

TASK FORCE MUNICIPAL SUBCOMMITTEE/LEAGUE OF MUNICIPALITIES
PROPOSAL (12-19-05)

Nebraska Revised Statutes § 46-740. Add new subsection (3). Unless established by a natural resources district prior to November 1, 2005, no integrated management plan, rule or order shall limit the use of ground water by a municipality within an area designated by the department as fully appropriated or over-appropriated, until January 1, 2026 *except* as specified in this section.

Until January 1, 2026, the minimum annual allocation for a municipality may be the greater of either: (1) the amount of water authorized by a permit issued pursuant to Neb. Rev. Stat. § 46-638 et seq.; or (2) the existing commercial, industrial and governmental uses *plus* a per capita allowance. The per capita allowance shall be based on the location of the municipality, increasing in equal increments from east to west and shall not be less than 200 gallons per person per day at 95°19'00" longitude and not less than 250 gallons per person per day at 104°04'00" longitude. Persons served by a municipality outside of its corporate limits shall be considered part of the municipality's population provided such service begins prior to January 1, 2026. Any new single commercial or single industrial developments following the effective date of this provision that results in the consumptive use of water prior to January 1, 2026 in an amount greater than 25,000,000 gallons annually prior to January 1, 2026, may shall be subject to the applicable natural resources district's controls adopted pursuant to Neb. Rev. Stat. § 46-715 relating to the amount of consumptive use in excess of 25,000,000 gallons annually. Prior to adoption of controls pursuant to Neb. Rev. Stat. § 46-715, the applicable natural resources district may require new commercial and industrial users to agree to controls to address the increase in consumptive use in excess of 25,000,000 gallons annually.

Prior to January 1, 2026, increases in the consumptive use of ground water by a municipality that result in a decrease in streamflow shall be addressed by the applicable natural resources district pursuant to controls and/or incentive programs adopted pursuant to Neb. Rev. Stat. § 46-715. Notwithstanding anything to the contrary herein, increases in the consumptive use of ground water due to higher per capita use than provided for above, due to consumptive use in excess of 25,000,000 gallons annually by new commercial and industrial users, or due to use in excess of the amount of water authorized by permit issued pursuant to Neb. Rev. Stat. § 46-638 et seq. shall be the responsibility of the municipality to address pursuant to controls and/or incentive programs adopted pursuant to Neb. Rev. Stat. 46-715. Any conservation of water or reduction in irrigated acres associated with municipal growth during the period between the effective date of this provision and January 1, 2026 shall accrue to the benefit of the natural resources district within which such municipality is located.

Any allocations to a municipality that have been made as of the effective date of this act shall remain in full force and effect unless changed by the appropriate natural resources district.

(4) ~~To be exempt from water use limitations as specified~~ In order to qualify for the exception stated in subsection (3) of this section, all municipalities of the first class and/or and larger shall file with the department and the natural resources district a

conservation plan as presently required by the Department of Health and Human Services pursuant to [need to cite to the statute or rule requiring the filing—maybe Lash can let us know the basis for the requirement]. Municipalities smaller than cities of the first class shall not be required to submit a conservation plan in order to qualify for the exception stated in subsection (3). ~~be exempt from water use limitations.~~