

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 127

Introduced by Avery, 28.

Read first time January 06, 2011

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to water; to amend sections 46-714, 46-715, and
2 46-717, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to input into determinations and
4 management plans; and to repeal the original sections.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 46-714, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 46-714 (1) Whenever the Department of Natural Resources
4 makes a preliminary determination that a river basin, subbasin, or
5 reach not previously designated as overappropriated and not
6 previously determined to be fully appropriated has become fully
7 appropriated, the department shall place an immediate stay on the
8 issuance of any new natural-flow, storage, or storage-use
9 appropriations in such river basin, subbasin, or reach. The
10 department shall also provide prompt notice of such preliminary
11 determination to all licensed water well contractors in the state and
12 to each natural resources district that encompasses any of the
13 geographic area involved. Such notice to natural resources districts
14 shall be by certified mail. The notice shall be addressed to the
15 manager of the natural resources district or his or her designee and
16 shall include the signature of the Director of Natural Resources.
17 Immediately upon receipt of such notice by the natural resources
18 district, there shall be a stay on issuance of water well
19 construction permits in the geographic area preliminarily determined
20 by the department to include hydrologically connected surface water
21 and ground water in such river basin, subbasin, or reach. The
22 department shall also notify the public of the preliminary
23 determination that the river basin, subbasin, or reach is fully
24 appropriated and of the affected geographic area. Such notice shall
25 be provided by publication once each week for three consecutive weeks

1 in at least one newspaper of statewide circulation and in such other
2 newspaper or newspapers as are deemed appropriate by the department
3 to provide general circulation in the river basin, subbasin, or
4 reach.

5 (2) If the department preliminarily determines a river
6 basin, subbasin, or reach to be fully appropriated and has identified
7 the existence of hydrologically connected surface water and ground
8 water in such river basin, subbasin, or reach, stays shall also be
9 imposed:

10 (a) On the construction of any new water well in the area
11 covered by the determination unless a permit with conditions imposed
12 by the natural resources district has been issued prior to the
13 determination. Such conditions shall meet the objectives of
14 subsection (4) of section 46-715 and may include, but are not limited
15 to, conditions in accordance with subsection (6) of section 46-739.
16 Any well constructed pursuant to such permit shall be completed in
17 accordance with section 46-738; and

18 (b) On the use of an existing water well or an existing
19 surface water appropriation in the affected area to increase the
20 number of acres historically irrigated.

21 Such additional stays shall begin ten days after the
22 first publication, in a newspaper of statewide circulation, of the
23 notice of the preliminary determination that the river basin,
24 subbasin, or reach is fully appropriated.

25 (3) Exceptions to the stays imposed pursuant to

1 subsection (1), (2), (8), or (9) of this section shall exist for (a)
2 test holes, (b) dewatering wells with an intended use of one year or
3 less, (c) monitoring wells, (d) wells constructed pursuant to a
4 ground water remediation plan under the Environmental Protection Act,
5 (e) water wells designed and constructed to pump fifty gallons per
6 minute or less, except that no two or more water wells that each pump
7 fifty gallons per minute or less may be connected or otherwise
8 combined to serve a single project such that the collective pumping
9 would exceed fifty gallons per minute, (f) water wells for range
10 livestock, (g) new surface water uses or water wells that are
11 necessary to alleviate an emergency situation involving the provision
12 of water for human consumption or public health and safety, (h) water
13 wells defined by the applicable natural resources district as
14 replacement water wells, but the consumptive use of any such
15 replacement water well can be no greater than the historic
16 consumptive use of the water well it is to replace or, if applicable,
17 the historic consumptive use of the surface water use it is to
18 replace, (i) new surface water uses and water wells to which a right
19 or permit is transferred in accordance with state law, but the
20 consumptive use of any such new use can be no greater than the
21 historic consumptive use of the surface water use or water well from
22 which the right or permit is being transferred, (j) water wells and
23 increases in ground water irrigated acres for which a variance is
24 granted by the applicable natural resources district for good cause
25 shown, (k) subject to any conditions imposed by the applicable

1 natural resources district, to the extent permitted by the applicable
2 natural resources district, increases in ground water irrigated acres
3 that result from the use of water wells that were permitted prior to
4 the effective date of the determination made in subsection (1) of
5 this section and completed in accordance with section 46-738 but were
6 not used for irrigation prior to that effective date, (l) to the
7 extent permitted by the applicable natural resources district,
8 increases in ground water irrigated acres that result from the use of
9 water wells that are constructed after the effective date of the stay
10 in accordance with a permit granted by that natural resources
11 district prior to the effective date of the stay, (m) surface water
12 uses for which temporary public-use construction permits are issued
13 pursuant to subsection (8) of section 46-233, (n) surface water uses
14 and increases in surface water irrigated acres for which a variance
15 is granted by the department for good cause shown, and (o) water
16 wells for which permits have been approved by the Department of
17 Natural Resources pursuant to the Municipal and Rural Domestic Ground
18 Water Transfers Permit Act prior to the effective date of the stay.

19 (4) Except as otherwise provided in this section, any
20 stay imposed pursuant to subsections (1) and (2) of this section
21 shall remain in effect for the affected river basin, subbasin, or
22 reach until the department has made a final determination regarding
23 whether the river basin, subbasin, or reach is fully appropriated
24 and, if the department's final determination is that the river basin,
25 subbasin, or reach is fully appropriated, shall remain in effect as

1 provided in subsection (11) of this section. Within the time period
2 between the dates of the preliminary and final determinations, the
3 department and the affected natural resources districts shall consult
4 with any irrigation district, reclamation district, public power and
5 irrigation district, mutual irrigation company, canal company, or
6 municipality that relies on water from the affected river basin,
7 subbasin, or reach, the Game and Parks Commission, and ~~with other~~
8 water users and stakeholders as deemed appropriate by the department
9 or the natural resources districts. The department shall also hold
10 one or more public hearings not more than ninety days after the first
11 publication of the notice required by subsection (1) of this section.
12 Notice of the hearings shall be provided in the same manner as the
13 notice required by such subsection. Any interested person may appear
14 at such hearing and present written or oral testimony and evidence
15 concerning the appropriation status of the river basin, subbasin, or
16 reach, the department's preliminary conclusions about the extent of
17 the area within which the surface water and ground water supplies for
18 the river basin, subbasin, or reach are determined to be
19 hydrologically connected, and whether the stays on new uses should be
20 terminated.

21 (5) Within thirty days after the final hearing under
22 subsection (4) of this section, the department shall notify the
23 appropriate natural resources districts of the department's final
24 determination with respect to the appropriation status of the river
25 basin, subbasin, or reach. If the final determination is that the

1 river basin, subbasin, or reach is fully appropriated, the
2 department, at the same time, shall (a) decide whether to continue or
3 to terminate the stays on new surface water uses and on increases in
4 the number of surface water irrigated acres and (b) designate the
5 geographic area within which the department considers surface water
6 and ground water to be hydrologically connected in the river basin,
7 subbasin, or reach and describe the methods and criteria used in
8 making that determination. The department shall provide notice of its
9 decision to continue or terminate the stays in the same manner as the
10 notice required by subsection (1) of this section.

11 (6) Within ninety days after a final determination by the
12 department that a river basin, subbasin, or reach is fully
13 appropriated, an affected natural resources district may hold one or
14 more public hearings on the question of whether the stays on the
15 issuance of new water well permits, on the construction of new water
16 wells, or on increases in ground water irrigated acres should be
17 terminated. Notice of the hearings shall be published as provided in
18 section 46-743.

19 (7) Within forty-five days after a natural resources
20 district's final hearing pursuant to subsection (6) of this section,
21 the natural resources district shall decide (a) whether to terminate
22 the stay on new water wells in all or part of the natural resources
23 district subject to the stay and (b) whether to terminate the stay on
24 increases in ground water irrigated acres. If the natural resources
25 district decides not to terminate the stay on new water wells in any

1 geographic area, it shall also decide whether to exempt from such
2 stay the construction of water wells for which permits were issued
3 prior to the issuance of the stay but for which construction had not
4 begun prior to issuance of the stay. If construction of water wells
5 for which permits were issued prior to the stay is allowed, all
6 permits that were valid when the stay went into effect shall be
7 extended by a time period equal to the length of the stay.

8 (8) Whenever the department designates a river basin,
9 subbasin, or reach as overappropriated, each previously declared
10 moratorium on the issuance of new surface water appropriations in the
11 river basin, subbasin, or reach shall continue in effect. The
12 department shall also provide prompt notice of such designation to
13 all licensed water well contractors in the state and to each natural
14 resources district that encompasses any of the geographic area
15 involved. Immediately upon receipt of such notice by a natural
16 resources district, there shall be a stay on the issuance of new
17 water well construction permits in any portion of such natural
18 resources district that is within the hydrologically connected area
19 designated by the department. The department shall also notify the
20 public of its designation of such river basin, subbasin, or reach as
21 overappropriated and of the geographic area involved in such
22 designation. Such notice shall be published once each week for three
23 consecutive weeks in at least one newspaper of statewide circulation
24 and in such other newspapers as are deemed appropriate by the
25 department to provide general notice in the river basin, subbasin, or

1 reach.

2 (9) Beginning ten days after the first publication of
3 notice under subsection (8) of this section in a newspaper of
4 statewide circulation, there shall also be stays (a) on the
5 construction of any new water well in the hydrologically connected
6 area if such construction has not commenced prior to such date and if
7 no permit for construction of the water well has been issued
8 previously by either the department or the natural resources
9 district, (b) on the use of an existing water well in the
10 hydrologically connected area to increase the number of acres
11 historically irrigated, and (c) on the use of an existing surface
12 water appropriation to increase the number of acres historically
13 irrigated in the affected area.

14 (10) Within ninety days after a designation by the
15 department of a river basin, subbasin, or reach as overappropriated,
16 a natural resources district that encompasses any of the
17 hydrologically connected area designated by the department may hold
18 one or more public hearings on the question of whether to terminate
19 the stays on (a) the construction of new water wells within all or
20 part of its portion of the hydrologically connected area, (b) the
21 issuance of new water well construction permits in such area, or (c)
22 the increase in ground water irrigated acres in such area. Notice of
23 any hearing for such purpose shall be provided pursuant to section
24 46-743. Prior to the scheduling of a natural resources district
25 hearing on the question of whether to terminate any such stay, the

1 department and the affected natural resources district shall consult
2 with any irrigation district, reclamation district, public power and
3 irrigation district, mutual irrigation company, canal company, or
4 municipality that relies on water from the affected river basin,
5 subbasin, or reach and with other water users and stakeholders as
6 deemed appropriate by the department or the natural resources
7 district.

8 (11) Any stay issued pursuant to this section shall
9 remain in effect until (a) the stay has been terminated pursuant to
10 subsection (5), (7), or (10) of this section, (b) an integrated
11 management plan for the affected river basin, subbasin, or reach has
12 been adopted by the department and the affected natural resources
13 districts and has taken effect, (c) an integrated management plan for
14 the affected river basin, subbasin, or reach has been adopted by the
15 Interrelated Water Review Board and has taken effect, (d) the
16 department has completed a reevaluation pursuant to subsection (2) of
17 section 46-713 and has determined that the affected river basin,
18 subbasin, or reach is not fully appropriated or overappropriated, or
19 (e) the stay expires pursuant to this subsection. Such stay may be
20 imposed initially for not more than three years following the
21 department's designation of the river basin, subbasin, or reach as
22 overappropriated or the department's final determination that a river
23 basin, subbasin, or reach is fully appropriated and may be extended
24 thereafter on an annual basis by agreement of the department and the
25 affected natural resources district for not more than two additional

1 years if necessary to allow the development, adoption, and
2 implementation of an integrated management plan pursuant to sections
3 46-715 to 46-719.

4 (12)(a) For purposes of this subsection, (i) a status
5 change occurs when a preliminary or final determination that a river
6 basin, subbasin, or reach is fully appropriated is reversed by the
7 department or by judicial determination and such river basin,
8 subbasin, or reach is determined not to be fully appropriated and
9 (ii) the hydrologically connected area means the geographic area
10 within which the department considers surface water and ground water
11 in such river basin, subbasin, or reach to be hydrologically
12 connected.

13 (b) If a status change occurs, any stays previously in
14 force by the department or affected natural resources districts shall
15 remain in force until the stays imposed under this subsection are in
16 place and the department shall place an immediate stay on the
17 issuance of any new natural-flow, storage, or storage-use
18 appropriations in the river basin, subbasin, or reach. The department
19 shall also provide prompt notice of the status change in accordance
20 with subsection (1) of this section. Immediately upon receipt of the
21 notice by the affected natural resources district, there shall be
22 stays imposed as set forth in subsections (1) and (2) of this
23 section, subject to the exceptions set forth in subsection (3) of
24 this section. The stays imposed pursuant to this subsection shall
25 remain in effect within each affected natural resources district

1 until such district adopts rules and regulations in accordance with
2 subdivision (c), (d), or (e) of this subsection.

3 (c) Upon receipt of notice of a status change, each
4 affected natural resources district shall adopt rules and regulations
5 within one hundred twenty days after receipt of such notice for the
6 prioritization and granting of water well permits within the
7 hydrologically connected area for the four-year period following the
8 status change. Nothing in this subsection shall be construed to
9 supersede the authority provided to natural resources districts under
10 subsection (2) of section 46-707 and subdivisions (1)(f) and (1)(m)
11 of section 46-739.

12 (d) The rules and regulations adopted by each affected
13 natural resources district in accordance with subdivision (c) of this
14 subsection shall (i) allow a limited number of total new ground water
15 irrigated acres annually, (ii) be created with the purpose of
16 maintaining the status of not fully appropriated based on the most
17 recent basin determination, (iii) be for a term of not less than four
18 years, and (iv) limit the number of new permits so that total new
19 ground water irrigated acres do not exceed the number set in the
20 rules and regulations. The department shall approve the proposed new
21 number of ground water irrigated acres within sixty days after
22 approval by the natural resources district if such district meets the
23 conditions set forth in subdivision (d)(ii) of this subsection, based
24 on the most recent basin determination.

25 (e) If the proposed new number of acres is not approved

1 by the department within the applicable time period as provided in
2 subdivision (d) of this subsection, the affected natural resources
3 districts shall adopt rules and regulations that allow water well
4 permits to be issued that will result in no more than two thousand
5 five hundred irrigated acres or that will result in an increase of
6 not more than twenty percent of all historically irrigated acres
7 within the hydrologically connected area of each natural resources
8 district within the affected river basin, subbasin, or reach,
9 whichever is less, for each calendar year of the four-year period
10 following the date of the determination described in this subsection.
11 Each affected natural resources district may, after the initial four-
12 year period has expired, annually determine whether water well permit
13 limitations should continue and may enforce such limitations.

14 (f) During the four-year period following the status
15 change, the department shall ensure that any new appropriation
16 granted will not cause the basin, subbasin, or reach to be fully
17 appropriated based on the most recent basin determination. The
18 department, pursuant to its rules and regulations, shall not issue
19 new natural flow surface water appropriations for irrigation, within
20 the river basin, subbasin, or reach affected by the status change,
21 that will result in a net increase of more than eight hundred thirty-
22 four irrigated acres in each natural resources district during each
23 calendar year of the four-year period following the date of the
24 determination described in this subsection.

25 Sec. 2. Section 46-715, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 46-715 (1)(a) Whenever the Department of Natural
3 Resources has designated a river basin, subbasin, or reach as
4 overappropriated or has made a final determination that a river
5 basin, subbasin, or reach is fully appropriated, the natural
6 resources districts encompassing such river basin, subbasin, or reach
7 and the department shall jointly develop an integrated management
8 plan for such river basin, subbasin, or reach. The plan shall be
9 completed, adopted, and take effect within three years after such
10 designation or final determination unless the department and the
11 natural resources districts jointly agree to an extension of not more
12 than two additional years.

13 (b) A natural resources district encompassing a river
14 basin, subbasin, or reach that has not been designated as
15 overappropriated or has not been finally determined to be fully
16 appropriated may, jointly with the department, develop an integrated
17 management plan for such river basin, subbasin, or reach located
18 within the district. The district shall notify the department of its
19 intention to develop an integrated management plan which shall be
20 developed and adopted according to sections 46-715 to 46-717 and
21 subsections (1) and (2) of section 46-718. The objective of an
22 integrated management plan under this subdivision is to manage such
23 river basin, subbasin, or reach to achieve and sustain a balance
24 between water uses and water supplies for the long term. If a
25 district develops an integrated management plan under this

1 subdivision and the department subsequently determines the affected
2 river basin, subbasin, or reach to be fully appropriated, the
3 department and the affected natural resources district may amend the
4 integrated management plan.

5 (2) In developing an integrated management plan, the
6 effects of existing and potential new water uses on existing surface
7 water appropriators and ground water users shall be considered. An
8 integrated management plan shall include the following: (a) Clear
9 goals and objectives with a purpose of sustaining a balance between
10 water uses and water supplies so that the economic viability, social
11 and environmental health, safety, and welfare of the river basin,
12 subbasin, or reach can be achieved and maintained for both the near
13 term and the long term; (b) a map clearly delineating the geographic
14 area subject to the integrated management plan; (c) one or more of
15 the ground water controls authorized for adoption by natural
16 resources districts pursuant to section 46-739; (d) one or more of
17 the surface water controls authorized for adoption by the department
18 pursuant to section 46-716; and (e) a plan to gather and evaluate
19 data, information, and methodologies that could be used to implement
20 sections 46-715 to 46-717, increase understanding of the surface
21 water and hydrologically connected ground water system, and test the
22 validity of the conclusions and information upon which the integrated
23 management plan is based. The plan may also provide for utilization
24 of any applicable incentive programs authorized by law. Nothing in
25 the integrated management plan for a fully appropriated river basin,

1 subbasin, or reach shall require a natural resources district to
2 regulate ground water uses in place at the time of the department's
3 preliminary determination that the river basin, subbasin, or reach is
4 fully appropriated, but a natural resources district may voluntarily
5 adopt such regulations. The applicable natural resources district may
6 decide to include all water users within the district boundary in an
7 integrated management plan.

8 (3) In order to provide a process for economic
9 development opportunities and economic sustainability within a river
10 basin, subbasin, or reach, the integrated management plan shall
11 include clear and transparent procedures to track depletions and
12 gains to streamflows resulting from new, retired, or other changes to
13 uses within the river basin, subbasin, or reach. The procedures
14 shall:

15 (a) Utilize generally accepted methodologies based on the
16 best available information, data, and science;

17 (b) Include a generally accepted methodology to be
18 utilized to estimate depletions and gains to streamflows, which
19 methodology includes location, amount, and time regarding gains to
20 streamflows as offsets to new uses;

21 (c) Identify means to be utilized so that new uses will
22 not have more than a de minimis effect upon existing surface water
23 users or ground water users;

24 (d) Identify procedures the natural resources district
25 and the department will use to report, consult, and otherwise share

1 information on new uses, changes in uses, or other activities
2 affecting water use in the river basin, subbasin, or reach;

3 (e) Identify, to the extent feasible, potential water
4 available to mitigate new uses, including, but not limited to, water
5 rights leases, interference agreements, augmentation projects,
6 conjunctive use management, and use retirement;

7 (f) Develop, to the extent feasible, an outline of plans
8 after consultation with and an opportunity to provide input from
9 irrigation districts, public power and irrigation districts,
10 reclamation districts, municipalities, other political subdivisions,
11 the Game and Parks Commission, and other water users to make water
12 available for offset to enhance and encourage economic development
13 opportunities and economic sustainability in the river basin,
14 subbasin, or reach; and

15 (g) Clearly identify procedures that applicants for new
16 uses shall take to apply for approval of a new water use and
17 corresponding offset.

18 Nothing in this subsection shall require revision or
19 amendment of an integrated management plan approved on or before
20 August 30, 2009.

21 (4) The ground water and surface water controls proposed
22 for adoption in the integrated management plan pursuant to subsection
23 (1) of this section shall, when considered together and with any
24 applicable incentive programs, (a) be consistent with the goals and
25 objectives of the plan, (b) be sufficient to ensure that the state

1 will remain in compliance with applicable state and federal laws and
2 with any applicable interstate water compact or decree or other
3 formal state contract or agreement pertaining to surface water or
4 ground water use or supplies, and (c) protect the ground water users
5 whose water wells are dependent on recharge from the river or stream
6 involved and the surface water appropriators on such river or stream
7 from streamflow depletion caused by surface water uses and ground
8 water uses begun, in the case of a river basin, subbasin, or reach
9 designated as overappropriated or preliminarily determined to be
10 fully appropriated in accordance with section 46-713, after the date
11 of such designation or preliminary determination.

12 (5)(a) In any river basin, subbasin, or reach that is
13 designated as overappropriated, when the designated area lies within
14 two or more natural resources districts, the department and the
15 affected natural resources districts shall jointly develop a basin-
16 wide plan for the area designated as overappropriated. Such plan
17 shall be developed using the consultation and collaboration process
18 described in subdivision (b) of this subsection, shall be developed
19 concurrently with the development of the integrated management plan
20 required pursuant to subsections (1) through (4) of this section, and
21 shall be designed to achieve, in the incremental manner described in
22 subdivision (d) of this subsection, the goals and objectives
23 described in subsection (2) of this section. The basin-wide plan
24 shall be adopted after hearings by the department and the affected
25 natural resources districts.

1 (b) In any river basin, subbasin, or reach designated as
2 overappropriated and subject to this subsection, the department and
3 each natural resources district encompassing such river basin,
4 subbasin, or reach shall jointly develop an integrated management
5 plan for such river basin, subbasin, or reach pursuant to subsections
6 (1) through (4) of this section. Each integrated management plan for
7 a river basin, subbasin, or reach subject to this subsection shall be
8 consistent with any basin-wide plan developed pursuant to subdivision
9 (a) of this subsection. Such integrated management plan shall be
10 developed after consultation and collaboration with irrigation
11 districts, reclamation districts, public power and irrigation
12 districts, mutual irrigation companies, canal companies, and
13 municipalities that rely on water from within the affected area and
14 the Game and Parks Commission and that, after being notified of the
15 commencement of the plan development process, indicate in writing
16 their desire to participate in such process. In addition, the
17 department or the affected natural resources districts may include
18 designated representatives of other stakeholders. If agreement is
19 reached by all parties involved in such consultation and
20 collaboration process, the department and each natural resources
21 district shall adopt the agreed-upon integrated management plan. If
22 agreement cannot be reached by all parties involved, the integrated
23 management plan shall be developed and adopted by the department and
24 the affected natural resources district pursuant to sections 46-715
25 to 46-718 or by the Interrelated Water Review Board pursuant to

1 section 46-719.

2 (c) Any integrated management plan developed under this
3 subsection shall identify the overall difference between the current
4 and fully appropriated levels of development. Such determination
5 shall take into account cyclical supply, including drought, identify
6 the portion of the overall difference between the current and fully
7 appropriated levels of development that is due to conservation
8 measures, and identify the portions of the overall difference between
9 the current and fully appropriated levels of development that are due
10 to water use initiated prior to July 1, 1997, and to water use
11 initiated on or after such date.

12 (d) Any integrated management plan developed under this
13 subsection shall adopt an incremental approach to achieve the goals
14 and objectives identified under subdivision (2)(a) of this section
15 using the following steps:

16 (i) The first incremental goals shall be to address the
17 impact of streamflow depletions to (A) surface water appropriations
18 and (B) water wells constructed in aquifers dependent upon recharge
19 from streamflow, to the extent those depletions are due to water use
20 initiated after July 1, 1997, and, unless an interstate cooperative
21 agreement for such river basin, subbasin, or reach is no longer in
22 effect, to prevent streamflow depletions that would cause
23 noncompliance by Nebraska with such interstate cooperative agreement.
24 During the first increment, the department and the affected natural
25 resources districts shall also pursue voluntary efforts, subject to

1 the availability of funds, to offset any increase in streamflow
2 depletive effects that occur after July 1, 1997, but are caused by
3 ground water uses initiated prior to such date. The department and
4 the affected natural resources districts may also use other
5 appropriate and authorized measures for such purpose;

6 (ii) The department and the affected natural resources
7 districts may amend an integrated management plan subject to this
8 subsection (5) as necessary based on an annual review of the progress
9 being made toward achieving the goals for that increment;

10 (iii) During the ten years following adoption of an
11 integrated management plan developed under this subsection (5) or
12 during the ten years after the adoption of any subsequent increment
13 of the integrated management plan pursuant to subdivision (d)(iv) of
14 this subsection, the department and the affected natural resources
15 district shall conduct a technical analysis of the actions taken in
16 such increment to determine the progress towards meeting the goals
17 and objectives adopted pursuant to subsection (2) of this section.
18 The analysis shall include an examination of (A) available supplies
19 and changes in long-term availability, (B) the effects of
20 conservation practices and natural causes, including, but not limited
21 to, drought, and (C) the effects of the plan on reducing the overall
22 difference between the current and fully appropriated levels of
23 development identified in subdivision (5)(c) of this section. The
24 analysis shall determine whether a subsequent increment is necessary
25 in the integrated management plan to meet the goals and objectives

1 adopted pursuant to subsection (2) of this section and reduce the
2 overall difference between the current and fully appropriated levels
3 of development identified in subdivision (5)(c) of this section;

4 (iv) Based on the determination made in subdivision (d)
5 (iii) of this subsection, the department and the affected natural
6 resources districts, utilizing the consultative and collaborative
7 process described in subdivision (b) of this subsection, shall if
8 necessary identify goals for a subsequent increment of the integrated
9 management plan. Subsequent increments shall be completed, adopted,
10 and take effect not more than ten years after adoption of the
11 previous increment; and

12 (v) If necessary, the steps described in subdivisions (d)
13 (ii) through (iv) of this subsection shall be repeated until the
14 department and the affected natural resources districts agree that
15 the goals and objectives identified pursuant to subsection (2) of
16 this section have been met and the overall difference between the
17 current and fully appropriated levels of development identified in
18 subdivision (5)(c) of this section has been addressed so that the
19 river basin, subbasin, or reach has returned to a fully appropriated
20 condition.

21 (6) In any river basin, subbasin, or reach that is
22 designated as fully appropriated or overappropriated and whenever
23 necessary to ensure that the state is in compliance with an
24 interstate compact or decree or a formal state contract or agreement,
25 the department, in consultation with the affected districts, shall

1 forecast on an annual basis the maximum amount of water that may be
2 available from streamflow for beneficial use in the short term and
3 long term in order to comply with the requirement of subdivision (4)
4 (b) of this section. This forecast shall be made by January 1, 2008,
5 and each January 1 thereafter.

6 Sec. 3. Section 46-717, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 46-717 (1) In developing an integrated management plan,
9 the Department of Natural Resources and the affected natural
10 resources districts shall utilize the best scientific data and other
11 information available and shall review and consider any rules and
12 regulations in effect in any existing ground water management area
13 that encompasses all or part of the geographic area to be encompassed
14 by the plan. Consideration shall be given to the applicable
15 scientific data and other information relied upon by the department
16 in preparing the annual report required by section 46-713 and to
17 other types of data and information that may be deemed appropriate by
18 the department. The department, after seeking input from the affected
19 natural resources districts, shall specify by rule and regulation the
20 types of scientific data and other information that will be
21 considered in developing an integrated management plan. The natural
22 resources districts shall adopt similar rules and regulations
23 specifying the types of scientific data and other information
24 necessary for purposes of this section. Existing research, data,
25 studies, or any other relevant information which has been compiled by

1 or is in possession of other state or federal agencies, other natural
2 resources districts, and other political subdivisions within the
3 State of Nebraska shall be utilized. State agencies and political
4 subdivisions shall furnish information or data upon request of the
5 department or any affected natural resources district. Neither the
6 department nor the natural resources districts shall be required to
7 conduct new research or to develop new computer models to prepare an
8 integrated management plan, but such new research may be conducted or
9 new computer models developed within the limits of available funding
10 if the additional information is desired by the department or the
11 affected natural resources districts.

12 (2) During preparation of an integrated management plan
13 for a fully appropriated river basin, subbasin, or reach or of an
14 integrated management plan under subdivision (1)(b) of section
15 46-715, the department and the affected natural resources districts
16 shall consult with any irrigation district, reclamation district,
17 public power and irrigation district, mutual irrigation company,
18 canal company, or municipality that relies on water from the affected
19 river basin, subbasin, or reach, the Game and Parks Commission, and
20 with other water users and stakeholders as deemed appropriate by the
21 department or by the affected natural resources districts. They shall
22 also actively solicit public comments and opinions through public
23 meetings and other means.

24 Sec. 4. Original sections 46-714, 46-715, and 46-717,
25 Reissue Revised Statutes of Nebraska, are repealed.