

## LEGISLATIVE BILL 108

Approved by the Governor April 12, 1996

Introduced by Natural Resources Committee: Beutler, 28, Chairperson;  
Avery, 3; Bohlke, 33; Bromm, 23; Elmer, 44; McKenzie, 34;  
Preister, 5

AN ACT relating to water resources; to amend sections 2-1586, 2-3211.01, 46-295, 46-296, 46-630, 46-656, 46-657, 46-660, 46-661, 46-662, 46-663.01, 46-663.02, 46-664, 46-666, 46-666.01, 46-668, 46-669, 46-671, 46-672, 46-673, 46-673.01 to 46-673.07, 46-673.10, 46-673.11, 46-673.13, 46-674.02 to 46-674.14, 46-674.16 to 46-674.18, 46-674.20, 46-676, 46-689, and 81-15,176, Reissue Revised Statutes of Nebraska, sections 2-1588, 46-673.14 to 46-673.16, 46-674, 46-1207.01, and 77-27,137.02, Revised Statutes Supplement, 1994, and sections 46-659, 46-663, and 46-670, Revised Statutes Supplement, 1995; to change and eliminate provisions relating to ground water management areas; to provide for management of interrelated ground water and surface water resources; to provide for applicability of certain provisions; to harmonize provisions; to repeal the original sections; and to outright repeal sections 46-658, 46-665, 46-667, 46-673.08, 46-673.09, 46-673.12, 46-674.15, and 46-674.19, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 2-1586, Reissue Revised Statutes of Nebraska, is amended to read:

2-1586. It is hereby recognized that it is the public purpose of this state to properly develop the water and related land resources of the state and that it is in the public interest of this state (1) to financially assist in programs and projects necessary to the development, preservation, and maintenance of Nebraska's water and related land resources, including programs and projects for the abatement of pollution, potential reduction of flood damages, reservation of lands for resource development projects, provision of public irrigation facilities, preservation and development of fish and wildlife resources, protection and improvement of public lands, provision of public outdoor recreation lands and facilities, provision and preservation of the waters of this state for all beneficial uses, including domestic, agricultural, and manufacturing uses, conservation of land resources, and protection of the health, safety, and general welfare of the people of the State of Nebraska, and (2) to financially assist natural resources districts in the preparation of management plans pursuant to section 46-673-01 18 of this act.

Sec. 2. Section 2-1588, Revised Statutes Supplement, 1994, is amended to read:

2-1588. Any money in the Nebraska Resources Development Fund may be allocated by the Nebraska Natural Resources Commission in accordance with sections 2-1586 to 2-1595 for utilization by the commission, by any state office, agency, board, or commission, or by any political subdivision of the State of Nebraska ~~to~~ which has been granted the authority to develop the state's water and related land resources. Such money may be allocated in the form of grants or loans or for acquiring state interests in water and related land resources programs and projects undertaken within the state. The allocation of funds to a program or project in one form shall not of itself preclude additional allocations in the same or any other form to the same program or project. Funds may also be allocated to assist natural resources districts in the preparation of management plans as provided in section 46-673-01 18 of this act. Funds so allocated shall not be subject to sections 2-1589 to 2-1595.

Only projects with estimated total costs of less than fifteen million dollars, which shall not include operation and maintenance costs, shall be eligible for assistance from the Nebraska Resources Development Fund. If cost overruns during project construction cause the cost of a project to exceed fifteen million dollars, the commission may continue to participate in the project and may allocate additional funds to ensure project completion.

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

On July 1, 1994, and each year thereafter, the Director of Natural Resources shall adjust the project cost and payment limitation of this section by an amount equal to the average percentage change in the federal Department

of Commerce, Bureau of the Census, Composite Construction Cost Index for the prior three years.

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

Sec. 3. Section 2-3211.01, Reissue Revised Statutes of Nebraska, is amended to read:

2-3211.01. (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 or section 40 of this act 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 or section 40 of this act 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.

Sec. 4. Section 46-295, Reissue Revised Statutes of Nebraska, is amended to read:

46-295. The Legislature recognizes that, as a result of water project operations, surface water in some areas of the state has been, is, and will be in the future intentionally and incidentally stored in and withdrawn from underground strata. The Legislature acknowledges that rights to water intentionally or incidentally stored underground and rights to withdrawal of such water should be formally recognized and quantified and recognizes the propriety of all beneficiaries proportionately sharing, to the extent of potential benefit from intentional underground water storage, in the financial obligations necessary for construction, operation, and maintenance of water projects which cause intentional underground water storage.

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

To facilitate optimum beneficial use of water by the people of Nebraska, the Legislature recognizes the need for authorizing the recognition of incidental underground water storage, for authorizing intentional underground water storage, and for authorizing the levying and collection of fees and assessments on persons who withdraw or otherwise use or benefit from intentional underground water storage as provided in sections 46-299 to 46-2.106.

Nothing in sections 33-105, 46-202, 46-226.01, 46-226.02, 46-233, 46-240, 46-241, 46-242, 46-295 to 46-2.106, and 46-544, and 46-666.01 and section 29 of this act shall be construed to alter existing statutes regarding the relationship between naturally occurring surface and ground water.

Sec. 5. Section 46-296, Reissue Revised Statutes of Nebraska, is

amended to read:

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

- (1) Department shall mean the Department of Water Resources;
- (2) Director shall mean the Director of Water Resources;
- (3) Person shall mean a natural person, partnership, limited liability company, association, corporation, municipality, or agency or political subdivision of the state or of the federal government;
- (4) Underground water storage shall mean the act of storing or recharging water in underground strata. Such water shall be known as water stored underground, but the term shall not include ground water as defined in section 46-657 ~~13 of this act~~ which occurs naturally;
- (5) Intentional underground water storage shall mean underground water storage which is an intended purpose or result of a water project or use. Such storage may be accomplished by any lawful means such as injection wells, infiltration basins, canals, reservoirs, and other reasonable methods; and
- (6) Incidental underground water storage shall mean underground water storage which occurs as an indirect result, rather than an intended or planned purpose, of a water project or use and may include, but shall not be limited to, seepage from reservoirs, canals, and laterals, and deep percolation from irrigated lands.

Sec. 6. Section 46-630, Reissue Revised Statutes of Nebraska, is amended to read:

46-630. Whenever the board of directors determines that rules and regulations are necessary in order to insure the proper conservation of ground water within the district, it shall confer with the three state agencies as defined in section 46-615 and ground water users within the district. No rules and regulations shall be adopted until after a public hearing and unless the board of directors finds such rules and regulations to be in the interest of public health, safety, and welfare. Notice of such hearing shall be given as provided in section 46-618, and in addition the publication shall set out in general terms the rules and regulations proposed. The board shall, within seven days after such hearing, announce the rules and regulations adopted and shall cause notice thereof to be published in a newspaper of general circulation throughout the district. Notice of such rules and regulations shall also be sent to all known ground water users throughout such district by regular mail. The board shall have authority to compel compliance with such rules and regulations by an action brought in the district court of the county in which any failure to comply is found to exist. Any rules and regulations adopted by such board of directors shall be consistent with the purposes of the Nebraska Ground Water Management and Protection Act and sections 2-3225, 46-602, 46-629, and 46-630, shall not conflict with rules and regulations adopted pursuant to section 46-663 ~~or 46-666 14 or 31 of this act~~, and shall, prior to adoption, receive concurrent approval by the natural resources district or districts encompassed in whole or in part by the ground water conservation district.

Sec. 7. Section 46-674, Revised Statutes Supplement, 1994, is amended to read:

~~46-674.~~ Sections 46-656 ~~to 46-674.20 7 to 73 of this act~~ shall be known and may be cited as the Nebraska Ground Water Management and Protection Act.

Sec. 8. Section 46-656, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-656.~~ 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 reservoir life goals 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.

Sec. 9. Section 46-674.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674.02.~~ 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 special ground water quality protection management areas.

Sec. 10. Section 46-674.20, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674.20.~~ Nothing in sections 46-674.02 to 46-674.20 41 to 54 of this act shall be construed to limit the powers of the Department of Health provided in Chapter 71, article 53 the Nebraska Safe Drinking Water Act.

Sec. 11. 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.

Sec. 12. 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.

Sec. 13. Section 46-657, Reissue Revised Statutes of Nebraska, is amended to read:

46-657. 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) Director shall mean the Director of Water Resources;

(6) 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;

(7) Control area shall mean any area so designated by the director following a public hearing initiated and conducted pursuant to section 46-658;

(8) (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;

(9) (7) Management area shall mean any area so designated by a district pursuant to sections 46-673-01 to 46-673-06 section 26 of this act, by the Director of Environmental Quality pursuant to section 45 of this act, or by the Director of Water Resources pursuant to section 58 of this act. Management area shall include a control area or a special ground water quality protection area designated prior to the effective date of this act;

(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 18 to 21 of this act;

(10) (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;

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

(12) (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;

(13) (12) Acre-inch shall mean the amount of water necessary to cover an acre of land one inch deep;

(14) (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;

(15) (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;

(16) ~~Special ground water quality protection area shall mean any area designated as such by the Director of Environmental Quality following a public hearing; with boundaries approved by the Director of Environmental Quality; in which contamination of ground water is occurring or is likely to occur in the reasonably foreseeable future;~~

(17) ~~(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;~~

(18) ~~(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;~~

(19) ~~(17) Rotation shall mean a recurring series of use and nonuse of irrigation wells on an hourly, daily, weekly, monthly, or yearly basis; and~~

(20) ~~(18) Water well shall have the same meaning as in section 46-601.01; and~~

(19) Surface water project sponsor shall mean an irrigation district created pursuant to Chapter 46, article 1, a reclamation district created pursuant to Chapter 46, article 5, or a public power and irrigation district created pursuant to Chapter 70, article 6.

Sec. 14. Section 46-663, Revised Statutes Supplement, 1995, is amended to read:

46-663. Regardless of whether or not any portion of a district has been designated as a control area, management area, or special ground water quality protection 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.

Sec. 15. Section 46-663.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-663.01. Before any rule or regulation is adopted pursuant to section 46-663 14 of this act, a public hearing shall be held within the district, in reasonable proximity to the area to be affected. Notice of the hearing shall be given as provided in section 25 of this act, published in such newspapers as are necessary to provide for general circulation within the geographic area 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 area to be affected by the proposed rule or regulation. The text of the proposed rule or regulation shall be made available to the public at least thirty days prior to any such hearing.~~

Sec. 16. Section 46-663.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-663.02. Any violation of a cease and desist order issued by a district pursuant to section 46-663 14 of this act shall be a Class IV misdemeanor.~~

Sec. 17. Section 46-664, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-664-~~ (1) In order to conserve ground water supplies and to prevent the inefficient or improper runoff of such ground water, after August 24, 1975 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) ~~Within ninety days after August 24, 1975, each~~ Each district shall adopt, following public hearing, notice of which shall be given in the manner provided in section 46-658 25 of this act, 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.

Sec. 18. Section 46-673.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-673.01-~~ Prior to January 1, 1986, each Each district shall prepare a ground water management plan based upon the best available information and submit such plan to the ~~director~~ Director of Water Resources for review and approval. ~~If on February 15, 1985, a control or management area has been designated in a district, the district shall not be required to prepare a plan for the geographical area encompassed by such control or management area.~~

The plan shall include, but not be limited to, the identification to the extent possible of:

(1) ~~Proposed geographic and stratigraphic boundaries of the management area;~~

~~(2)~~ (2) Ground water supplies within the area district including transmissivity, saturated thickness maps, and other ground water reservoir information, if available;

~~(3)~~ (2) Local recharge characteristics and rates from any sources, if available;

~~(4)~~ (3) Average annual precipitation and the variations within the area district;

~~(5)~~ (4) Crop water needs within the area district;

~~(6)~~ (5) Current ground water data-collection programs;

~~(7)~~ (6) Past, present, and potential ground water use within the area district;

~~(8)~~ (7) Ground water quality concerns within the area district;

~~(9)~~ (8) Proposed water conservation and supply augmentation programs for the area district;

~~(10)~~ (9) The availability of supplemental water supplies, including the opportunity for ground water recharge;

~~(11)~~ (10) The opportunity to integrate and coordinate the use of water from different sources of supply;

~~(12)~~ (11) Ground water management objectives, including a proposed ground water reservoir life goal for the area district. For management plans adopted or revised after the effective date of this act, the ground water management objectives may include any proposed integrated management objectives for hydrologically connected ground water and surface water supplies;

~~(13)~~ The controls enumerated in sections 46-673.08 to 46-673.12 proposed to achieve the ground water reservoir life goal and the impact of such controls on the goal;

~~(14)~~ (12) Existing subirrigation uses within the area, and district;

~~(15)~~ (13) The relative economic value of different uses of ground water proposed or existing within the area 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 the effective date of this act, 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 25 of this act. If the changes made by this legislative bill 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 the effective date of this act shall insure compliance with section 35 of this act. A district in which a control area, management area, or special ground water quality protection area was designated prior to the effective date of this act may adopt any of the controls permitted by section 31 of this act.

Sec. 19. Section 46-673.02, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-673.02.~~ 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.

Sec. 20. Section 46-673.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-673.03.~~ The director ~~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.

Sec. 21. Section 46-673.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-673.04.~~ If the director ~~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 ~~46-673.05~~ 25 of this act.

Sec. 22. Section 46-673.14, Revised Statutes Supplement, 1994, is amended to read:

~~46-673.14.~~ 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 ~~area~~ 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 ~~46-673.13~~ 28 of this act, 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 ~~46-673.03~~ 20 of this act and (2) any conditions imposed by the ~~director~~ 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 ~~46-674.04~~ 42 or 56 of this act recommends the designation of a ~~special ground water quality protection management~~ area, the district shall not be required to amend its plan for the geographical area encompassed by the special protection or management area.

Sec. 23. Section 46-673.15, Revised Statutes Supplement, 1994, is amended to read:

~~46-673.15-~~ (1) Any district which fails to comply with section ~~46-673.14~~ 22 of this act 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 ~~46-673.01 to 46-673.14~~ 18 to 22 of this act 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 ~~46-673.01 to 46-673.14~~ 18 to 22 of this act by the March 1 immediately preceding the start of such fiscal year.

Sec. 24. Section 46-673.16, Revised Statutes Supplement, 1994, is amended to read:

~~46-673.16-~~ Each district shall, on or before January 1, 1997, begin implementation of an approved ground water management plan pursuant to sections ~~46-673.01 to 46-673.14~~ 18 to 22 of this act which specifically addresses ground water quality.

Sec. 25. Section 46-673.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-673.05-~~ Prior to proceeding toward establishing a management area, a management plan shall have been approved by the ~~director~~ Director of Water Resources or the district shall have completed the requirements of section ~~46-673.04~~ 21 of this act. 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 ~~given in accordance with section 46-650,~~ 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 ~~the control~~ 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.

Sec. 26. Section 46-673.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-673.06-~~ 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 31 of this act to be utilized within the area in order to achieve the ground water reservoir life ~~goal~~ 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.

In no event shall the controls adopted shall not include controls not set forth in the management plan; nor shall the 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 plan notice of the hearing.

Sec. 27. Section 46-673.07, Reissue Revised Statutes of Nebraska, is amended to read:

46-673-07. Notice The district shall cause a copy of any order adopted pursuant to section 46-673-06 shall be provided in the manner provided for in subsection (6) of section 46-666 26 of this act 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 ninety days after its issuance on the date specified by the district.

Sec. 28. Section 46-673.13, Reissue Revised Statutes of Nebraska, is amended to read:

46-673-13. Modification of a district's ground water management plan; management area boundaries; or ground water reservoir life goal or dissolution of a management area management objectives may be accomplished utilizing the procedure established for the initial adoption of a plan or the initial designation of such an area as a management area; but hearings for modification other than the amendment required by section 46-673-14 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 25 to 27 of this act. 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 section 46-665 such sections.

Sec. 29. Section 46-666.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-666-01. A natural resources district shall, prior to adopting or amending any rules and regulations for a control area pursuant to section 46-666, or for a management area, pursuant to section 46-673-09; 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.

Sec. 30. Section 46-672, Reissue Revised Statutes of Nebraska, is amended to read:

46-672. (1) Whenever the boundaries of a designated control or 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, or director, as the case may be, to actively consult with such ground water conservation district before adopting, amending, or repealing any control authorized by section 46-666 31 of this act 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.

Sec. 31. Section 46-666, Reissue Revised Statutes of Nebraska, is amended to read:

46-666. (1) A district in which a control management area has been designated pursuant to subsection (1) of section 46-658 shall by order adopt one or more of the following controls for the control 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; and

(e) It may adopt a system which requires reduction of irrigated acres pursuant to subsection (2) of section 32 of this act;

(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 control management area was designated.

(2) In adopting, amending, or repealing any control authorized by subsection (1) of this section or sections 46-673.08 to 46-673.12 32 and 33 of this act, 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 control area or management area; will encourage a high degree of water use efficiency; 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. The adoption, amendment, or repeal of any authorized control in a control area shall be subject to the approval of the director. The director may hold a public hearing to consider testimony regarding the control prior to the issuance of an order approving or disapproving 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 approving the adoption, amendment, or repeal of an authorized control in a control 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 control area or 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 subsection (1) of this section or sections 46-673.08 to 46-673.12 may contain 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; and may contain different provisions for different categories of ground water use or portions of the control area or 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, distribution irrigation systems, or varying conditions. The 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.

(5) (7) If the district determines, following a public hearing conducted pursuant to section 46-665 25 of this act, that the impact on surface water supplies or the depletion or contamination of the ground water supply in the control management area or any portion of the control 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, with the approval of the director, close all or a portion of the control management area to the issuance of any additional permits for a period of one not more than five calendar year years. Such areas The area may be further closed thereafter by a similar procedure for additional one-year 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.

(6) The district shall cause a copy of each order adopted pursuant to this section or sections 46-673-08 to 46-673-12 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 ten days prior to the date set for the effective date of such order.

(7) (8) Whenever a control area or management area designated under section 45 or 58 of this act encompasses portions of two or more districts, the responsibilities and authorities delegated in this section and sections 46-665 and 46-673-08 to 46-673-12 32 and 33 of this act 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.

(8) If at the end of eighteen months following the designation of a control area pursuant to section 46-658 a district encompassed in whole or in part by a control area has not adopted any specific controls pursuant to subsection (1) of this section, the power to specify controls shall vest in the director who shall, within ninety days after the end of the eighteen months, adopt and promulgate by rule and regulation such controls as he or she deems necessary for carrying out the intent of the Nebraska Ground Water Management and Protection Act. Subject to section 46-667, the enforcement of controls adopted pursuant to this section shall be the responsibility of the district involved. When the controls adopted by the director pursuant to this subsection are in effect in a district, all application fees for water well permits in such district pursuant to section 46-659 shall be payable to the director.

(9) If the power to adopt controls in a control area is vested in the director, he or she shall be provided with a copy of all information, testimony, and data available to the district or districts as a result of the public hearing for the adoption of controls. At his or her discretion, the director may conduct one or more additional public hearings prior to making his or her determination or selection of controls. Notice of any such additional hearings shall be given in the manner provided in section 46-658.

Sec. 32. Section 46-673.10, Reissue Revised Statutes of Nebraska, is amended to read:

46-673-10. (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 section 31 of this act. 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) A ground water user in a management area shall not be prevented from increasing the number of acres which he or she irrigates, or otherwise adding new or additional acres or uses of ground water; but all such new or additional acres or uses shall be subject to the controls adopted pursuant to sections 46-656 to 46-674. A person who increases the number of acres which he or she irrigates, or otherwise adds new or additional uses of ground water, shall be entitled to the same allocation as existing acres or uses.

(3) 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.

Sec. 33. Section 46-673.11, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-673.11.~~ 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 reservoir life goal 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.

Sec. 34. (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 25 to 27 of this act 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 18 to 22 of this act 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 31 of this act 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 11 of this act 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 31 of this act and subsection (5) of this section to be utilized within the area in order to mitigate or eliminate the conflicts, disputes, or difficulties described in subsection (9) of this section. Such an order shall include a geographic and stratigraphic definition of the area. The boundaries and controls shall take into account any considerations brought forth at the hearing and administrative factors directly affecting the ability of the district to implement and carry out local ground water management.

The controls adopted shall not include controls substantially different from those set forth in the notice of the hearing. The area designated by the order shall not include any area not included in the notice of the hearing.

(12) The district shall cause a copy of any order adopted pursuant to subsection (11) of this section to be published once each week for three consecutive weeks in a local newspaper published or of general circulation in the area involved. The last publication shall be not less than ten days prior to the effective date of the order. The order shall become effective on the date specified by the district but not later than ninety days after the date of establishment of the management area.

(13) Modification of a district's portion of a joint action plan may be accomplished utilizing the procedure established for the initial adoption of the joint action plan. Modification of the boundaries of a district-designated management area for integrated management or dissolution of such an area shall be in accordance with the procedures established in sections 25 to 27 of this act. 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.

Sec. 35. Section 46-659, Revised Statutes Supplement, 1995, is amended to read:

46-659. (1) Any person who intends to construct a water well in a control area or 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 a control area or 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, except as provided in subsection (8) of section 46-666, 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. Before any water well having a capacity of less than one hundred gallons per minute is modified to withdraw ground water at a rate equal to or greater than one hundred gallons per minute, an application shall be filed for a permit pursuant to this section before water is so withdrawn.

(3) (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.

(4) (5) The application for a late permit shall be accompanied by a two-hundred-fifty-dollar fee payable to the district, except as provided in subsection (8) of section 46-666, and shall contain the same information required in subsection (2) (3) of this section.

Sec. 36. Section 46-660, Reissue Revised Statutes of Nebraska, is amended to read:

46-660- An application for a permit or late permit for a water well in a control area or 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 Director of Water Resources.

Sec. 37. Section 46-661, Reissue Revised Statutes of Nebraska, is amended to read:

46-661- The issuance by the district of a permit pursuant to section 46-660 36 of this act or registration of a water well by the director 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.

Sec. 38. Section 46-662, Reissue Revised Statutes of Nebraska, is amended to read:

46-662- When any permit is approved pursuant to section 36 of this act, 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.

Sec. 39. Section 46-670, Revised Statutes Supplement, 1995, is amended to read:

~~46-670. The director may adopt, in accordance with the Administrative Procedure Act, such rules and regulations as are necessary to the discharge of duties assigned to the director by the Nebraska Ground Water Management and Protection Act. All fees paid to the director~~ Director of Water Resources in accordance with the terms of the ~~act~~ Nebraska Ground Water Management and Protection Act shall be paid into the Ground Water Management Fund which is hereby created and which shall be administered by the director. Any money credited to the fund may be utilized by the director for payments of expenses incurred in the administration of the act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 40. Section 46-673, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-673. Each district encompassed in whole or in part by a control or 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 portion of the district encompassed by such area 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 sections 46-656 to 46-674 the Nebraska Ground Water Management and Protection Act within such area 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.~~

Sec. 41. Section 46-674.03, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674.03. Each state agency and political subdivision shall promptly report to the Department of Environmental Quality any information which indicates that contamination is occurring.~~

Sec. 42. Section 46-674.04, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674.04. If, as a result of information provided pursuant to section 46-674.03 41 of this act or studies conducted by or otherwise available to the Department of Environmental Quality and following preliminary investigation, the Director of Environmental Quality has 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. The During the study, the department shall consider the relevant water quality portions of the management plan developed by the each district pursuant to section 46-673.01 during the study required in this section sections 18 to 22 of this act, whether the district has designated a management area encompassing the area studied, and whether the district has adopted any controls for the area.~~

Sec. 43. Section 46-674.05, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674.05. If the Director of Environmental Quality determines from the study conducted pursuant to section 46-674.04 42 of this act 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.~~

Sec. 44. Section 46-674.06, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674.06. If the Director of Environmental Quality determines from the study conducted pursuant to section 46-674.04 42 of this act that one or more sources of contamination are not point sources and if a management area, the primary 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 46-674.07 to 46-674.11 45 to 49 of this act.~~

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 46-674.04 of this act, 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 special ground water quality protection 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 such newspapers as are necessary to provide for a newspaper published or of general circulation within the geographic area 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 special ground water quality protection 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, the Department of Water Resources, the Nebraska Natural Resources Commission, and the appropriate district shall 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 special ground water quality protection management area shall be designated.

Sec. 45. Section 46-674.07, Reissue Revised Statutes of Nebraska, is amended to read:

46-674.07- (1) When determining whether to designate or modify the boundaries of a special ground water quality protection management area or to require a district which has established a management area, the primary 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 ~~whether~~ contamination of ground water has occurred or is likely to occur in the reasonably foreseeable future;

(b) Whether ~~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 ~~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 31 of this act as administered and enforced by the district are sufficient to address the ground water quality issues in the management area; and

(e) Administrative ~~and 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 special ground water quality protection management area shall be designated.

(3) If the Director of Environmental Quality determines that a special ground water quality protection management area shall be established, that the boundaries of an existing management area shall be modified, or that such ~~a~~ 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 ground water quality protection 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 special ground water quality protection 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.

Sec. 46. Section 46-674.08, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674-08-~~ (1) Within one hundred eighty days after the designation of a special ground water quality protection management area or the requiring of an action plan for a management area, the primary 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 special ground water quality protection 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 such newspapers as are necessary to provide for a newspaper published or of general circulation within the geographic area 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. The and shall provide the text of the proposed action plan shall be made available to the public at least thirty days prior to the hearing 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.

Sec. 47. Section 46-674.09, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674-09-~~ An action plan filed by a district pursuant to section ~~46-674-08~~ 46 of this act 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 31 of this act, following protective measures for such area:

(1) A requirement that water users participate in educational programs;

(2) A requirement that the best management practices be used; and

(3) Such other reasonable requirements as are necessary to carry out the purpose for which a special ground water quality protection area was designated or for which an action plan was required for a management area.

Sec. 48. Section 46-674.10, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674-10-~~ (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 special ground water quality protection 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 because of varying ground water uses or varying climatic, hydrologic, geologic, or soil conditions existing within a special ground water quality protection area or management area the uniform application throughout such area of one or more protective measures would fail to carry out the intent of the Nebraska Ground Water Management and Protection Act in a reasonably effective and equitable manner, the measures adopted by the district pursuant to subsection (1) of this section may vary. Any differences in such protective measures shall recognize and be directed toward such varying ground water uses or conditions. All protective measures 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.

(4) 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 51 of

this act.

Sec. 49. Section 46-674.11, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674-11.~~ Following approval of the action plan by the Director of Environmental Quality, the district shall cause a copy of each protective measure control adopted pursuant to section ~~46-674-10~~ 48 of this act 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 ~~ten~~ seven days prior to the date when such protective measure control becomes effective.

Sec. 50. Section 46-674.18, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674-18.~~ Each district in which a special ground water quality protection management area has been designated or an action plan for a management area has been required pursuant to sections ~~46-674-02 to 46-674-20~~ section 45 of this act 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.

Sec. 51. Section 46-674.12, Reissue Revised Statutes of Nebraska, is amended to read as follows:

~~46-674-12.~~ (1) The power to specify protective measures controls authorized by section 31 of this act shall vest in the Director of Environmental Quality if (a) at the end of one hundred eighty days following the designation of a special ground water quality protection management area or the requiring of an action plan for a management area pursuant to section ~~46-674-07~~ 45 of this act, a district encompassed in whole or in part by a special ground water quality protection area or such a 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 protective measures in a special ground water quality protection area or 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 protective measures controls. Notice of any such additional hearings shall be given in the manner provided in section ~~46-674-06~~ 46 of this act. The enforcement of protective measures controls adopted pursuant to this section shall be the responsibility of the Department of Environmental Quality.

Sec. 52. Section 46-674.13, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674-13.~~ The protective measures controls in the action plan approved by the Director of Environmental Quality pursuant to section ~~46-674-10~~ 48 of this act 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.

Sec. 53. Section 46-674.14, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674-14.~~ A district may petition the Director of Environmental Quality to remove the director's designation of the area as a special ground water quality protection 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 45 of this act. If the director determines that the level of contamination in a special ground water quality protection area or 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.

Sec. 54. Section 46-674.16, Reissue Revised Statutes of Nebraska, is amended to read:

~~46-674-16.~~ 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 ~~46-674-02 to 46-674-20~~ 41 to 53 of this act.

Sec. 55. Until January 1, 1999, sections 56 to 66 of this act 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 56 to 66 of this act 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 56 to 66 of this act shall apply to the entire state.

Sec. 56. 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 18 to 22 of this act during the study required by this section.

Sec. 57. (1) If the Director of Water Resources determines from any studies conducted pursuant to section 56 of this act, 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 59 to 63 of this act in addition to the controls previously adopted by the district pursuant to section 31 of this act. The district may agree to that request and begin preparing an action plan under section 59 of this act 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 58 of this act.

(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 56 of this act, 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.

Sec. 58. (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 59 to 66 of this act 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.

Sec. 59. (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.

Sec. 60. The district's portion of the action plan adopted under section 59 of this act shall include one or more of the controls authorized by section 31 of this act. 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 11 of this act and the requirements of section 46-231.

If the department determines that surface water appropriators should be required to apply or utilize reasonable conservation measures or best management practices, the department's portion of the plan shall allow the affected surface water appropriators and surface water project sponsors a reasonable amount of time, not to exceed one hundred eighty days unless extended by the department, to identify the proposed conservation measures or best management practices to be applied or utilized and a schedule for such application and utilization.

Sec. 61. (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 64 of this act.

Sec. 62. 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 61 of this act to be published once each week for three consecutive weeks in a newspaper published or of general circulation in the area involved. The last publication shall be not less than seven days before the date such control becomes effective.

Sec. 63. Each district in which a management area has been designated or an action plan for a management area has been required pursuant to section 58 of this act 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.

Sec. 64. The controls in the district's portion of an action plan approved by the Director of Water Resources pursuant to section 61 of this act shall be exercised by the district for the period of time necessary to reduce the use of hydrologically connected ground water and surface water resources in the area which is contributing to or is in the reasonably foreseeable future likely to contribute to disputes over interstate compacts or decrees or to difficulties fulfilling the provisions of other formal state contracts or agreements. An action plan may be amended by the same method utilized in the adoption of the action plan.

Sec. 65. 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 58 of this act. If the director determines that the use of hydrologically connected ground water and surface water resources in the area which is contributing to or is in the reasonably foreseeable future likely to contribute to disputes over interstate compacts or decrees or to difficulties fulfilling the provisions of other formal state contracts or agreements in a management area has stabilized at a level which is no longer detrimental to the public interest, he or she may remove the designation or action plan requirement or modify the boundaries of the management area.

Sec. 66. (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 58 of this act, 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 31 of this act 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 25 to 27 of this act.

(3) If the power to specify controls authorized in section 31 of this act 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 61 of this 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 59 of this act. The enforcement of controls adopted pursuant to this section shall be the responsibility of the Department of Water Resources.

Sec. 67. 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 66 of this act. The entity requesting a decision shall state in writing the differences of opinion and what decision the entity requests the committee to make.

Sec. 68. 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.

Sec. 69. Section 46-674.17, Reissue Revised Statutes of Nebraska, is amended to read:

46-674.17- Any person who violates any of the provisions of sections 46-674.02 to 46-674.20 41 to 68 of this act 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 (1) subject to a civil penalty of not more than five hundred dollars, or (2) guilty of a Class III misdemeanor. Each day of continued violation shall constitute a separate offense.

Sec. 70. Section 46-668, Reissue Revised Statutes of Nebraska, is amended to read:

46-668- All hearings conducted pursuant to the Nebraska Ground Water Management and Protection Act shall be of record and available for review.

Sec. 71. Section 46-671, Reissue Revised Statutes of Nebraska, is amended to read:

46-671- In the administration of the Nebraska Ground Water

Management and Protection Act, all actions of the ~~director and of Director of Environmental Quality, the Director of Water Resources, and the districts~~ shall be consistent with the provisions of section 46-613.

Sec. 72. Section 46-669, Reissue Revised Statutes of Nebraska, is amended to read:

46-669. Any person aggrieved by any order of the district, ~~the Director of Environmental Quality, or the Director of Water Resources or of the director~~ issued pursuant to the Nebraska Ground Water Management and Protection Act may appeal the order. ~~The~~ 7 and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 73. ~~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.~~

Sec. 74. Section 46-676, Reissue Revised Statutes of Nebraska, is amended to read:

46-676. For purposes of sections 46-675 to 46-690 the definitions found in section 46-657 13 of this act shall be used.

Sec. 75. Section 46-689, Reissue Revised Statutes of Nebraska, is amended to read:

46-689. Nothing in sections 46-675 to 46-690 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 sections 46-656 to 46-674 the Nebraska Ground Water Management and Protection Act for a control area designated before the such permit has been granted.

Sec. 76. Section 46-1207.01, Revised Statutes Supplement, 1994, is amended to read:

46-1207.01. (1) Illegal water well shall mean any water well which has not been properly decommissioned and which meets any of the following conditions:

(a) The water well is in such a condition that it cannot be placed in active or inactive status;

(b) Any necessary operating equipment has been removed and the well has not been placed in inactive status;

(c) The water well is in such a state of disrepair that continued use for the purpose for which it was constructed is impractical;

(d) The water well was constructed after October 1, 1986, but not constructed by a licensed water well contractor or by an individual on land owned by him or her and used by him or her for farming, ranching, or agricultural purposes or as his or her place of abode;

(e) The water well poses a health or safety hazard; or

(f) The water well is an illegal water well in accordance with section 46-657 13 of this act.

(2) Whenever the department classifies a water well as an illegal water well, the landowner may petition the department to reclassify the water well as an active status water well, an inactive status water well, or an abandoned water well.

Sec. 77. Section 77-27,137.02, Revised Statutes Supplement, 1994, is amended to read:

77-27,137.02. Except as provided in section 46-673, is 23 of this act, the appropriation provided for in section 77-27,136 for aid to natural resources districts shall be distributed to the various natural resources districts of the state on the basis of the ratio of the total amount of property taxes levied by the particular natural resources district to the total amount of property taxes levied by all natural resources districts within the state based on amounts stated in the most recent certificate of taxes levied statement and schedules submitted by each county to the Tax

Commissioner pursuant to section 77-1613.01. The Tax Commissioner shall determine the amount to be distributed to the various natural resources districts and certify such amounts by voucher to the Director of Administrative Services. Each amount shall be distributed in seven or nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning December 1, 1982, and each December thereafter. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, upon receipt of such notification and vouchers, draw warrants against funds appropriated. The proceeds of the payments received by the various natural resources districts shall be credited to the general fund of the district.

Sec. 78. Section 81-15,176, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,176. (1) Subject to subsection (3) of this section, the board shall establish environmental priorities for the trust. The board, after allowing opportunity for public comment, shall designate as priorities those environmental goals which most affect the natural physical and biological environment in Nebraska, including the air, land, ground water and surface water, flora and fauna, prairies and forests, wildlife and wildlife habitat, and areas of aesthetic or scenic values. In designating environmental priorities, the board shall attempt to focus on the areas which promise the greatest opportunities for effective action to achieve and preserve the future environmental quality in the state. The board shall establish priorities for five-year periods beginning July 1, 1995, except that the board may make annual modifications to refine and clarify its priorities. The board shall provide for public involvement in developing the priorities for such five-year periods, including public meetings in each of the three congressional districts.

(2) The board shall establish criteria for determining the eligibility of projects for assistance from the fund, which criteria shall include the following:

(a) The fund shall not provide direct assistance to regulatory programs or to implement actions mandated by regulations except remediation;

(b) Before January 1, 1997, no more than twenty-five percent of allocations in any year shall assist remediation of soils or ground water, and no allocation for this purpose shall occur unless all other available sources of funding are, in the opinion of the board, being substantially utilized. On and after January 1, 1997, no more than sixty percent of allocations in any year shall assist remediation of soils or ground water, and no allocation for this purpose shall occur unless all other available sources of funding are, in the opinion of the board, being substantially utilized;

(c) The fund shall not pay for private benefits or to relieve private liability for environmental damage;

(d) The fund shall not pay for projects which have direct beneficiaries who could afford the costs of the benefits without experiencing serious financial hardship;

(e) The fund should assist those projects which offer the greatest environmental benefits relative to cost;

(f) The fund should assist those projects which provide clear and direct environmental benefits;

(g) The fund should assist those projects which will make a real contribution to achieving the board's environmental priorities;

(h) The fund should assist those projects which offer the greatest public benefits; and

(i) The fund shall not pay for land or easements acquired without the full and express consent of the landowner.

(3) Until the first five-year priorities become effective on July 1, 1995, the board shall observe the following priorities for allocating funds:

(a) Critical habitat areas, including wetlands acquisition, preservation, and restoration and acquisition and easements of areas critical to rare or endangered species;

(b) Surface water quality, including actions to preserve lakes and streams from degradation;

(c) Ground water quality, including fostering best management practices as defined in section 46-657 13 of this act, actions to preserve ground water from degradation, and remediation of soils or ground water; and

(d) Development of recycling markets and reduction of solid waste volume and toxicity.

(4) The board may refine and clarify these initial priorities.

Sec. 79. Original sections 2-1586, 2-3211.01, 46-295, 46-296,

46-630, 46-656, 46-657, 46-660, 46-661, 46-662, 46-663.01, 46-663.02, 46-664, 46-666, 46-666.01, 46-668, 46-669, 46-671, 46-672, 46-673, 46-673.01 to 46-673.07, 46-673.10, 46-673.11, 46-673.13, 46-674.02 to 46-674.14, 46-674.16 to 46-674.18, 46-674.20, 46-676, 46-689, and 81-15,176, Reissue Revised Statutes of Nebraska, sections 2-1588, 46-673.14 to 46-673.16, 46-674, 46-1207.01, and 77-27,137.02, Revised Statutes Supplement, 1994, and sections 46-659, 46-663, and 46-670, Revised Statutes Supplement, 1995, are repealed.

Sec. 80. The following sections are outright repealed: Sections 46-658, 46-665, 46-667, 46-673.08, 46-673.09, 46-673.12, 46-674.15, and 46-674.19, Reissue Revised Statutes of Nebraska.