipal, industrial, and agricultural users, are experiencing or will experience within the foreseeable future substantial economic hardships as a direct result of current or reasonably anticipated activities which cause or contribute to contamination of ground water;

(c) Whether methods are available to stabilize or reduce the level of contamination;

(d) Whether, if a management area has been established which includes the affected area, the controls adopted by the district pursuant to section 46-656.25 as administered and enforced by the district are sufficient to address the ground water quality issues in the management area; and

(e) Administrative factors directly affecting the ability to implement and carry out regulatory activities.

(2) If the Director of Environmental Quality determines that no such area should be established, he or she shall issue an order declaring that no management area shall be designated.

(3) If the Director of Environmental Quality determines that a management area shall be established, that the boundaries of an existing management area shall be modified, 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 management, control, and protection. The report by the Director of

Environmental Quality 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.

(4) When the boundaries of an area have been determined or modified, the Director of Environmental Quality shall issue an order designating the area as a management area, specifying the modified boundaries of the management area, or requiring such an action plan. Such an order shall include a geographic and a stratigraphic definition of the area.

Source: Laws 1986, LB 894, § 6; Laws 1991, LB 51, § 10; Laws 1993, LB 3, § 19; R.S. 1943, (1993), § 46-674.07; Laws 1996, LB 108, §45.

46-656.40. Management area; action plan; preparation by district; when; hearing; notice; publication. (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.

Source: Laws 1986, LB 894, § 7; Laws 1991, LB 51, § 11; R.S. 1943, (1993), § 46-674.08; Laws 1996, LB 108, § 46.

46-656.41. Management area; action plan; contents. An action plan filed by a district pursuant to section 46-656.40 shall include the specifics of an educational program to be instituted by the district to inform persons of methods available to stabilize or reduce the level or prevent the increase or spread of ground water contamination. The action plan shall include one or more of the controls authorized by section 46-656.25.

Source: Laws 1986, LB 894, § 8; Laws 1991, LB 51, § 12; R.S. 1943, (1993), § 46-674.09; Laws 1996, LB 108, § 47.

46-656.42. Management area; adoption or amendment of action plan; considerations; procedures. (1) In adopting or amending an action plan authorized by subsection (2) of this section, 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 the requirement of an action plan for a management area or will improve the administration of the area.

(2) The Director of Environmental Quality shall approve or deny the adoption or amendment of an action plan within one hundred twenty 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.

(3) If the director denies approval of an action plan by the district, the order shall list the reason the action plan was not approved. A district may submit a revised action plan within sixty days after denial of its original action plan to the director for approval subject to section 46-656.45.

Source: Laws 1986, LB 894, § 9; Laws 1991, LB 51, § 13; Laws 1993, LB 3, § 20; R.S. 1943, (1993), § 46-674.10; Laws 1996, LB 108, § 48.

46-656.43. Management area; district publish control adopted. Following approval of the action plan by the Director of Environmental Quality, the district shall cause a copy of each control adopted pursuant to section 46-656.42 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 of which shall be not less than seven days prior to the date when such control becomes effective.

Source: Laws 1986, LB 894, § 10; Laws 1993, LB 3, § 21; R.S. 1943, (1993), § 46-674.11; Laws 1996, LB 108, § 49.

46-656.44. Management area; district; duties. Each district in which a management area has been designated or an action plan for a management area has been required pursuant to section 46-656.39 shall, in cooperation with the Department of Environmental Quality, establish a program to monitor the quality of the ground water in the area and shall if appropriate provide each landowner or operator of an irrigation system with current information available with respect to fertilizer and chemical usage for the specific soil types present and cropping patterns used.

Source: Laws 1986, LB 894, § 17; Laws 1991, LB 51, § 16; Laws 1993, LB 3, § 27; R.S. 1943, (1993), § 46-674.18; Laws 1996, LB 108, § 50.

46-656.45. Management area; director specify controls; when; powers and duties; hearing. (1) The power to specify controls authorized by section 46-656.25 shall vest in the Director of Environmental Quality if (a) at the end of one hundred eighty days following the designation of a management area or the requiring of an action plan for a management area pursuant to section 46-656.39, a district encompassed in whole or in part by the management area has not completed and adopted an action plan, (b) a district does not submit a revised action plan within sixty days after denial of its original action plan, or (c) the district submits a revised action plan which is not approved by the director.

(2) If the power to specify controls in such a management area is vested in the Director of Environmental Quality, he or she shall within ninety days adopt and promulgate by rule and regulation such measures as he or she deems necessary for carrying out the intent of the Nebraska Ground Water Management and Protection Act. 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 46-656.40. The enforcement of controls adopted pursuant to this section shall be the responsibility of the Department of Environmental Quality.

Source: Laws 1986, LB 894, § 11; Laws 1991, LB 51, § 14; Laws 1993, LB 3, § 22; R.S. 1943, (1993), § 46-674.12; Laws 1996, LB 108, § 51.

46-656.46. Management area; controls; duration; amendment of plan. The controls in the action plan approved by the Director of Environmental Quality pursuant to section 46-656.42 shall be exercised by the district for the period of time necessary to stabilize or reduce the level of contamination and prevent the increase or spread of ground water contamination. An action plan may be amended by the same method utilized in the adoption of the action plan.

Source: Laws 1986, LB 894, § 12; Laws 1993, LB 3, § 23; R.S. 1943, (1993), § 46-674.13; Laws 1996, LB 108, § 52.

46-656.47. Management area; removal of designation or requirement of action plan; modification of boundaries; when. A district may petition the Director of Environmental Quality to remove the director's 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 46-656.39. If the director determines that the level of contamination in a management area has stabilized at or been reduced to a level which is not detrimental to beneficial uses of ground water, he or she may remove the designation or action plan requirement or modify the boundaries of the management area.

Source: Laws 1986, LB 894, § 13; Laws 1991, LB 51, § 15; Laws 1993, LB 3, § 24; R.S. 1943, (1993), § 46-674.14; Laws 1996, LB 108, § 53.

46-656.48. Management area; Environmental Quality Council; adopt rules and regulations. The Environmental Quality Council shall adopt and

promulgate, in accordance with the Administrative Procedure Act, such rules and regulations as are necessary to the discharge of duties under sections 46-656.35 to 46-656.47.

Source: Laws 1986, LB 894, § 15; Laws 1993, LB 3, § 26; R.S. 1943, (1993), § 46-674.16; Laws 1996, LB 108, § 54.

46-656.49. Disputes over interstate compacts or decrees; applicability of sections; report; contents. Until January 1, 1999, sections 46-656.50 to 46-656.60 shall apply only to river basins subject to interstate compacts involving three or more states. A report shall be prepared by the natural resources districts in such basin or basins and presented to the Natural Resources Committee of the Legislature before December 1, 1998. The report shall include, but not be limited to, a review of any activities resulting from and relating to sections 46-656.50 to 46-656.60 and recommendations for specific changes to such sections or to other sections in the Nebraska Ground Water Management and Protection Act. On and after January 1, 1999, sections 46-656.50 to 46-656.60 shall apply to the entire state.

Source: Laws 1996, LB 108, § 55.

46-656.50. Disputes over interstate compacts or decrees; studies authorized; report. If, as a result of information available to the Department of Water Resources or a request by a district and following preliminary investigation, the Director of Water 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.

Source: Laws 1996, LB 108, § 56.

46-656.51. Disputes over interstate compacts or decrees; action plan authorized; when; hearing; procedure; notice; order. (1) If the Director of Water 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, 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 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.

Source: Laws 1996, LB 108, § 57.

46-656.52. Disputes over interstate compacts or decrees; designation of management area or preparation of action plan; determination; Director of Water Resources; powers and duties. (1) The Director of Water 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 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.

Source: Laws 1996, LB 108, § 58.

46-656.53. Disputes over interstate compacts or decrees; additional action plan required; when; hearing; notice; district; duties. (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 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.

Source: Laws 1996, LB 108, § 59.

46-656.54. Disputes over interstate compacts or decrees; additional action plan; contents. 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 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.

Source: Laws 1996, LB 108, § 60.

46-656.55. Disputes over interstate compacts or decrees; district's portion of action plan; Director of Water Resources; approve or deny; procedure. (1) In adopting or amending the respective portions of the action plan authorized by subsection (2) of this section, the Department of Water 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 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.

Source: Laws 1996, LB 108, § 61.

46-656.56. Disputes over interstate compacts or decrees; district's portion of action plan; publication; when. Following approval of the district's portion of an action plan by the Director of Water 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.

Source: Laws 1996, LB 108, § 62.

46-656.57. Disputes over interstate compacts or decrees; water use monitored; when. 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 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.

Source: Laws 1996, LB 108, § 63.

46-656.58. Disputes over interstate compacts or decrees; controls; duration; amendment authorized. The controls in the district's portion of an action plan approved by the Director of Water 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.

Source: Laws 1996, LB 108, § 64.

46-656.59. Disputes over interstate compacts or decrees; removal of designation of management area or action plan; modification of boundaries of management area; director; powers. A district may petition the Director of Water 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.

Source: Laws 1996, LB 108, § 65.

46-656.60. Disputes over interstate compacts or decrees; specification of controls vested in Director of Water Resources; when; procedure. (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 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.

(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, 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 Resources.

Source: Laws 1996, LB 108, § 66.

46-656.61. Interrelated Water Review Committee of the Nebraska Natural Resources Commission; created; members; powers. 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 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 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 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.

Source: Laws 1996, LB 108, § 67.

46-656.62. Rules and regulations. The Director of Water 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 Resources by the Nebraska Ground Water Management and Protection Act.

Source: Laws 1996, LB 108, § 68.

46-656.63. Management area; violation; civil penalty. 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 a district, the Director of Water Resources, or the Department of Water 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.

Source: Laws 1986, LB 894, § 16; R.S. 1943, (1993), § 46-674.17; Laws 1996, LB 108, § 69.

46-656.64. Hearings; subject to review. All hearings conducted pursuant to the Nebraska Ground Water Management and Protection Act shall be of record and available for review.

Source: Laws 1975, LB 577, § 13; Laws 1984, LB 1071, § 10; R.S. 1943, (1993), § 46-668; Laws 1996, LB 108, § 70.

46-656.65. Administration of act; compliance with other laws. In the administration of the Nebraska Ground Water Management and Protection Act, all actions of the Director of Environmental Quality, the Director of Water Resources, and the districts shall be consistent with the provisions of section 46-613.

Source: Laws 1975, LB 577, § 16; Laws 1984, LB 1071, § 13; R.S. 1943, (1993), § 46-671; Laws 1996, LB 108, § 71.

46-656.66. Appeal; procedure. Any person aggrieved by any order of the district, the Director of Environmental Quality, or the Director of Water 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.

Source: Laws 1975, LB 577, § 14; Laws 1984, LB 1071, § 11; Laws 1988, LB 352, § 78; R.S. 1943, (1993), § 46-669; Laws 1996, LB 108, § 72.

46-656.67. Interrelated Water Management Fund; created; use; investment. 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 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.

Source: Laws 1996, LB 108, § 73.

(g) INDUSTRIAL GROUND WATER REGULATORY ACT

46-675. Legislative findings and declarations. The legislature finds and declares that a permit system is necessary to protect Nebraska's ground and surface water resources and existing water users in situations where industrial users withdraw significant quantities of ground water from the aquifers of the state and in situations where such ground water is transferred from the water well site for use at another location.

Source: Laws 1981, LB 56, § 1; Laws 1993, LB 131, § 33.

46-676. Definitions; where found. For purposes of sections 46-675 to 46-690 the definitions found in section 46-656.07 shall be used.

Source: Laws 1981, LB 56, § 2; Laws 1996, LB 108, § 74.

46-677. Withdrawal of ground water for industrial purposes; permit required; when. (1) Except as provided in section 46-678.01, (a) any person who desires to withdraw and transfer ground water from aquifers located within the State of Nebraska for industrial purposes shall, prior to commencing construction of any water wells, obtain from the director a permit to authorize such withdrawal and transfer of such ground water and (b) any person who prior to April 23, 1993, has withdrawn ground water from aquifers located in the State of Nebraska for industrial purposes may file an application for a permit to authorize the transfer of such ground water within five years after such date.

(2) For purposes of this section, industrial purposes shall include manufacturing, commercial, and power generation uses of water and commercial use shall include, but not be limited to, maintenance of the turf of a golf course.

Source: Laws 1981, LB 56, § 3; Laws 1993, LB 131, § 34; Laws 1993, LB 789, § 6.

46-678. Permit; application; contents. (1) Applications for permits required by section 46-677 shall be on forms provided by the director and shall contain:

(a) A statement of the amount of ground water which the applicant proposes to use;

(b) A statement of the proposed use and whether the ground water will be transferred for use at a location other than the well site;

(c) A hydrologic evaluation of the impact of the proposed use on the surrounding area and on existing users;

(d) The date when the applicant expects to first use the ground water; and

(e) Such other relevant information as the director may deem necessary or desirable.

(2) Such applications shall be accompanied by an exhibit of maps showing the location, depth, and capacity of the proposed water wells.

Source: Laws 1981, LB 56, § 4; Laws 1993, LB 131, § 35; Laws 1993, LB 789, § 7.

46-678.01. Withdrawal and transfer of less than 150 acre-feet; notice; metering. 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 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.

Source: Laws 1993, LB 789, § 8.

46-679. Application; director; determination as to completeness. Within thirty days of the receipt of an application made under section 46-677, the director shall accept the application as a completed application or return the application to the applicant as an incomplete application. If the application is deemed to be incomplete, the director shall inform the applicant as to the deficiencies in the application.

Source: Laws 1981, LB 56, § 5.

46-680. Completed application; public hearing required. After the director has accepted the application made under section 46-677 as a completed application, the director shall set a time and place for a public hearing on the application. The hearing shall be held within or in reasonable proximity to the area in which the water wells would be located. The hearing shall be scheduled within ninety days after the application is accepted by the director.

Source: Laws 1981, LB 56, § 6; Laws 1993, LB 131, § 36.

46-681. Public hearing; evidence presented. At the hearing provided for in section 46-680, 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.

Source: Laws 1981, LB 56, § 7.

46-682. Applicant; agreement with other water users; filing. The applicant may negotiate with any user of water in order to obtain an agreement whereby the user waives any cause of action against the applicant for damages or injunctive or other relief for interference with such water use, in exchange for financial payment, substitute water, or other compensation. The applicant shall file copies of any such agreements with the director who shall consider the agreements in determining whether to grant or deny a permit. Nothing in this section shall be construed to limit any power of eminent domain possessed by an applicant.

Source: Laws 1981, LB 56, § 8.

46-683. Permit; issuance; consideration; conditions. (1) The director shall issue a written order containing specific findings of fact either granting or denying a permit. The director shall grant a permit only if he or she finds that the applicant's withdrawal and any transfer of ground water are in the public interest. In determining whether the withdrawal and transfer, if any, are in the public interest, the director's considerations shall include, but not be limited to:

(a) Possible adverse effects on existing surface or ground water users;

(b) The effect of the withdrawal and any transfer of ground water on surface or ground water supplies needed to meet reasonably anticipated domestic and agricultural demands in the area of the proposed ground water withdrawal;

(c) The availability of alternative sources of surface or ground water reasonably accessible to the applicant in or near the region of the proposed withdrawal or use;

(d) The economic benefit of the applicant's proposed use;

(e) The social and economic benefits of existing uses of surface or ground water in the area of the applicant's proposed use and any transfer;

(f) Any waivers of liability from existing users filed with the director; and

(g) Other factors reasonably affecting the equity of granting the permit.

(2) The director may grant a permit for less water than requested by the applicant. The director may also impose reasonable conditions on the manner and timing of the ground water withdrawals and on the manner of any transfer of ground water which the director deems necessary to protect existing users of water. The director shall issue such written order within ninety days of the hearing.

Source: Laws 1981, LB 56, § 9.

46-683.01. Permit; application to amend; procedures; limitation. If during construction or operation a permitholder determines (1) that an additional amount of water is or will be required for the proposed use set forth in a permit issued pursuant to section 46-683 or (2) that there is a need to amend any condition set forth in the permit, the permitholder may file an application to amend the permit. Following a hearing conducted in the manner prescribed by section 46-680, the director shall issue a written order containing specific findings of fact either granting or denying the proposed amendment in accordance with the public interest considerations enumerated in section 46-683. An application to amend a permit shall not be approved if the amendment would increase the daily peak withdrawal or the annual volume by more than twenty-five per cent from the amounts approved in the original permit.

Source: Laws 1986, LB 309, § 3.

46-684. Permit; revocation; procedure; violation of terms of permit; director; powers and duties. (1) A permit granted pursuant to section 46-683 shall be revoked, following a hearing conducted in the same manner as hearings conducted pursuant to section 46-680, if the director determines that the permitholder has failed to exercise the right to withdraw ground water within three years of the date specified in the permit, or for a period of three consecutive years thereafter.

(2) If it appears to the director that a permitholder has withdrawn more ground water than the amount specified in the permit or has violated any of the conditions specified in the permit, the director shall give written notice to the permitholder of the alleged violation.

Within thirty days following receipt of such notice, the permitholder may:

(a) File an application to amend the permit as provided in section 46-683.01;

(b) Request a hearing before the director; or

(c) Take appropriate measures to comply with the permit.

If the permitholder fails to take action pursuant to subdivision (2)(a), (2)(b), or (2)(c) of the section, the director may issue an order requiring compliance with the permit and seek, if appropriate, a court injunction prohibiting further violations of the permit.

If the permitholder requests a hearing, the director shall within thirty days schedule a hearing within or in reasonable proximity to the area where the water wells are located. Within forty-five days following the hearing, the director shall issue an order containing specific findings of fact with reference to the alleged violation and directing the permitholder, if necessary, to cease and desist from further violations of the permit.

(3) Nothing in this section shall limit the penalty provisions of section 46-687.

Source. Laws 1981, LB 56, § 10; Laws 1986, LB 309, § 4; Laws 1993, LB 131, § 37.

46-685. Order or decision; appeal by affected person. Any affected person aggrieved by any order issued or final decision made by the director pursuant to the Industrial Ground Water Regulatory Act may appeal the order, and the appeal shall be in accordance with the Administrative Procedure Act. As used in this section, the term affected person shall mean the applicant for a permit which is the subject of the director's order or final decision and any owner of an estate or interest in or concerning land or water whose interest is or may be impacted in a direct and significant manner by the director's order or final decision.

Source: Laws 1981, LB 56, § 11; Laws 1988, LB 352, § 80.

46-686. Injured person; remedies available. Any owner of an estate or interest in or concerning land or water, except a person who has signed an agreement filed with the director pursuant to section 46-682, may bring an action for damages or injunctive or other relief for any injury done to his or her land or water rights by the holder of a permit issued pursuant to section 46-683. Nothing in sections 46-675 to 46-690

shall be construed as limiting the right to resort to other means of review, redress, or relief provided by law.

Source: Laws 1981, LB 56, § 12.

46-686.01. Withdrawal and transfer of less than 150 acre-feet; injured person; hearing; civil action; appeal. 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 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.

Source: Laws 1993, LB 789, § 9

46-687. Violation; penalty. Any person who withdraws or transfers ground water in violation of the Industrial Ground Water Regulatory Act shall be guilty of a Class IV misdemeanor*. Each day shall constitute a separate offense in cases of continued violation.

Source: Laws 1981, LB 56, § 13; Laws 1986, LB 309, § 5.

46-688. Director; rules and regulation. The director may adopt and promulgate all rules and regulations necessary or desirable to secure compliance with section 46-675 to 46-690. The director shall by regulation specify the contents and scope of the hydrologic evaluation required by section 46-678, taking into account the current state of

hydrologic knowledge and techniques, and the factors for permit approval listed in section 46-683.

Source: Laws 1981, LB 56, § 14.

46-689. Permitholder; subject to control area regulations. Nothing in the Industrial Ground Water Regulatory Act shall be construed to exempt the holder of a permit issued pursuant to section 46-683 from any regulations adopted by a natural resources district pursuant to the Nebraska Ground Water Management and Protection Act for a control area designated before such permit has been granted.

Source: Laws 1981, LB 56, § 15; Laws 1996, LB 108, § 75.

46-690. Act, how cited. Sections 46-675 to 46-690 shall be known and may be cited as the Industrial Ground Water Regulatory Act. Any reference in such act to sections 46-675 to 46-690 shall be construed to include section 46-683.01.

Source: Laws 1981, LB 56, § 16; Laws 1986, LB 309, § 6; Laws 1993, LB 789, § 10.

(h) TRANSFERS

46-691. Transfer off overlying land; when allowed; objection; procedure; natural resources district; powers and duties; Director of Water Resources; duties. (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 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 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.

Source: Laws 1995, LB 251, § 1.

*Footnotes:

Class I misdemeanor: Maximum - not more than one year imprisonment, or one thousand dollars fine, or both. Minimum - none.

Class II misdemeanor: Maximum - six months imprisonment, or one thousand dollars fine, or both.

Minimum - none.

Class III misdemeanor: Maximum - three months imprisonment, or five hundred dollars fine, or both.

Minimum - none.

Class IV misdemeanor: Maximum - no imprisonment, five hundred dollars fine.

Minimum - one hundred dollars.

Class V misdemeanor: Maximum - no imprisonment, one hundred dollars fine.

Minimum - none.