

Approved: 4-10-98  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson David Corbin at 12:20 p.m. on March 26, 1998 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:  
Jamie Clover Adams, The Governor's Staff

Others attending: See attached list

**Sub for HB 2950 - Regulation and permitting of swine facilities.**

Chairperson Corbin asked Staff to distribute a balloon of **HB 2950**. He said he had requested of Staff to prepare a balloon with all of the House floor amendments striped out (Attachment 1). The purpose of the meeting was to mark up the balloon, and they could propose any amendments that they thought were necessary. Staff reviewed the balloon and responded to questions.

Discussion was held on the seepage rate formula, Staff explained they had contacted both K-State and KDHE and they both agreed the current language in this section was appropriate. It would be up to KDHE to determine what was necessary to reach the seepage rate. Jamie Clover Adams from The Governor's Staff said KDHE had agreed to the language as it appeared in the balloon.

A motion was made by Senator Biggs to reinsert the language with respect to unplugged wells on page 14, lines 25 to 34. A substitute motion was made by Senator Tyson with respect to unplugged wells to amend line 30 by striking "in the vicinity of". The motion was seconded by Senator Pugh. The motion carried.

A motion was made by Senator Tyson to adopt the balloon version of **HB 2950** as already amended. Senator Schraad seconded the motion. The motion carried.

Senator Morris moved to amend page 7, in lines 19 to 22, which would read "All plans and specifications submitted to the department for new construction or new expansion of confined feed facilities may be; but are not required to be; prepared by a professional engineer or a consultant, approved by the department.". Senator Huelskamp seconded the motion. The motion carried.

A conceptual motion was offered by Senator Morris and seconded by Senator Tyson to amend page 17, line 26, the language in (A) would be amended to stipulate land erosion resulting from water runoff. The committee discussed if the language in the federal conservation laws might be appropriate in this area. The conceptual motion carried.

Senator Biggs moved and Senator Karr seconded an amendment on page 5, to strike all of the language in (2) (A), (B), and (6), these sections give the secretary discretion on to reduce separation distance requirements in some instances. Staff pointed out the language being struck in lines 26 through 31 is current law. Staff said the section being left in applies to all confined animal operations and would not apply if the permit applicant has obtained a written agreement from all owners of habitable structures within in the separation distance. The motion failed.

Senator Tyson moved and Senator Schraad seconded an amendment to strike all of the language in New Sec. 7 (a), on page 18, lines 32 through 35, this section provides for the secretary to adopt rules and regulations establishing standards for training and certifying swine facility operators or operators of swine waste management systems, and on page 19 strike all of New Sec. 10, lines 19 through 40, this sections set out the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 26, 1998.

conditions for issuance of a permit for a swine facility. Staff was asked if this was struck could the Secretary still adopted rules and regulations. Staff said there is a provision in the bill that would allow the secretary to adopt more stringent rules and regulations if need be. With the permission of Senator Tyson, Senator Morris made a substitute motion to amendment Senator Tyson's amendment in New Sec. 10, line 20 after facility, insert "that has an animal unit capacity of 1,000 or more". Motion carried

Chairperson Corbin had to leave for another obligation. In his absence Vice-Chairperson Morris was in the Chair.

Senator Karr moved and Senator Biggs seconded an amendment to make New Sec. 8 on page 18 applicable to "permitted" swine facilities. The motion carried.

Senator Pugh moved and Senator Biggs seconded to amended the bill on page 23, by striking lines 11 through 15. The motion carried.

Senator Pugh moved and Senator Huelskamp seconded to amended the bill on page 14 to provide an exception to (i) (4) if the groundwater is at a depth of 25-150 feet and the operator submits to the department engineering or field data that prove compliance with the requirements of subsection (i) (2). The motion carried.

The next meeting is scheduled for 12:15 p.m., on March 27, 1998.

The meeting adjourned at 12:25 p.m.



# Substitute for HOUSE BILL No. 2950

By Committee on Environment

3-11

10 AN ACT concerning livestock; relating to regulation of confined animal  
 11 feeding facilities; imposing restrictions on construction, operation and  
 12 expansion of certain facilities; relating to disposal of certain dead ani-  
 13 mals; providing for certain income tax credits; ~~Establishment of~~  
 14 ~~swine production facilities and slaughterhouses, procedure;~~  
 15 ~~[relating to KIF and KIR programs, relating to Kansas devel-~~  
 16 ~~opment finance authority bonds;] [prohibiting issuance of cer-~~  
 17 ~~tain permits for swine facilities;] amending K.S.A. 2-3302, 2-3305,  
 18 2-3307, ~~[17-5908], 74-5065~~ and 79-32,117 and K.S.A. 1997 Supp.  
 19 47-1219 and ~~[65-171d, 74-5066, 74-8902 and 74-8905]~~ and re-  
 20 pealing the existing sections; also reviving K.S.A. 2-3302, 2-3305, 2-  
 21 3307 and 79-32,117 and K.S.A. 1997 Supp. 65-171d and repealing  
 22 K.S.A. 2-3302, as amended by section 23 of this act, 2-3305, as  
 23 amended by section 25 of this act, 2-3307, as amended by section 26  
 24 of this act, and 79-32,117, as amended by section 29 of this act, and  
 25 K.S.A. 1997 Supp. 47-1219, as amended by section 27 of this act, and  
 26 65-171d, as amended by section 1 of this act.~~

and 65-171d

; also reviving K.S.A. 2-3302, 2-3305, 2-3307  
 and 79-32,117 and K.S.A. 1997 Supp. 65-171d and  
 repealing K.S.A. 2-3302, as amended by section  
 23 of this act, 2-3305, as amended by section  
 25 of this act, 2-3307, as amended by section  
 26 of this act, and 79-32,117, as amended by  
 section 29 of this act, and K.S.A. 1997 Supp.  
 47-1219, as amended by section 27 of this act,  
 and 65-171d, as amended by section 1 of this  
 act

*Be it enacted by the Legislature of the State of Kansas:*

28  
 29 Section 1. K.S.A. 1997 Supp. 65-171d is hereby amended to read as  
 30 follows: 65-171d. (a) For the purpose of preventing surface and subsur-  
 31 face water pollution and soil pollution detrimental to public health or to  
 32 the plant, animal and aquatic life of the state, and to protect beneficial  
 33 uses of the waters of the state and to require the treatment of sewage  
 34 predicated upon technologically based effluent limitations, the secretary  
 35 of health and environment shall make such rules and regulations, includ-  
 36 ing registration of potential sources of pollution, as may in the secretary's  
 37 judgment be necessary to: (1) Protect the soil and waters of the state from  
 38 pollution resulting from underground storage reservoirs of hydrocarbons  
 39 and liquid petroleum gas; (2) control the disposal, discharge or escape of  
 40 sewage as defined in K.S.A. 65-164 and amendments thereto, by or from  
 41 municipalities, corporations, companies, institutions, state agencies, fed-  
 42 eral agencies or individuals and any plants, works or facilities owned or  
 43 operated, or both, by them; and (3) establish water quality standards for

Senate Energy & Natural Resources

Attachment: /

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1 the waters of the state to protect their beneficial uses.

2 (b) The secretary of health and environment may adopt by reference  
3 any regulation relating to water quality and effluent standards promul-  
4 gated by the federal government pursuant to the provisions of the federal  
5 clean water act and amendments thereto, as in effect on January 1, 1989,  
6 which the secretary is otherwise authorized by law to adopt.

7 (c) For the purposes of this act, including K.S.A. 65-161 through  
8 65-171h and sections 2 through 22, and amendments thereto, and rules  
9 and regulations adopted pursuant thereto:

10 (1) "Pollution" means: (A) Such contamination or other alteration of  
11 the physical, chemical or biological properties of any waters of the state  
12 as will or is likely to create a nuisance or render such waters harmful,  
13 detrimental or injurious to public health, safety or welfare, or to the plant,  
14 animal or aquatic life of the state or to other designated beneficial uses;  
15 or (B) such discharge as will or is likely to exceed state effluent standards  
16 predicated upon technologically based effluent limitations.

17 (2) "Confined feeding facility" means any lot, pen, pool or pond: (A)  
18 Which is used for the confined feeding of animals or fowl for food, fur  
19 or pleasure purposes; (B) which is not normally used for raising crops;  
20 and (C) in which no vegetation intended for animal food is growing.

21 (3) "Animal unit" means a unit of measurement calculated by adding  
22 the following numbers: The number of beef cattle weighing more than  
23 700 pounds multiplied by 1.0; plus the number of cattle weighing less  
24 than 700 pounds multiplied by 0.5; plus the number of mature dairy cattle  
25 multiplied by 1.4; plus the number of swine weighing more than 55  
26 pounds multiplied by 0.4; plus the number of swine weighing 55 pounds  
27 or less multiplied by 0.1; plus the number of sheep or lambs multiplied  
28 by 0.1; plus the number of horses multiplied by 2.0; plus the number of  
29 turkeys multiplied by 0.018; plus the number of laying hens or broilers,  
30 if the facility has continuous overflow watering, multiplied by 0.01; plus  
31 the number of laying hens or broilers, if the facility has a liquid manure  
32 system, multiplied by 0.033; plus the number of ducks multiplied by 0.2.  
33 However, each head of cattle will be counted as one full animal unit for  
34 the purpose of determining the need for a federal permit. "Animal unit"  
35 also includes the number of swine weighing 55 pounds or less multiplied  
36 by 0.1 for the purpose of determining applicable requirements for new  
37 construction of a confined feeding facility for which a permit or registra-  
38 tion has not been issued before January 1, 1998, and for which an appli-  
39 cation for a permit or registration and plans have not been filed with the  
40 secretary of health and environment before January 1, 1998, or for the  
41 purpose of determining applicable requirements for expansion of such  
42 facility. However, each head of swine weighing 55 pounds or less shall be  
43 counted as 0.0 animal unit for the purpose of determining the need for

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1 a federal permit.

2 (4) "Animal unit capacity" means the maximum number of animal  
3 units which a confined feeding facility is designed to accommodate at any  
4 one time.

5 (5) "Habitable structure" means any of the following structures which  
6 is occupied or maintained in a condition which may be occupied *and*  
7 *which, in the case of a confined feeding facility for swine, is owned by a*  
8 *person other than the operator of such facility:* A dwelling, church, school,  
9 adult care home, medical care facility, child care facility, library, com-  
10 munity center, public building, office building or licensed food service or  
11 lodging establishment.

12 (6) "*Wildlife refuge*" means *Cheyenne Bottoms wildlife management*  
13 *area, Cheyenne Bottoms preserve and Flint Hills, Quivera, Marais des*  
14 *Cygnets and Kirwin national wildlife refuges.*

15 (d) In adopting rules and regulations, the secretary of health and en-  
16 vironment, taking into account the varying conditions that are probable  
17 for each source of sewage and its possible place of disposal, discharge or  
18 escape, may provide for varying the control measures required in each  
19 case to those the secretary finds to be necessary to prevent pollution. If  
20 a freshwater reservoir or farm pond is privately owned and where com-  
21 plete ownership of land bordering the reservoir *or pond* is under common  
22 private ownership, such freshwater reservoir or farm pond shall be ex-  
23 empt from water quality standards except as it relates to water discharge  
24 or seepage from the reservoir *or pond* to waters of the state, either surface  
25 or groundwater, or as it relates to the public health of persons using the  
26 reservoir or pond or waters therefrom.

27 (e) (1) Whenever the secretary of health and environment or the  
28 secretary's duly authorized agents find that the soil or waters of the state  
29 are not being protected from pollution resulting from underground stor-  
30 age reservoirs of hydrocarbons and liquid petroleum gas or that storage  
31 or disposal of salt water not regulated by the state corporation commission  
32 or refuse in any surface pond is causing or is likely to cause pollution of  
33 soil or waters of the state, the secretary or the secretary's duly authorized  
34 agents shall issue an order prohibiting such underground storage reservoir  
35 or surface pond. Any person aggrieved by such order may within 15 days  
36 of service of the order request in writing a hearing on the order.

37 (2) Upon receipt of a timely request, a hearing shall be conducted in  
38 accordance with the provisions of the Kansas administrative procedure  
39 act.

40 (3) Any action of the secretary pursuant to this subsection is subject  
41 to review in accordance with the act for judicial review and civil enforce-  
42 ment of agency actions.

43 (f) The secretary may adopt rules and regulations establishing fees

1 for the following services:

2 (1) Plan approval, monitoring and inspecting underground or buried  
3 petroleum products storage tanks, for which the annual fee shall not ex-  
4 ceed \$5 for each tank in place;

5 (2) permitting, monitoring and inspecting salt solution mining oper-  
6 ators, for which the annual fee shall not exceed \$1,950 per company; and

7 (3) permitting, monitoring and inspecting hydrocarbon storage well-  
8 and well systems, for which the annual fee shall not exceed \$1,875 per  
9 company.

10 (g) Prior to any new construction of a confined feeding facility with  
11 an animal unit capacity of 300 to 999, such facility shall register with the  
12 secretary of health and environment. Facilities with a *capacity* of less than  
13 300 animal units may register with the secretary. Any such registration  
14 shall be accompanied by a \$25 fee. Within 30 days of receipt of such  
15 registration, the department of health and environment shall identify any  
16 significant water pollution potential or separation distance violations pur-  
17 suant to subsection (h). If there is identified a significant water pollution  
18 potential, such facility shall be required to obtain a permit from the sec-  
19 retary. If there is no water pollution potential posed by a facility with an  
20 animal unit capacity of less than 300, the secretary may certify that no  
21 permit is required. If there is no water pollution potential nor any viola-  
22 tion of separation distances posed by a facility ~~other than a facility for~~  
23 ~~swine,~~ with an animal unit capacity of 300 to 999, the secretary shall  
24 certify that no permit is required and that there are no certification con-  
25 ditions pertaining to separation distances. If a separation distance viola-  
26 tion is identified, the secretary may reduce the separation distance in  
27 accordance with subsection (i) and shall certify any such reduction of  
28 separation distances.

29 (h) (1) Any new construction or new expansion of a confined feeding  
30 facility, *other than a confined feeding facility for swine*, shall meet or  
31 exceed the following requirements in separation distances from any hab-  
32 itable structure *in existence when the application for a permit is submit-*  
33 *ted:*

34 (1) ~~1320~~ (A) 1,320 feet for facilities with an animal unit capacity of  
35 300 to 999; and

36 (2) ~~4000~~ (B) 4,000 feet for facilities with an animal unit capacity of  
37 1,000 or more.

38 (2) *A confined feeding facility for swine shall meet or exceed the fol-*  
39 *lowing requirements in separation distances from any habitable structure*  
40 *or city, county, state or federal park in existence when the application for*  
41 *a permit is submitted:*

42 (A) 1,320 feet for facilities with an animal unit capacity of 300 to 999;

43 (B) 4,000 feet for facilities with an animal unit capacity of 1,000 to

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3,724;

(C) 4,000 feet for expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion is within the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility; and

(D) 5,000 feet for: (i) Construction of new facilities with an animal unit capacity of 3,725 or more; or (ii) expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion extends outside the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility.

(3) Any construction of new confined feeding facilities for swine shall meet or exceed the following requirements in separation distances from any wildlife refuge:

(A) 5,000 feet for facilities with an animal unit capacity of 1,000 to 3,724; and

(B) 6,000 feet for facilities with an animal unit capacity of 3,725 or more.

(i) (1) The separation distance requirements of ~~subsection (h)~~ ~~subsections (h)(1) and (2)~~ shall not apply if ~~such person newly constructing or newly expanding a confined feeding facility~~ the applicant for a permit obtains a written agreement from all owners of habitable structures which are within the separation distance stating such owners are aware of ~~such~~ the construction or expansion and have no objections to such construction or expansion. The written agreement shall be filed in the register of deeds office of the county in which the habitable structure is located.

(2) (A) The secretary may reduce the separation distance requirements ~~if: (1) of subsection (h)(1) if:~~ (i) No substantial objection from owners of habitable structures within the separation distance is received in response to public notice; or ~~(2)~~ (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances.

(B) The secretary may reduce the separation distance requirements of subsection (h)(2)(A) or (B) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (1); (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances; or (iii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(C) The secretary may reduce the separation distance requirements of subsection (h)(2)(C) or (D) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in re-

1 sponse to notice given in accordance with subsection (l); or (ii) the sec-  
2 retary determines that technology exists that meets or exceeds the effect  
3 of the required separation distance and the facility will be using such  
4 technology.

5 (j) (1) The separation distances required pursuant to subsection  
6 (h)(1) shall not apply to:

7 ~~(1)~~ (A) Confined feeding facilities which ~~are~~ were permitted or cer-  
8 tified by the secretary on the effective date of this act July 1, 1994;

9 ~~(2)~~ (B) confined feeding facilities which exist on the effective date of  
10 this act and register existed on July 1, 1994, and registered with the sec-  
11 retary before July 1, 1996; or

12 ~~(3)~~ (C) expansion of a confined feeding facility, including any expan-  
13 sion for which an application is pending on the effective date of this act,  
14 if: ~~(A)~~ was pending on July 1, 1994, if: (i) In the case of a facility with an  
15 animal unit capacity of 1,000 or more prior to the effective date of this  
16 act July 1, 1994, the expansion is located at a distance not less than the  
17 distance between the facility and the nearest habitable structure prior to  
18 the expansion; or ~~(B)~~ (ii) in the case of a facility with an animal unit  
19 capacity of less than 1,000 prior to the effective date of this act and July  
20 1, 1994, the expansion is located at a distance not less than the distance  
21 between the facility and the nearest habitable structure prior to the ex-  
22 pansion and the animal unit capacity of the facility after expansion does  
23 not exceed 2,000.

24 (2) The separation distances required pursuant to subsections  
25 (h)(2)(A) and (B) shall not apply to:

26 (A) Confined feeding facilities for swine which were permitted or cer-  
27 tified by the secretary on July 1, 1994;

28 (B) confined feeding facilities for swine which existed on July 1, 1994,  
29 and registered with the secretary before July 1, 1996; or

30 (C) expansion of a confined feeding facility which existed on July 1,  
31 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000  
32 or more prior to July 1, 1994, the expansion is located at a distance not  
33 less than the distance between the facility and the nearest habitable struc-  
34 ture prior to the expansion; or (ii) in the case of a facility with an animal  
35 unit capacity of less than 1,000 prior to July 1, 1994, the expansion is  
36 located at a distance not less than the distance between the facility and  
37 the nearest habitable structure prior to the expansion and the animal unit  
38 capacity of the facility after expansion does not exceed 2,000.

39 (3) The separation distances required pursuant to subsections  
40 (h)(2)(C) and (D) and (h)(3) shall not apply to the following, as deter-  
41 mined in accordance with subsections (a), (e) and (f) of section 2 and  
42 amendments thereto:

43 (A) Expansion of an existing confined feeding facility for swine if an

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1 application for such expansion has been received by the department before  
2 March 1, 1998; and

3 (B) construction of a new confined feeding facility for swine if an  
4 application for such facility has been received by the department before  
5 March 1, 1998.

6 (k) The separation distances required by this section for confined  
7 feeding facilities for swine shall be determined from the exterior perimeter  
8 of any buildings utilized for housing swine, any lots containing swine, any  
9 swine waste retention lagoons or ponds or other manure or wastewater  
10 storage structures and any additional areas designated by the applicant  
11 for future expansion. Such separation distances shall not apply to offices,  
12 dwellings and feed production facilities of a confined feeding facility for  
13 swine.

14 (l) The applicant shall give the notice required by subsections (i)(2)(B)  
15 and (C) by certified mail, return receipt requested, to all owners of hab-  
16 itable structures within the separation distance. The applicant shall sub-  
17 mit to the department evidence, satisfactory to the department, that such  
18 notice has been given.

19 ~~(k)~~ (m) All plans and specifications submitted to the department for  
20 new construction or new expansion of confined feeding facilities may be,  
21 but are not required to be, prepared shall be approved by a licensed  
22 professional engineer or a consultant, *approved by K D H E*

23 New Sec.-2. As used in sections 2 through 22, and amendments  
24 thereto, except as the context otherwise requires:

25 (a) "Application" means:

26 (1) The applicable fee, all properly completed and executed docu-  
27 ments furnished by the department and any additional required docu-  
28 ments or information necessary for obtaining a permit, including but not  
29 limited to a registration, construction plans, specifications and any re-  
30 quired manure management, nutrient utilization, emergency response,  
31 odor control, facility closure and dead swine handling plans; or

32 (2) registration with the department before July 1, 1996, which has  
33 not been acted on by the department before March 1, 1998.

34 (b) "Best available technology for swine facilities" means the best  
35 available technology for swine facilities, as determined by the department  
36 in consultation with Kansas state university, owners and operators of per-  
37 mitted swine facilities and other appropriate persons, entities and state  
38 and federal agencies.

39 (c) "Best management practices for swine facilities" means those  
40 schedules of activities, maintenance procedures and other management  
41 practices of a swine facility that are designed to minimize or prevent  
42 pollution of the air, water or soil or to control odor, flies, rodents and  
43 other pests, as determined by the department in consultation with Kansas



1 state university, owners and operators of permitted swine facilities and  
2 other appropriate persons, entities and state and federal agencies.

3 (d) "Department" means the department of health and environment.

4 (e) "Existing swine facility" means any swine facility in existence and  
5 registered with or permitted by the secretary before the effective date of  
6 this act.

7 (f) "In existence" means constructed or in place and capable of con-  
8 fining, feeding and maintaining swine. If the department has taken final  
9 formal administrative action requiring abandonment of a swine facility or  
10 cessation of a swine facility operation for reasons other than separation  
11 distances, the department shall conclude the past facility or operation was  
12 illegal and not eligible to continue previously legal acts. A facility for which  
13 the department has taken such an action shall be considered a new swine  
14 facility for the purpose of separation distance requirements.

15 (g) "Permit" means a water pollution control permit for a swine fa-  
16 cility pursuant to K.S.A. 65-166a and 65-171d, and amendments thereto.

17 (h) "Secretary" means the secretary of health and environment.

18 (i) "Significant water pollution potential" means any significant po-  
19 tential for pollution of groundwater or surface waters as defined by rules  
20 and regulations adopted by the secretary.

21 (j) "Swine facility" means a confined feeding facility for swine.

22 (k) "Swine waste management system" means all constructed, exca-  
23 vated or natural receptacles used for the collection, conveyance, storage  
24 or treatment of manure or wastewater, or both, from a swine facility,  
25 including swine containment buildings.

26 (l) "Swine waste retention lagoon or pond" means an excavated or  
27 diked structure, or a natural depression, provided for or used by a swine  
28 facility for the purpose of containing or detaining swine wastes or other  
29 wastes generated in the production of swine.

30 New Sec. 3. (a) After receipt of an application for a permit for con-  
31 struction of a new swine facility or expansion of an existing swine facility,  
32 the department shall prepare and publish in the Kansas register:

33 (1) A document containing all the requirements with which the swine  
34 facility must comply upon approval by the department and a brief expla-  
35 nation of the statutory or regulatory provisions on which the requirements  
36 are based;

37 (2) any determinations of, and explanations for, departures from any  
38 requirements otherwise applicable to the facility, including citations to  
39 the applicable guidelines, development documents or authorities for the  
departures; and

40 (3) a fact sheet containing the following information required in the  
41 application:

42 (A) A detailed description of the location of the facility, including the  
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1 section, township and range, with reference to any applicable compre-  
2 hensive land use plan or zoning requirements;

3 (B) a map showing water wells located on the facility's property, land-  
4 marks in the vicinity and nearby streams and bodies of water;

5 (C) a description of the facility, including the swine waste manage-  
6 ment system and facilities and any areas designated by the applicant for  
7 future expansion as provided for by subsection (k) of K.S.A. 65-171d and  
8 amendments thereto;

9 (D) a nutrient application plan, if required by section 6, including  
10 base-line soil tests for a new facility or new field to which wastes will be  
11 applied, and a crop rotation plan; and

12 (E) a statement that the applicant will consult with the county exten-  
13 sion agent or a qualified soil scientist or agronomist to ensure that correct  
14 agronomic rates of application are used and records of those consultations  
15 will be maintained by the applicant.

16 (b) The secretary shall establish by rules and regulations the form of  
17 public notice that is required for receipt of a completed application for a  
18 permit for construction of a new swine facility or expansion of an existing  
19 swine facility. Such notice shall be by publication in a newspaper of gen-  
20 eral circulation in the county where the facility is or will be located, direct  
21 notification of residents in the vicinity of the facility and notification of  
22 local government officials.

*or individual trained in crop protection*

23 (c) The public notice required by subsection (b) shall contain the  
24 following:

25 (1) The name, address and telephone number of the official at the  
26 department who is responsible for processing the application and the  
27 locations where further information and copies of documents can be re-  
28 viewed, which locations shall be in the county where the facility is or will  
29 be located;

30 (2) the names and addresses of the operator of the facility and the  
31 owner of the property where the facility is or will be located;

32 (3) a statement of the tentative determination of the department to  
33 approve the issuance of the permit;

34 (4) a brief description of the procedures and schedule for making the  
35 final determination of approval or disapproval;

36 (5) notice of availability of the document and fact sheet prepared  
37 pursuant to subsection (a);

38 (6) a request for public comment on the tentative decision to approve  
39 the issuance of the permit and the requirements for the facility described  
40 in the document prepared pursuant to subsection (a)(1); and

41 (7) a description of the procedures for providing public comment.

42 (d) The department shall provide a period of 30 days from the date  
43 of the public notice required by subsection (b) for submission of public

1 comments.

2 (e) The department, in its discretion, may hold a public meeting or  
3 hearing within 30 days after the conclusion of the comment period re-  
4 quired by subsection (d) to receive further public comment if the de-  
5 partment determines that significant environmental or technical concerns  
6 or issues have been raised during the comment period. The department  
7 shall hold a public hearing within 30 days after the conclusion of the  
8 comment period required by subsection (d) to receive further public com-  
9 ment if a hearing is requested by any owner of a habitable structure within  
10 the applicable separation distance. Public meetings and hearings held  
11 pursuant to this subsection shall address only those matters for which the  
12 secretary has authority.

13 (f) The department shall not make a determination to approve the  
14 issuance of a permit until completion of the procedures required by this  
15 section. The department may disapprove at any time the issuance of a  
16 permit without completing the procedures required by this section.

17 (g) The department shall make the determination to approve or dis-  
18 approve the issuance of a permit not later than 180 days after the com-  
19 pleted application is filed with the department.

20 (h) An operator of a swine facility shall submit a registration or ap-  
21 plication to the department before initiating construction or operation of  
22 either a swine facility or a swine waste management system. When the  
23 department finds no permit is required, construction or operation of the  
24 swine facility may be initiated upon issuance, by the department, of a  
25 certification. When the department determines a permit or permit mod-  
26 ification is required for the swine facility, construction may be initiated  
27 upon approval of the application, construction plans, specifications and  
28 swine waste management plan. Operation and stocking of a swine facility  
29 for which a permit is required shall not be initiated until the department  
30 issues the permit. An operator of a swine facility for which a permit mod-  
31 ification is required because of a proposed facility expansion shall not  
32 increase the number of swine at the facility beyond that authorized by  
33 the permit until the department issues the modified permit.

34 New Sec. 4. (a) The department shall not approve a permit for con-  
35 struction of a new swine facility or expansion of an existing swine facility  
36 unless the swine waste management system for the facility:

37 (1) Is located in such a manner as to prevent impairment of surface  
38 waters and groundwaters, except where consistent with the requirements  
39 of this section;

40 (2) is located outside any 100-year flood plain unless procedures and  
41 precautions are employed to flood-proof the facilities;

42 (3) except as provided by subsection (c), is located: (A) Not less than  
43 500 feet from any surface water if the facility has an animal unit capacity

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of 3,725 or more; (B) not less than 250 feet from any surface water if the facility has an animal unit capacity of 1,000 to 3,724; or (C) not less than 100 feet from any surface water if the facility has an animal unit capacity of under 1,000;

(4) except as provided by subsection (d), is located not less than 250 feet from any private drinking water well that is in active use; and

(5) is located not less than 1,000 feet from any publicly owned drinking water well that is in active use.

(b) The separation distances required pursuant to subsection (a) shall not apply to:

(1) Any swine facility that, on the effective date of this act, holds a valid permit issued by the secretary;

(2) swine facilities for which an application has been received before the effective date of this act; or

(3) expansion of a swine facility if an application for the expansion has been received before the effective date of this act.

(c) The separation distances required by subsection (a)(3) shall not apply to any freshwater reservoir or farm pond that is privately owned if complete ownership of land bordering the reservoir or pond is under common private ownership. Such separation distances shall apply to any waters that flow from such reservoir or pond. The secretary shall have the authority provided by subsections (d) and (e) of K.S.A. 65-171d and amendments thereto with respect to any such reservoir or pond as necessary to protect the public health, the soils or waters of the state and wildlife.

(d) The separation distance required by subsection (a)(4) shall not apply to any private drinking water well that is located within the perimeter from which separation distances are determined pursuant to subsection (k) of K.S.A. 65-171d and amendments thereto but, if the facility has an animal unit capacity of 3,725 or more, the facility operator shall test waters from such well and annually report the test results to the department.

New Sec. 5. (a) Each applicant for a permit for construction of a new swine facility having an animal unit capacity of 1,000 or more or expansion of an existing swine facility to an animal unit capacity of 1,000 or more shall submit with the application for a permit a manure management plan and shall comply with the plan when the permit is issued by the department.

(b) Each existing swine facility that has an animal unit capacity of 1,000 or more on the effective date of this act shall submit to the department, within one year after the effective date of this act, a manure management plan for approval by the department and shall comply with the plan as soon thereafter as practicable.

(c) Each manure management plan required by this section shall de-

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1 scribe the methods for, and account for, the disposal of all manure and  
2 wastewater generated by the swine facility. If the methods of disposal of  
3 the manure ~~and~~ wastewater include land application, the facility also shall  
4 prepare a nutrient utilization plan, as required by subsection (b) of section  
5 6, and amendments thereto.

or

6 (d) Each swine facility that is required by this section to have a ma-  
7 nure management plan shall amend such plan whenever warranted by  
8 changes in the facility or in other conditions affecting the facility.

9 (e) The secretary shall establish by rules and regulations the circum-  
10 stances under which amendments to manure management plans must be  
11 submitted to the department for the department's approval.

12 (f) Each swine facility that is required by this section to have a manure  
13 management plan shall maintain such plan in accordance with section 9,  
14 and amendments thereto.

15 (g) As a condition of approval of any permit for a swine facility that  
16 is required by this section to have a manure management plan, the de-  
17 partment shall require that, if the operator of the facility does not own  
18 the swine at the facility, the operator shall execute with the owner of the  
19 swine a contract that specifies responsibility for management of the ma-  
20 nure and wastewater generated at the facility.

21 (h) If a swine facility is required by this section to have a manure  
22 management plan and such facility generates manure or wastewater, or  
23 both, that is sold or given to a person who is not employed by the facility  
24 and is to be disposed of by means other than land application on areas  
25 covered by the facility's nutrient utilization plan, the department shall  
26 require that:

27 (1) The facility shall maintain a log of removal of the manure or waste-  
28 water from the facility and such log shall contain the following:

29 (A) The name and address of each person to whom the manure or  
30 wastewater is sold or given and of each hauler of the manure or waste-  
31 water;

32 (B) the date of the removal of the manure or wastewater; and

33 (C) the volume of the removed manure or wastewater; and

34 (2) the facility shall provide to the hauler of the removed manure or  
35 wastewater the most recent manure nutrient analysis conducted pursuant  
36 to subsection (c) of section 6 and amendments thereto, if the removed  
37 manure or wastewater are to be land applied.

38 (i) (1) Except as provided by subsection (i)(5), if a swine waste re-  
39 tention lagoon or pond is utilized by a swine facility that has an animal  
unit capacity of 3,725 or more and is located where the groundwater is  
at a depth of 25 feet or less from the underneath side of the liner of the  
42 lagoon or pond:

43 (A) The sides and bottom of such lagoon or pond shall be lined with:

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2 ~~(i) A compacted soil liner of  $3.6 \times 10^{-6}$  cm/sec permeability at 95% standard proctor density plus 2% optimum moisture ( $\frac{1}{8}$  inch per day maximum seepage rate); or~~

with a minimum depth of one foot and maximum seepage rate of 1/8 inch per day

4 ~~(ii) ~~A synthetic liner having a thickness of 40 mil on top of a compacted soil liner of  $7.3 \times 10^{-6}$  cm/sec permeability at 95% standard proctor density plus 2% optimum moisture ( $\frac{1}{4}$  inch per day maximum seepage rate).~~~~

an impermeable liner on top of a compacted soil liner with a minimum depth of one foot and maximum seepage rate of 1/4 inch per day

7 and  
8 (B) the facility operator shall be required to install not fewer than  
9 one upstream and two downstream groundwater monitoring wells for  
10 each such single cell lagoon or pond and for the primary cell of each such  
11 multiple cell lagoon or pond, or employ equivalent technology, as pro-  
12 vided by rules and regulations of the secretary.

13 (2) Except as provided by subsections (i)(3),(4) and (5), if a swine  
14 waste retention lagoon or pond is utilized by a swine facility that has an  
15 animal unit capacity of 3,725 or more and is located where the ground-  
16 water is at a depth of more than 25 feet from the underneath side of the  
17 liner of the lagoon or pond, the sides and bottom of such lagoon or pond  
18 shall be lined with:

19 (A) A compacted soil liner of  $3.6 \times 10^{-6}$  cm/sec permeability at 95%  
20 standard proctor density plus 2% optimum moisture ( $\frac{1}{8}$  inch per day  
21 maximum seepage rate); or

with a minimum depth of one foot and maximum seepage rate of 1/8 inch per day

22 (B) ~~A synthetic liner having a thickness of 40 mil on top of a com-  
23 pacted soil liner of  $7.3 \times 10^{-6}$  cm/sec permeability at 95% standard proctor  
24 density plus 2% optimum moisture ( $\frac{1}{4}$  inch per day maximum seepage  
25 rate).~~

an impermeable liner on top of a compacted soil liner with a minimum depth of one foot and maximum seepage rate of 1/4 inch per day

26 (3) If the soil compaction requirements of subsection (i)(2) cannot be  
27 met for one or more waste retention lagoons or ponds to which such  
28 subsection applies:

compacted soil liner

29 (A) The sides and bottom of such lagoons or ponds shall be lined with  
30 ~~A synthetic liner having a thickness of 40 mil~~ on top of a soil liner com-  
31 pacted to the extent possible; and

an impermeable liner

32 (B) if the groundwater is at a depth of 150 feet or less from the  
33 surface of the land at the place where such lagoons or ponds are located,  
34 the facility operator shall be required to install not fewer than one up-  
35 stream and two downstream groundwater monitoring wells for each such  
36 single cell lagoon or pond and for the primary cell of each such multiple  
37 cell lagoon or pond, or employ equivalent technology, as provided by rules  
38 and regulations of the secretary.

39 (4) Any swine waste retention lagoons or ponds existing on the effec-  
40 tive date of this act and utilized by a swine facility that has an animal unit  
41 capacity of 3,725 or more shall not be required to meet the requirements  
42 of subsection (i)(1), (2) or (3) but the facility operator shall be required  
43 to install, before January 1, 2000, not fewer than one upstream and two



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1 downstream groundwater monitoring wells for each such single cell la-  
2 goon or pond and for the primary cell of each such multiple cell lagoon  
3 or pond, or employ equivalent technology, as provided by rules and reg-  
4 ulations of the secretary, if the groundwater is at a depth of 150 feet or  
5 less from the surface of the land at the place where such lagoons or ponds  
6 are located.

7 (5) On or after January 1, 2000, if the secretary determines, based on  
8 scientific evidence, that the standards imposed by subsections (i)(1), (2),  
9 (3) and (4) are not required to protect the groundwater, the secretary  
10 may increase the animal unit capacity at which such standards apply.

11 (j) The secretary may require installation and sampling of ground-  
12 water monitoring wells in the vicinity of any swine waste retention lagoon  
13 or pond when the secretary determines necessary, or the secretary may  
14 allow the use of equivalent technology, as provided by rules and regula-  
15 tions of the secretary. The locations and design of such monitoring wells  
16 shall be subject to approval by the secretary.

17 (k) The secretary may require, as a condition of issuance or renewal  
18 of a permit for a swine facility having an animal unit capacity of 1,000 or  
19 more, that trees be planted as vegetative screening to control odor.

20 (l) The secretary may adopt by rules and regulations such additional  
21 standards for location and construction of swine waste retention lagoons  
22 and ponds utilized by swine facilities having an animal unit capacity of  
23 1,000 or more as the secretary determines necessary to protect the waters  
24 and soils of the state and the public health.

25 ~~[(m) Before issuing any permit for a swine facility that will util-  
26 ize a swine waste retention lagoon or pond or approving any plans  
27 for a swine waste retention lagoon or pond, the department shall  
28 make a determination, after consultation with the state corpora-  
29 tion commission, that there is no unplugged oil or gas well in the  
30 vicinity of the planned location of such lagoon or pond. If, during  
31 construction of any swine waste retention lagoon or pond, an un-  
32 plugged well is discovered at the location of such lagoon or pond,  
33 the facility owner and the facility operator shall have the duty to  
34 report the discovery to the department immediately.]~~

35 New Sec. 6. (a) The department of health and environment shall not  
36 issue or renew a permit for any swine facility that applies manure or  
37 wastewater to land unless:

38 (1) The land application process complies with the applicable  
39 requirements of this section; and

40 (2) the nutrient utilization plan required by this section is approved  
41 by the secretary of agriculture.

42 (b) (1) If the manure management plan prepared pursuant to section  
43 5 and amendments thereto provides for land application of manure or

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1 wastewater:

2 (A) The applicant for a permit for construction of a new swine facility  
3 or for expansion of an existing swine facility shall submit with the appli-  
4 cation for a permit a nutrient utilization plan on a form prescribed by the  
5 secretary of agriculture and shall comply with the plan when the permit  
6 is issued by the department of health and environment; and

7 (B) the operator of an existing swine facility shall submit to the de-  
8 partment of health and environment, within six months after the effective  
9 date of this act, a nutrient utilization plan on a form prescribed by the  
10 secretary of agriculture, for approval by the ~~department~~ of agriculture,  
11 and shall comply with the plan by a date established by the secretary of  
12 agriculture.

secretary

13 (2) Each nutrient utilization plan shall address site-specific conditions  
14 for land application of manure, wastewater and other nutrient sources,  
15 comply with the requirements of this section and contain, at minimum,  
16 the following:

17 (A) A site map of all land application areas, including section, town-  
18 ship and range;

19 (B) crop rotations on the land application areas;

20 (C) annual records of soil tests, manure nutrient analyses, and cal-  
21 culations required by subsection (c);

22 (D) nutrient budgets for the land application areas;

23 (E) rates, methods, frequency and timing of application of manure,  
24 wastewater and other nutrient sources to the land application areas;

25 (F) the amounts of nitrogen and phosphorus applied to the land ap-  
26 plication areas;

27 (G) precipitation records and the amounts of irrigation and other wa-  
28 ter applied;

29 (H) records of inspections and preventive maintenance of equipment  
30 required by subsection (f)(6);

31 (I) copies of all landowner agreements for land that is not owned by  
32 the swine facility and is scheduled to receive manure or wastewater;

33 (J) names of employees and contractors whom the operator of the  
34 swine facility has identified pursuant to subsection (f)(7) to supervise the  
35 process of transferring manure or wastewater to land application equip-  
36 ment and the process of land application;

37 (K) records of training of all personnel who supervise and conduct  
38 the land application of manure or wastewater, as required by subsection  
39 (f)(7); and

40 (L) any other information required by the secretary of agriculture to  
41 facilitate approval.

A

(3) (A) ~~Each~~ swine facility shall amend its nutrient utilization plan  
whenever warranted by changes in the facility, soil test results or other

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conditions affecting the facility.

(B) Amendments to the nutrient utilization plan must be approved by the secretary of agriculture.

(4) Each swine facility shall maintain its nutrient utilization plan in accordance with section 9 and amendments thereto.

(c) (1) Each swine facility that has a manure management plan that includes land application of manure or wastewater shall:

(A) Conduct soil tests, including but not limited to tests for nitrogen, phosphate, chloride, copper and zinc, on the land application areas prior to preparation of the nutrient utilization plan and at least annually thereafter, or as often as required by best available soil science and standards relative to the soils of, and crops to be grown on, the land application areas or as required by the secretary of agriculture; and

(B) include the results of such tests in its nutrient utilization plan.

(2) Each swine facility that has a manure management plan that includes land application of manure or wastewater or sells or gives manure or wastewater to third persons pursuant to subsection (h) of section 5 and amendments thereto shall:

(A) Conduct manure nutrient analyses of its manure and wastewater prior to preparation of its nutrient utilization plan and at least every two years thereafter; and

(B) include the results of such analyses in its nutrient utilization plan.

(3) Each swine facility that has a manure management plan that includes land application of manure or wastewater shall:

(A) Compare the manure nutrient analyses required by subsection (c)(2) with the soil tests required by subsection (c)(1) to calculate needed fertility and application rates for pasture production and crop target yields on the land application areas prior to the preparation of the nutrient utilization plan and each time thereafter when new soil tests or manure nutrient analyses are conducted; and

(B) include such calculations in the nutrient utilization plan.

(d) If a swine facility finds that the soil tests required pursuant to this act indicate that the phosphorus holding capacity for any soils in the facility's land application areas may be exceeded within five years, the facility shall promptly initiate the process to obtain access to the additional land application areas needed, or make other adjustments, to achieve the capability to apply manure or wastewater at appropriate agronomic rates.

(e) The department of agriculture may require a swine facility to apply manure or wastewater on all or a portion of the facility's land application areas at a rate within the agronomic phosphorus needs of the crops pasture, or the soil phosphorus holding capacity, in less than the time originally allowed in the approved nutrient utilization plan if the department of agriculture finds that the land application actions of the facility

is required to have a nutrient utilization plan and

that is required to have a nutrient utilization plan

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1 are contributing to the impairment of groundwater or surface water.

2 (f) (1) Each swine facility that ~~has an animal unit capacity of 1,000~~  
3 ~~or more and that land applies manure or wastewater shall include in its~~

4 ~~nutrient utilization] plan, and thereafter comply with, the requirements~~  
5 ~~that manure and wastewater shall not be applied on bare ground by any~~

6 ~~process, other than incorporation into the soil during the same day, within~~  
7 ~~1,000 feet of any habitable structure, wildlife refuge or city, county, state~~

8 or federal park, unless:

9 (A) The manure or wastewater ~~have~~ been subjected to physical, bi-  
10 ological or biochemical treatment or other treatment method for odor  
11 reduction approved by the department of health and environment;

12 (B) the manure or wastewater ~~are~~ applied with innovative treatment  
13 or application that is best available technology for swine facilities and best  
14 management practices for swine facilities or other technology approved  
15 by the department of health and environment; or

16 (C) the owner of the ~~structure~~ has provided a written waiver to the  
17 facility.

18 (2) The separation distance requirements of subsection (f)(1) shall  
19 not apply to any structure constructed or park designated as a city, county,  
20 state or federal park after the effective date of this act, for swine facilities  
21 in existence on the effective date of this act, or any structure constructed  
22 or park designated as a city, county, state or federal park after submission  
23 of an application for a permit for a new swine facility or expansion of an  
24 existing swine facility.

25 (3) Swine facilities ~~shall not apply manure or wastewater:~~

26 (A) To highly erodible land, except where soil conservation practices  
27 to control erosion and runoff in compliance with the requirements of this  
28 section are identified in the facility's nutrient utilization plan and are  
29 followed by the facility;

30 (B) during rain storms, except where soil conservation practices to  
31 control erosion and runoff in compliance with the requirements of this  
32 section are identified in the facility's nutrient utilization plan and are  
33 followed by the facility;

34 (C) to frozen or saturated soil, except where soil conservation prac-  
35 tices to control runoff in compliance with the requirements of this section  
36 are identified in the facility's nutrient utilization plan and are followed by  
37 the facility; and

38 (D) to any areas to which the separation distance requirements of  
39 subsection (f) apply.

40 (4) Swine facilities ~~shall follow procedures and precautions in the land~~  
41 ~~application of manure or wastewater to prevent discharge of manure or~~  
42 ~~wastewater to surface water and groundwater due to excess infiltration,~~  
43 ~~penetration of drainage tile lines, introduction into tile inlets or surface~~

is required to have a nutrient utilization plan  
shall include in such

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utilization plan

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1 runoff, including appropriate soil conservation practices to protect surface  
2 water from runoff carrying eroded soil and manure particles.

3 (5) Swine facilities that conduct wastewater irrigation shall:

4 (A) Irrigate only when soil moisture conditions are suitable to allow  
5 all wastewater to soak into the soil; and

6 (B) use procedures and precautions to avoid spray drift from the land  
7 application areas to roads, ditches or adjacent property.

8 (6) Each swine facility that land applies manure or wastewater shall  
9 ensure that any equipment used in the land application process is properly  
10 maintained and calibrated and monitor the use of the equipment so that  
11 any malfunction that develops during the land application process is de-  
12 tected and the process ceases until the malfunction is corrected.

13 (7) The operator of each swine facility that is required to have a per-  
14 mit and that land applies manure or wastewater shall:

15 (A) Identify, train and keep current the training of each employee  
16 and contractor who supervises the transfer of manure or wastewater to  
17 land application equipment and the conducting of land application activ-  
18 ities; and

19 (B) train, and keep current the training of, all employees and con-  
20 tractors who conduct land application activities.

21 (g) Each swine facility that is required to have a nutrient utilization  
22 plan shall amend such plan whenever warranted by changes in conditions.  
23 The operator of the facility shall file such plan and any amendments to  
24 such plan with the department of health and environment and the de-  
25 partment shall forward such plan and any amendments to the secretary  
26 of agriculture.

27 (h) The secretary of agriculture shall make a determination to ap-  
28 prove or disapprove a nutrient utilization plan not later than 45 days after  
29 the plan is received from the department of health and environment.

30 New Sec. 7. The secretary shall adopt rules and regulations estab-  
31 lishing:

32 (a) Standards for training and certifying, and for periodic continuing  
33 education or recertification of, swine facility operators maintaining or su-  
34 pervising the swine waste management system of a swine facility that is  
35 required to have a permit; and

36 (b) procedures for notifying the department of failure of a swine  
37 waste retention lagoon or pond or any unplanned release of animal waste  
38 by a swine facility.

39 New Sec. 8. (a) The secretary shall establish by rules and regulations  
40 the circumstances under which a swine facility shall be required to de-  
41 velop an emergency response plan.

42 (b) Each swine facility that is required to submit an emergency re-  
43 sponse plan shall maintain such plan:

that are required to have a nutrient utilization plan and

that is required to have a nutrient utilization plan and

nutrient utilization plan

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1 (1) In a location at the facility that is readily accessible to all employ-  
2 ees or contractors who are responsible for implementing the plan; and

3 (2) as otherwise required in section 9 and amendments thereto.

4 (c) The operator of each swine facility that is required to submit an  
5 emergency response plan shall train, and keep current the training of, the  
6 employees and contractors who are responsible for implementing such  
7 plan.

8 (d) Each swine facility that is required to submit an emergency re-  
9 sponse plan shall amend such plan whenever warranted by changes in the  
10 facility or in other conditions affecting the facility.

11 New Sec. 9. (a) Each swine facility that is required to have a permit  
12 shall keep all records and plans required by this act at the facility's site  
13 office in a manner that is accessible to inspection by authorized repre-  
14 sentatives of the department pursuant to section 14 and amendments  
15 thereto.

16 (b) Each swine facility that is required to have a permit shall retain  
17 at the location required in subsection (a) the current and previous three  
18 years' versions of the records and plans required by this act.

19 New Sec. 10. (a) (1) As a condition of issuance of a permit for a swine  
20 facility, the operator of the facility shall be certified by the department,  
21 or by a third party approved by the department, as to the operator's  
22 knowledge of:

23 (A) Management of manure and wastewater;

24 (B) nutrient utilization planning and implementation;

25 (C) emergency response planning and implementation, if required;  
26 and

27 (D) the other requirements of this act.

28 (2) If the department has not established or sanctioned an operator  
29 certification program at the time that a swine facility applies for a permit,  
30 or if a vacancy occurs in a certified operator position, the department may  
31 issue a permit for the facility without the operator certificate, and the  
32 operator shall complete the certification program within six months after  
33 it is established or sanctioned.

34 (b) The operator of each swine facility shall be responsible for the  
35 training of employees or contractors required by subsection (f)(7)(A) of  
36 section 6 and amendments thereto (supervisors of land application), sub-  
37 section (f)(7)(B) of section 6 and amendments thereto (persons who con-  
38 duct land application) and subsection (c) of section 8 and amendments  
39 thereto (persons responsible for implementing the emergency response  
40 plan).

41 New Sec. 11. (a) As a condition of issuance of a permit for a swine  
42 facility, the department shall require the applicant to submit a plan, ap-  
43 proved by the department, for odor control if the application is for:



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1 (1) A permit for construction or expansion of a swine facility that has  
2 an animal unit capacity of 1,000 or more;

3 (2) a permit for expansion of a swine facility to an animal unit capacity  
4 of 1,000 or more; or

5 (3) renewal of a permit for a swine facility that has an animal unit  
6 capacity of 1,000 or more.

7 (b) Each swine facility that is required to submit an odor control plan  
8 shall amend such plan whenever warranted by changes in the facility or  
9 in other conditions affecting the facility.

10 (c) In promulgating rules and regulations governing odor control  
11 plans, the secretary shall take into consideration different sizes of facilities  
and other relevant factors.

13 New Sec. 12. (a) As a condition of issuance of a permit for a swine  
14 facility, the department shall require the applicant to submit a plan, ap-  
15 proved by the department, for closure of the facility if the application is  
16 for:

17 (1) A permit for construction or expansion of a swine facility that has  
18 an animal unit capacity of 3,725 or more;

19 (2) a permit for expansion of a swine facility to an animal unit capacity  
20 of 3,725 or more; or

21 (3) renewal of a permit for a swine facility that has an animal unit  
22 capacity of 3,725 or more.

23 (b) The operator of each swine facility that has a capacity of 3,725  
24 animal units or more shall demonstrate annually to the department evi-  
25 dence, satisfactory to the department, that the operator has financial abil-  
26 ity to cover the cost of closure of the facility as required by the depart-  
27 ment.

29 (c) Each swine facility that is required to submit a facility closure plan  
30 shall amend such plan whenever warranted by changes in the facility or  
in other conditions affecting the facility.

31 New Sec. 13. (a) (1) Each swine facility that has an animal unit ca-  
32 pacity of 3,725 or more and has a swine waste retention lagoon or pond  
33 shall maintain the facility at all times until it is certified to comply fully  
34 with the closure requirements of this subsection (a).

35 (2) (A) Any swine facility that has an animal unit capacity of 3,725 or  
36 more and ceases to operate shall close any swine waste retention lagoon  
37 or pond of the facility in accordance with the requirements of this sub-  
38 section (a).

39 (B) Any swine facility that has an animal unit capacity of 3,725 or  
more and has a swine waste retention lagoon or pond that has not received  
42 manure or wastewater from the facility for a period of 12 consecutive  
43 months shall close the facility in accordance with the requirements of this  
subsection (a), unless:

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(i) The facility continues to operate;

2 (ii) the facility intends to restore use of the lagoon or pond at a later  
3 date; and

4 (iii) the facility maintains the lagoon or pond as though it were ac-  
5 tively used, adding fresh water to replace water lost to evaporation and  
6 preventing loss or compromise of structural integrity or removes and dis-  
7 poses of all manure and wastewater in accordance with the requirements  
8 of this act and refills the lagoon or pond with clean water to preserve the  
9 integrity of the synthetic or earthen liner.

10 (C) Any swine facility that has an animal unit capacity of 3,725 or  
11 more and chooses not to close a swine waste retention lagoon or pond  
12 pursuant to subsection (a)(2)(B) shall:

13 (i) Notify the department of the decision and the actions taken to  
14 comply with the requirements of subsection (a)(2)(B);

15 (ii) conduct routine inspections, maintenance and record keeping as  
16 though the facility were in use; and

17 (iii) prior to restoration of use of the lagoon or pond, notify the de-  
18 partment and provide the department with the opportunity to inspect the  
19 facility to ensure that it complies with the requirements of section 4 and  
20 amendments thereto.

21 (3) To close a swine waste retention lagoon or pond, a swine facility  
22 that has an animal unit capacity of 3,725 or more shall remove all manure  
23 and wastewater, as well as all associated appurtenances and conveyance  
24 structures, from the lagoon or pond and dispose of the manure or waste-  
25 water in accordance with the requirements of this act or, if the facility  
26 requests, as determined otherwise by the department.

27 (4) The secretary shall adopt rules and regulations establishing stan-  
28 dards and procedures for demolition of any swine waste retention lagoon  
29 or pond, or conversion of the lagoon or pond to another use (such as a  
30 farm pond), as a condition of closure for a swine facility that has an animal  
31 unit capacity of 3,725 or more.

32 (5) Upon notification to the department by a swine facility having an  
33 animal unit capacity of 3,725 or more that a swine waste retention lagoon  
34 or pond utilized by the facility has been closed, the department shall  
35 inspect the lagoon or pond and certify whether the closure complies with  
36 the requirements of this subsection (a).

37 (6) The secretary shall establish, by rules and regulations, standard  
38 maximum periods for completion of all closure activities for swine waste  
39 retention lagoons and ponds utilized by swine facilities having an animal  
40 unit capacity of 3,725 or more from the date of cessation of operation of  
the lagoon or pond to the date of compliance with all closure require-  
ments of this subsection (a).

43 (b) When a swine facility having an animal unit capacity of 3,725 or

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1 more ceases to operate, it shall close all other manure and wastewater  
2 storage facilities to which subsection (a) does not apply removing all ma-  
3 nure and wastewater from the manure and wastewater storage facility and  
4 disposing of the manure and wastewater in accordance with the require-  
5 ments of this act or, if the swine facility requests, as determined otherwise  
6 by the department.

the operator of

7 (c) ~~(1)~~ On and after July 1, 2000, the operator of each swine facility  
8 that has a capacity of 3,725 animal units or more and has a swine waste  
9 retention lagoon or pond shall demonstrate to the department, annually  
10 at a time specified by the department, evidence, satisfactory to the de-  
11 partment, that the operator has financial ability to cover the cost of closure  
12 of the lagoon or pond as required by the department.

13 New Sec. 14. (a) The department shall conduct periodic inspections  
14 of, and review the records of, each permitted swine facility as follows:

15 (1) For any facility identified as having a specific water pollution  
16 problem, every 6 months;

17 (2) for any facility not identified as having a specific water pollution  
18 problem:

19 (A) Every 12 months, if the facility has a capacity of 3,725 or more  
20 animal units;

21 (B) every 18 months, if the facility has a capacity of 1,000 to 3,724  
22 animal units; and

23 (C) every 36 months, if the facility has a capacity of 300 to 999 animal  
24 units.

25 (b) Each permitted swine facility shall grant access to the facility at  
26 reasonable times, with appropriate safeguards for protection of animal  
27 health, for authorized representatives of the department to conduct in-  
28 spections required by subsection (a).

9 (c) If any authorized representative of the department requires access  
30 to a swine containment building or facility during the course of any in-  
31 spection required by subsection (a) or at any other time, the represen-  
32 tative shall comply with the animal health protocol of the facility for entry  
33 into the building or facility unless the protocol inhibits reasonable access.

34 (d) No swine facility shall be assessed the cost of any inspection re-  
35 quired by subsection (a) either directly at the time of the inspection or  
36 indirectly at the time of issuance of a permit for the facility, except that  
37 such cost may be assessed for any inspection associated with:

38 (1) An emergency that results in the discharge of manure or waste-  
39 water to surface water or groundwater; or

40 (2) a swine facility that engages in a course of conduct that results in  
repeated, material violations of this act.

43 (e) The secretary may contract with persons or entities to conduct  
inspections and review of records as required by this act.

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2 New Sec. 15. (a) When a swine facility exists prior to the construction  
3 of a habitable structure or designation of a park as a city, county, state or  
4 federal park that would otherwise be located within the separation dis-  
5 tance for a waste retention lagoon or pond or the separation distance for  
6 land on which manure or wastewater from the facility has been or is being  
7 applied, the separation distance requirement shall not apply to such struc-  
8 ture or park since the owner of such structure or park is expected to know  
9 and understand that such structure or park, if located in that location, will  
10 be subject to agricultural sights, sounds, odors and other characteristics  
of farming from the preexisting swine facility.

11 (b) A swine facility that is in compliance with all applicable require-  
12 ments of this act and other environmental laws, and any rules and regu-  
13 lations or orders adopted pursuant to this act or such other laws, shall be  
14 presumed not to be a nuisance under K.S.A. 2-3202 and amendments  
15 thereto.

16 New Sec. 16. (a) The secretary may deny an application for any per-  
17 mit, whether new or a renewal, for a swine facility and, upon notice and  
18 opportunity for hearing in accordance with the Kansas administrative pro-  
19 cedure act, may suspend or revoke any permit for a swine facility, if the  
20 secretary finds that the applicant, or any officer, director, partner or res-  
21 ident manager of the applicant has:

- 22 (1) Intentionally misrepresented a material fact in applying for any  
23 permit;
- 24 (2) habitually or intentionally violated environmental laws of this or  
25 any other state or of the United States and the violations have caused  
26 significant and material environmental damage; or
- 27 (3) had any permit revoked under the environmental laws of this or  
28 any other state or of the United States.

9 (b) Failure of the operator of a swine confined feeding facility to  
30 implement any required manure management, emergency response, odor  
31 control, facility closure or dead swine handling plan:

- 32 (1) May render the operator liable for a civil penalty pursuant to  
33 K.S.A. 65-170d and amendments thereto; and
- 34 (2) upon notice and opportunity for hearing in accordance with the  
35 Kansas administrative procedure act, shall be grounds for the secretary  
36 to suspend the permit for such facility.

37 New Sec. 17. (a) Every swine facility that has a capacity of 1,000 or  
38 more animal units shall file with the department a plan for the handling  
39 of dead swine. The secretary shall adopt rules and regulations establishing  
40 minimum standards, including requirements that:

- (1) No dead swine shall be left where visible from municipal roads  
or habitable structures;
- 43 (2) before disposal, all dead swine shall be kept within the perimeter

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from which separation distances are determined pursuant to subsection (k) of K.S.A. 65-171d and amendments thereto unless otherwise approved by the department; and

(3) carcasses shall be picked up within 48 hours under normal circumstances.

(b) Each swine facility that is required to submit a plan for handling dead swine shall amend such plan whenever warranted by changes in the facility or in other conditions affecting the facility.

New Sec. 18. A qualified swine facility, as defined by section 28, that expands to an animal unit capacity of 3,725 or more shall be subject to the provisions of this act applicable to a swine facility having an animal unit capacity of 1,000 to 3,724 if:

(a) The department determines that the swine waste management system of such facility on the effective date of this act has the capacity to accommodate the expanded capacity;

(b) the expansion is located within the perimeter from which separation distances are determined pursuant to subsection (k) of K.S.A. 65-171d and amendments thereto or the written agreements required by subsection (i)(1) of K.S.A. 65-171d and amendments thereto are obtained; and

(c) the expansion does not exceed the lesser of:

(1) An animal unit capacity that is 1/3 greater than the capacity of such facility on the effective date of this act; or

(2) an animal unit capacity of 4,499.

New Sec. 19. (a) Kansas state university shall cooperate with the department, other agencies and owners and operators of swine facilities to determine best available technology and best management practices.

(b) Within the limitations of appropriations therefor and for the purpose of identifying potential risk of groundwater contamination by swine waste retention lagoons or ponds or land application of swine waste, Kansas state university, as a part of its current evaluation of lagoons and ponds for containment of animal waste, shall conduct nutrient management testing of land where swine waste is applied, including deep soil sampling in areas where land application of swine waste is conducted and in adjacent areas where such waste is not applied. Kansas state university, until completion of the evaluation, shall submit preliminary reports regarding such evaluation on or before the first day of each regular legislative session and, upon completion of the evaluation, shall submit a final report of the evaluation on or before the final day of the next regular legislative session.

Each such report shall be submitted to the governor, the senate and house standing committees on agriculture, the senate standing committee on energy and natural resources and the house standing committee on environment.

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1 New Sec. 20. (a) The express adoption or authorization of standards  
2 and requirements for swine facilities by this act shall not be construed to  
3 prohibit or limit in any manner the secretary's authority to adopt and  
4 enforce rules and regulations establishing:

5 (1) Standards and requirements for swine facilities that are in addi-  
6 tion to or more stringent than those provided by this act if the secretary  
7 determines necessary for the purposes provided by K.S.A. 65-171d and  
8 amendments thereto;

9 (2) standards and requirements for swine facilities that exist on the  
10 effective date of this act and that are not subject to the standards and  
11 requirements provided by this act; and

12 (3) standards and requirements for confined feeding facilities for live-  
13 stock other than swine.

14 (b) Nothing in this act shall be construed to exempt any person or  
15 entity from or preempt or in any way excuse or waive any obligation to  
16 comply with the provisions of the Kansas chemigation safety law (K.S.A.  
17 2-3301 *et seq.* and amendments thereto), K.S.A. 24-126 and amendments  
18 thereto (relating to levees), K.S.A. 82a-301 *et seq.* and amendments  
19 thereto (relating to stream obstructions), the Kansas water appropriation  
20 act (K.S.A. 82a-701 *et seq.* and amendments thereto) or any other statute  
21 or rule and regulation except as specifically provided by this act.

22 New Sec. 21. The secretary of health and environment, pursuant to  
23 K.S.A. 75-5616 and amendments thereto, shall appoint an advisory com-  
24 mittee to consult with and advise the secretary on the implementation  
25 and administration of the provisions of K.S.A. 65-171d and sections 2  
26 through 20, and amendments thereto, with respect to swine facilities. The  
27 advisory committee shall consist of five members who represent persons  
28 knowledgeable and experienced in areas related to regulation of swine  
29 facilities, including but not limited to owners and operators of swine fa-  
30 cilities, Kansas state university extension services and professional engi-  
31 neers.

32 New Sec. 22. On or before the first day of the 1999 and 2000 regular  
33 legislative sessions, the secretary shall submit a report regarding imple-  
34 mentation of the provisions of K.S.A. 65-171d and sections 2 through 20,  
35 and amendments thereto, to the house and senate standing committees  
36 on agriculture, the senate standing committee on energy and natural re-  
37 sources and the house standing committee on environment.

38 Sec. 23. K.S.A. 2-3302 is hereby amended to read as follows: 2-3302.  
39 As used in ~~this act~~ *the Kansas chemigation safety law*:

40 (a) "Chemigation" means any process whereby pesticides, fertilizers  
41 or other chemicals or animal wastes are added to irrigation water applied  
42 to land or crops, or both, through an irrigation distribution system.

43 (b) "Board" means the ~~state board~~ *secretary* of agriculture.



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1 (c) "Secretary" means the secretary of the state board of agriculture.

2 (d) "Operating chemigation equipment" for the purposes of this act  
3 shall include, but not be limited to:

4 (1) Preparing solution and filling the chemical supply container;

5 (2) calibrating of injection equipment;

6 (3) starting and stopping equipment when injection of chemicals is  
7 involved; and

8 (4) supervision of the chemigation equipment to assure its safe op-  
9 eration.

10 (e) "Anti-pollution devices" means mechanical equipment used to re-  
11 duce hazard to the environment in cases of malfunction of the equipment  
12 during chemigation and includes but is not limited to interlock, waterline  
13 check valve, chemical line closure device, vacuum relief device and au-  
14 tomatic low pressure drain.

15 (f) "Supervision" means the attention given to the chemigating sys-  
16 tem during its operation when chemicals are being applied.

17 (g) "Direct supervision" means supervision with ability to change the  
18 procedures.

19 (h) "Irrigation distribution system" means any device or combination  
20 of devices having a hose, pipe or other conduit which connects directly  
21 to any source of ground or surface water, through which water or a mix-  
22 ture of water and chemicals is drawn and applied to land. The term does  
23 not include any handheld hose sprayer or other similar device which is  
24 constructed so that an interruption in water flow automatically prevents  
25 any backflow to the water source. For the purpose of this act it does not  
26 include greenhouse irrigation or residence yards. Animal waste lagoons  
27 are not to be considered water sources.

28 (i) "Calibration device" means equipment of sufficient accuracy to  
29 determine the rate of chemical application.

30 (j) "Point of diversion" means:

31 (1) The point where the longitudinal axis of the dam crosses the cen-  
32 ter line of the stream in the case of a reservoir; or

33 (2) the location of the headgate or intake in the case of a direct di-  
34 version from a river, stream or other watercourse; or

35 (3) the location of a well in the case of groundwater diversion.

36 (k) "Agronomic application rates" means the method and amount of  
37 swine waste defined by the secretary that in the secretary's discretion best  
38 protects the environment, including consideration of the crops or soil to  
39 which swine waste may be applied and the economic impact associated  
40 with any application of swine waste.

41 (l) "Chemicals" shall include nutrients or the chemical composition  
42 of animal waste.

43 New Sec. 24. (a) Regardless of whether irrigation water is added,

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1 whenever swine waste is applied to crops or land, the secretary is au-  
2 thorized to investigate, inspect or conduct any manner of examination or  
3 review of the application of swine waste. No swine waste shall be applied  
4 to crops or land in excess of agronomic application rates.

5 (b) The secretary shall review and approve all nutrient utilization  
6 plans that provide for the application of swine waste to crops or land and  
7 that are submitted by swine confined feeding facilities pursuant to section  
8 6 and amendments thereto if the plans demonstrate that swine waste will  
9 be applied pursuant to agronomic application rates. Nutrient utilization  
10 plans shall be submitted in the form required by the secretary. The sec-  
11 retary shall notify the secretary of health and environment when a nutri-  
12 ent utilization plan has been approved and whether the approval is con-  
13 ditioned on any amendments or revisions to the plan.

14 (c) Any soil tests required by the secretary to evaluate whether ag-  
15 ronomic application rates are being met must be paid for by the swine  
16 confined feeding facility regardless of whether the soil to be tested is  
17 from land owned by such facility.

18 (d) Failure of the operator of a swine confined feeding facility to  
19 implement a nutrient utilization plan approved by the secretary shall be  
20 considered a violation of the Kansas chemigation safety law for which the  
21 secretary may suspend a permit pursuant to K.S.A. 2-3310 and amend-  
22 ments thereto or may impose a civil penalty pursuant to K.S.A. 2-3317  
23 and amendments thereto, or both.

24 (e) This section shall be part of and supplemental to the Kansas  
25 chemigation safety law.

26 Sec. 25. K.S.A. 2-3305 is hereby amended to read as follows: 2-3305.  
27 Functional anti-pollution devices shall be used in the chemigation process  
28 according to:

29 (a) *Criteria adopted by the secretary by rules and regulations that,*  
30 *in the secretary's discretion* ~~follows~~ *the latest scientific knowledge and*  
31 *technology and that is designed to protect the groundwater and surface*  
32 *water of the state; or*

follow

33 (b) the following criteria:

34 ~~(a)~~ (1) Waterline check valve shall be an automatic, quick-closing de-  
35 vice capable of preventing the backflow of water chemical mixtures into  
36 the source of water supply during times of system failure or equipment  
37 shutdown;

38 ~~(b)~~ (2) a chemical injection line check valve shall be used to prevent  
39 flow of water from the irrigation system into the chemical supply tank  
40 and to prevent gravity flow from the chemical supply tank into the irri-  
41 gation system;

42 ~~(c)~~ (3) an interlock system shall be used between the power system  
43 of the injection unit, the irrigation pumping plant and the pivot, if in-

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1 volved; the interlock shall function so that if the irrigation pump stops,  
2 the injection pump will also stop;

3 ~~(d)~~ (4) a functional vacuum relief device shall be used between the  
4 waterline check valve and the irrigation pump to reduce the chance of  
5 chemical being back-siphoned into the water source; and

6 ~~(e)~~ (5) an automatic low pressure drain shall be used between the  
7 waterline valve and the irrigation pump.

8 Sec. 26. K.S.A. 2-3307 is hereby amended to read as follows: 2-3307.

9 (a) For the purpose of carrying out the provisions of this act, *including*  
10 *any review of the application of swine waste under section 24 and amend-*  
11 *ments thereto*, the secretary or the secretary's agent or the county or  
12 district attorney or their agents may enter any premises at any reasonable  
13 time in order to:

14 (1) Have access for the purpose of inspecting any equipment subject  
15 to this act;

16 (2) inspect or sample water, lands and crops reported to be exposed  
17 to chemicals;

18 (3) inspect or investigate complaints or injury to humans, crops or  
19 land;

20 (4) sample chemicals being applied or to be applied; or

21 (5) observe the use and application of chemicals.

22 Should the secretary, the secretary's agent or the county or district  
23 attorney or their agents be denied access to any land where such access  
24 was sought for the purposes authorized, the secretary or the county or  
25 district attorney may apply to any court of competent jurisdiction for a  
26 search warrant authorizing access to such land for such purposes. The  
27 court, upon such application, may issue the search warrant for the pur-  
28 poses requested.

29 (b) The enforcement of the criminal provisions of this act shall be the  
30 duty of, and shall be implemented by, the county or district attorneys of  
31 the various counties or districts. In the event a county or district attorney  
32 refuses to act, the attorney general shall so act. The secretary is charged  
33 with the duty of enforcing all other provisions of this act.

34 Sec. 27. K.S.A. 1997 Supp. 47-1219 is hereby amended to read as  
35 follows: 47-1219. (a) Any person or persons who shall put any dead ani-  
36 mals, carcasses of such animals or domestic fowl, or any part thereof, into  
37 any well, spring, brook, branch, river, creek, pond, road, street, alley, lane,  
38 lot, field, meadow or common shall be deemed guilty of a misdemeanor,  
39 and upon conviction thereof shall be fined in a sum not exceeding \$100.

40 (b) Any owner or owners of any dead animals, carcasses of such an-  
41 mals or domestic fowl, or any part thereof, who shall knowingly permit  
42 the same to remain in any well, spring, brook, branch, river, creek, pond,  
43 road, street, alley, lane, lot, field, meadow or common to the injury of the

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1 health or to the annoyance of or damage to the citizens of the state or  
2 any of them, shall be deemed guilty of a misdemeanor, and upon conviction  
3 thereof shall be fined in a sum not exceeding \$100. Every 24 hours  
4 the owners shall permit the same to remain thereafter shall be deemed  
5 an additional offense.

6 (c) Persons disposing of dead animals shall do so in one of the following ways: (1) Burial; (2) incineration; ~~or~~ (3) delivery or unloading of  
7 the carcasses of dead animals or packing house refuse at a disposal plant,  
8 substation, rendering plant or place of transfer licensed by the commissioner; ~~or (4) in accordance with rules and regulations adopted pursuant~~  
9 ~~to section 27.~~

*not needed*  
**37**

12 New Sec. 28. (a) As used in this section:

13 (1) Terms have the meanings provided by section 2 and amendments  
14 thereto.

15 (2) "Qualified swine facility" means a swine facility that: (A) Is owned  
16 and operated by a sole proprietorship or partnership or by a family farm  
17 corporation, authorized farm corporation, limited liability agricultural  
18 company, family farm limited liability agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust,  
19 as defined by K.S.A. 17-5903 and amendments thereto; and (B) is utilizing  
20 its swine waste management system on January 1, 1998.

22 (3) "Required improvements to a qualified swine facility" means capital  
23 improvements that the secretary of health and environment certifies  
24 to the director of taxation: (A) Are required for a qualified swine facility  
25 to comply with the standards and requirements established pursuant to  
26 sections 2 through 22 or pursuant to the amendments made by this act  
27 to K.S.A. 65-171d; and (B) are not required because of expansion for  
28 which a permit has not been issued or applied for before the effective  
29 date of this act.

30 (b) There shall be allowed as a credit against the tax liability of a  
31 taxpayer imposed under the Kansas income tax act an amount equal to  
32 not more than 50% of the costs incurred by the taxpayer for required  
33 improvements to a qualified swine facility. The tax credit allowed by this  
34 subsection shall be deducted from the taxpayer's income tax liability for  
35 the taxable year in which the expenditures are made by the taxpayer. If  
36 the amount of such tax credit exceeds the taxpayer's income tax liability  
37 for such taxable year, the taxpayer may carry over the amount thereof  
38 that exceeds such tax liability for deduction from the taxpayer's income  
39 tax liability in the next succeeding taxable year or years until the total  
40 amount of the tax credit has been deducted from tax liability, except that  
41 no such tax credit shall be carried over for deduction after the fourth  
42 taxable year succeeding the year in which the costs are incurred.

43 (c) The provisions of this section shall be applicable to all taxable

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1 years commencing after December 31, 1997.  
 2 (d) On or before the first day of the 1999, 2000 and 2001 regular  
 3 legislative sessions, the secretary of revenue shall submit to the senate  
 4 standing committee on energy and natural resources, the house standing  
 5 committee on environment, the senate standing committee on assessment  
 6 and taxation and the house standing committee on taxation a report of  
 7 the number of taxpayers claiming the credit allowed by this section and  
 8 the total amount of such credits claimed by all taxpayers.

9 Sec. 29. K.S.A. 79-32,117 is hereby amended to read as follows:  
 10 79-32,117. (a) The Kansas adjusted gross income of an individual means  
 11 such individual's federal adjusted gross income for the taxable year, with  
 the modifications specified in this section.

12 (b) There shall be added to federal adjusted gross income:  
 13 (i) Interest income less any related expenses directly incurred in the  
 14 purchase of state or political subdivision obligations, to the extent that  
 15 the same is not included in federal adjusted gross income, on obligations  
 16 of any state or political subdivision thereof, but to the extent that interest  
 17 income on obligations of this state or a political subdivision thereof issued  
 18 prior to January 1, 1988, is specifically exempt from income tax under the  
 19 laws of this state authorizing the issuance of such obligations, it shall be  
 20 excluded from computation of Kansas adjusted gross income whether or  
 21 not included in federal adjusted gross income. Interest income on obli-  
 22 gations of this state or a political subdivision thereof issued after Decem-  
 23 ber 31, 1987, shall be excluded from computation of Kansas adjusted  
 24 gross income whether or not included in federal adjusted gross income.

25 (ii) Taxes on or measured by income or fees or payments in lieu of  
 26 income taxes imposed by this state or any other taxing jurisdiction to the  
 27 extent deductible in determining federal adjusted gross income and not  
 28 credited against federal income tax. This paragraph shall not apply to taxes  
 29 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amend-  
 30 ments thereto, for privilege tax year 1995, and all such years thereafter.

31 (iii) The federal net operating loss deduction.  
 32 (iv) Federal income tax refunds received by the taxpayer if the de-  
 33 duction of the taxes being refunded resulted in a tax benefit for Kansas  
 34 income tax purposes during a prior taxable year. Such refunds shall be  
 35 included in income in the year actually received regardless of the method  
 36 of accounting used by the taxpayer. For purposes hereof, a tax benefit  
 37 shall be deemed to have resulted if the amount of the tax had been de-  
 38 ducted in determining income subject to a Kansas income tax for a prior  
 39 year regardless of the rate of taxation applied in such prior year to the  
 40 Kansas taxable income, but only that portion of the refund shall be in-  
 41 cluded as bears the same proportion to the total refund received as the  
 42 federal taxes deducted in the year to which such refund is attributable

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1 bears to the total federal income taxes paid for such year. For purposes  
2 of the foregoing sentence, federal taxes shall be considered to have been  
3 deducted only to the extent such deduction does not reduce Kansas tax-  
4 able income below zero.

5 (v) The amount of any depreciation deduction or business expense  
6 deduction claimed on the taxpayer's federal income tax return for any  
7 capital expenditure in making any building or facility accessible to the  
8 handicapped, for which expenditure the taxpayer claimed the credit al-  
9 lowed by K.S.A. 79-32,177, and amendments thereto.

10 (vi) Any amount of designated employee contributions picked up by  
11 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,  
12 and amendments to such sections.

13 (vii) The amount of any charitable contribution made to the extent  
14 the same is claimed as the basis for the credit allowed pursuant to K.S.A.  
15 79-32,196, and amendments thereto.

16 (viii) *The amount of any costs incurred for improvements to a swine*  
17 *facility, claimed for deduction in determining federal adjusted gross in-*  
18 *come, to the extent the same is claimed as the basis for any credit allowed*  
19 *pursuant to section 28 and amendments thereto.*

20 (c) There shall be subtracted from federal adjusted gross income:

21 (i) Interest or dividend income on obligations or securities of any  
22 authority, commission or instrumentality of the United States and its pos-  
23 sessions less any related expenses directly incurred in the purchase of  
24 such obligations or securities, to the extent included in federal adjusted  
25 gross income but exempt from state income taxes under the laws of the  
26 United States.

27 (ii) Any amounts received which are included in federal adjusted  
28 gross income but which are specifically exempt from Kansas income tax-  
29 ation under the laws of the state of Kansas.

30 (iii) The portion of any gain or loss from the sale or other disposition  
31 of property having a higher adjusted basis for Kansas income tax purposes  
32 than for federal income tax purposes on the date such property was sold  
33 or disposed of in a transaction in which gain or loss was recognized for  
34 purposes of federal income tax that does not exceed such difference in  
35 basis, but if a gain is considered a long-term capital gain for federal in-  
36 come tax purposes, the modification shall be limited to that portion of  
37 such gain which is included in federal adjusted gross income.

38 (iv) The amount necessary to prevent the taxation under this act of  
39 any annuity or other amount of income or gain which was properly in-  
40 cluded in income or gain and was taxed under the laws of this state for a  
41 taxable year prior to the effective date of this act, as amended, to the  
42 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
43 the right to receive the income or gain, or to a trust or estate from which



the taxpayer received the income or gain.

2 (v) The amount of any refund or credit for overpayment of taxes on  
3 or measured by income or fees or payments in lieu of income taxes im-  
4 posed by this state, or any taxing jurisdiction, to the extent included in  
5 gross income for federal income tax purposes.

6 (vi) Accumulation distributions received by a taxpayer as a beneficiary  
7 of a trust to the extent that the same are included in federal adjusted  
8 gross income.

9 (vii) Amounts received as annuities under the federal civil service  
10 retirement system from the civil service retirement and disability fund  
11 and other amounts received as retirement benefits in whatever form  
12 which were earned for being employed by the federal government or for  
13 service in the armed forces of the United States.

14 (viii) Amounts received by retired railroad employees as a supple-  
15 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)  
16 *et seq.*

17 (ix) Amounts received by retired employees of a city and by retired  
18 employees of any board of such city as retirement allowances pursuant to  
19 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter  
20 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and  
21 amendments thereto.

22 (x) For taxable years beginning after December 31, 1976, the amount  
23 of the federal tentative jobs tax credit disallowance under the provisions  
24 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,  
25 the amount of the targeted jobs tax credit and work incentive credit dis-  
26 allowances under 26 U.S.C. 280 C.

27 (xi) For taxable years beginning after December 31, 1986, dividend  
28 income on stock issued by Kansas Venture Capital, Inc.

29 (xii) For taxable years beginning after December 31, 1989, amounts  
30 received by retired employees of a board of public utilities as pension and  
31 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249  
32 and amendments thereto.

33 (xiii) For taxable years beginning after December 31, 1993, the  
34 amount of income earned on contributions deposited to an individual  
35 development account under K.S.A. 79-32,117h, and amendments thereto.

36 (xiv) For all taxable years commencing after December 31, 1996, that  
37 portion of any income of a bank organized under the laws of this state or  
38 any other state, a national banking association organized under the laws  
39 of the United States, an association organized under the savings and loan  
40 code of this state or any other state, or a federal savings association or-  
41 ganized under the laws of the United States, for which an election as an  
42 S corporation under subchapter S of the federal internal revenue code is  
43 in effect, which accrues to the taxpayer who is a stockholder of such

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1 corporation and which is not distributed to the stockholders as dividends  
2 of the corporation.

3 (d) There shall be added to or subtracted from federal adjusted gross  
4 income the taxpayer's share, as beneficiary of an estate or trust, of the  
5 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and  
6 amendments thereto.

7 (e) The amount of modifications required to be made under this sec-  
8 tion by a partner which relates to items of income, gain, loss, deduction  
9 or credit of a partnership shall be determined under K.S.A. 79-32,131,  
10 and amendments thereto, to the extent that such items affect federal  
11 adjusted gross income of the partner.

12 ~~New Sec. 30. The provisions of this act [sections 1 through 29]~~  
13 ~~shall expire upon the enactment of any law during the 1998 regular leg-~~  
14 ~~islative session prohibiting the secretary of health and environment from~~  
15 ~~issuing any permit for a new swine breeding, farrowing, feeding or fin-~~  
16 ~~ishing facility, or any combination thereof, regardless of size.~~

17 ~~[New Sec. 30. (a) Notwithstanding any other provision of law~~  
18 ~~to the contrary, if, at an advisory election authorized by law or at~~  
19 ~~an election pursuant to K.S.A. 17-5908 and amendments thereto,~~  
20 ~~the voters of a county have voted against allowing the establish-~~  
21 ~~ment of swine production facilities in the county and such voters~~  
22 ~~have not subsequently voted to allow such facilities in the county,~~  
23 ~~the secretary of health and environment shall not issue a water~~  
24 ~~pollution control permit for any of the following located in such~~  
25 ~~county:~~

26 ~~[(1) Construction or operation of any new swine facility that~~  
27 ~~will have an animal unit capacity of 3,800 or more;~~

28 ~~[(2) expansion of any existing swine facility to an animal unit~~  
29 ~~capacity of 3,800 or more; or~~

30 ~~[(3) expansion of any existing swine facility if such facility has~~  
31 ~~an animal unit capacity of 3,800 or more.~~

32 ~~[(b) If after the effective date of this act the voters of a county~~  
33 ~~vote, at an advisory election authorized by law or an election pur-~~  
34 ~~suant to K.S.A. 17-5908 and amendments thereto, against allowing~~  
35 ~~the establishment of swine production facilities in the county, the~~  
36 ~~prohibition of subsection (a) shall apply on and after the date of~~  
37 ~~such election.~~

38 ~~[(c) Nothing in this section shall prohibit:~~

39 ~~[(1) Renewal of a water pollution control permit that was is-~~  
40 ~~ssued by the secretary before the effective date of this act;~~

41 ~~[(2) issuance of a permit for:~~

2 ~~[(A) Construction to repair a component of an existing con-~~  
3 ~~fining feeding facility for swine, waste retention lagoon or pond or~~

New Sec. 30. The provisions of sections 1 through 29 and 37 shall expire upon the enactment of any law during the 1998 regular legislative session prohibiting the secretary of health and environment from issuing any permit for a new swine breeding, farrowing, feeding or finishing facility, or any combination thereof, regardless of size.

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1 ~~animal waste management system,~~  
 2 ~~[(B) construction to replace a component of an existing con-~~  
 3 ~~fin ed feeding facility for swine, waste retention lagoon or pond or~~  
 4 ~~animal waste management system, if the replacement does not re-~~  
 5 ~~sult in an increase in swine population; or~~  
 6 ~~[(C) construction or expansion of an existing confined feeding~~  
 7 ~~facility for swine for the purpose of increasing the swine popula-~~  
 8 ~~tion to the projected population, or to the population that the an-~~  
 9 ~~imal waste management system serving the facility is designed to~~  
 10 ~~accommodate, as set forth in the facility's animal waste manage-~~  
 11 ~~ment plans approved by the department of health and environ-~~  
 12 ~~ment before February 1, 1998.]~~

13 See: 31. Upon expiration of the provisions of this act pursuant to  
 14 section 30, K.S.A. 2-3302 is hereby revived to read as follows: 2-3302. As  
 15 used in this act:

16 (a) "Chemigation" means any process whereby pesticides, fertilizers  
 17 or other chemicals or animal wastes are added to irrigation water applied  
 18 to land or crops, or both, through an irrigation distribution system.

19 (b) "Board" means the state board of agriculture.

20 (c) "Secretary" means the secretary of the state board of agriculture.

21 (d) "Operating chemigation equipment" for the purposes of this act  
 22 shall include, but not be limited to:

23 (1) Preparing solution and filling the chemical supply container;

24 (2) calibrating of injection equipment;

25 (3) starting and stopping equipment when injection of chemicals is  
 26 involved; and

27 (4) supervision of the chemigation equipment to assure its safe op-  
 28 eration.

29 (e) "Anti-pollution devices" means mechanical equipment used to re-  
 30 duce hazard to the environment in cases of malfunction of the equipment  
 31 during chemigation and includes but is not limited to interlock, waterline  
 32 check valve, chemical line closure device, vacuum relief device and au-  
 33 tomatic low pressure drain.

34 (f) "Supervision" means the attention given to the chemigating sys-  
 35 tem during its operation when chemicals are being applied.

36 (g) "Direct supervision" means supervision with ability to change the  
 37 procedures.

38 (h) "Irrigation distribution system" means any device or combination  
 39 of devices having a hose, pipe or other conduit which connects directly  
 40 to any source of ground or surface water, through which water or a mix-  
 41 ture of water and chemicals is drawn and applied to land. The term does  
 42 not include any handheld hose sprayer or other similar device which is  
 43 constructed so that an interruption in water flow automatically prevents

reinsert stricken language in sections 31-36,  
 pages 34-43

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any backflow to the water source. For the purpose of this act it does not include greenhouse irrigation or residence yards. Animal waste lagoons are not to be considered water sources.

(i) "Calibration device" means equipment of sufficient accuracy to determine the rate of chemical application.

(j) "Point of diversion" means:

(1) The point where the longitudinal axis of the dam crosses the center line of the stream in the case of a reservoir; or

(2) the location of the headgate or intake in the case of a direct diversion from a river, stream or other watercourse; or

(3) the location of a well in the case of groundwater diversion.

Sec. 32. Upon expiration of the provisions of this act pursuant to section 30, K.S.A. 2-3305 is hereby revived to read as follows: 2-3305.

Functional anti-pollution devices shall be used in the chemigation process according to the following criteria:

(a) Waterline check valve shall be an automatic, quick-closing device capable of preventing the backflow of water chemical mixtures into the source of water supply during times of system failure or equipment shut-down;

(b) a chemical injection line check valve shall be used to prevent flow of water from the irrigation system into the chemical supply tank and to prevent gravity flow from the chemical supply tank into the irrigation system;

(c) an interlock system shall be used between the power system of the injection unit, the irrigation pumping plant and the pivot, if involved; the interlock shall function so that if the irrigation pump stops, the injection pump will also stop;

(d) a functional vacuum relief device shall be used between the waterline check valve and the irrigation pump to reduce the chance of chemical being back-siphoned into the water source; and

(e) an automatic low pressure drain shall be used between the waterline valve and the irrigation pump.

Sec. 33. Upon expiration of the provisions of this act pursuant to section 30, K.S.A. 2-3307 is hereby revived to read as follows: 2-3307. (a)

For the purpose of carrying out the provisions of this act, the secretary or the secretary's agent or the county or district attorney or their agents may enter any premises at any reasonable time in order to:

(1) Have access for the purpose of inspecting any equipment subject to this act;

(2) inspect or sample water, lands and crops reported to be exposed to chemicals;

(3) inspect or investigate complaints or injury to humans, crops or land;

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(4) sample chemicals being applied or to be applied; or

(5) observe the use and application of chemicals.

Should the secretary, the secretary's agent or the county or district attorney or their agents be denied access to any land where such access was sought for the purposes authorized, the secretary or the county or district attorney may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for such purposes. The court, upon such application, may issue the search warrant for the purposes requested.

(b) The enforcement of the criminal provisions of this act shall be the duty of, and shall be implemented by, the county or district attorneys of the various counties or districts. In the event a county or district attorney refuses to act, the attorney general shall so act. The secretary is charged with the duty of enforcing all other provisions of this act.

Sec. 24. Upon expiration of the provisions of this act pursuant to section 30, K.S.A. 1907 Supp. 47-1210 is hereby revived to read as follows:

(a) Any person or persons who shall put any dead animals, carcasses of such animals or domestic fowl, or any part thereof, into any well, spring, brook, branch, river, creek, pond, road, street, alley, lane, lot, field, meadow or common shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding \$100.

(b) Any owner or owners of any dead animals, carcasses of such animals or domestic fowl, or any part thereof, who shall knowingly permit the same to remain in any well, spring, brook, branch, river, creek, pond, road, street, alley, lane, lot, field, meadow or common to the injury of the health or to the annoyance of or damage to the citizens of the state or any of them, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding \$100. Every 24 hours the owners shall permit the same to remain thereafter shall be deemed an additional offense.

(c) Persons disposing of dead animals shall do so in one of the following ways: (1) Burial; (2) incineration; or (3) delivery or unloading of the carcasses of dead animals or packing house refuse at a disposal plant, substation, rendering plant or place of transfer licensed by the commissioner.

Sec. 25. Upon expiration of the provisions of this act pursuant to section 30, K.S.A. 1907 Supp. 65-171d is hereby revived to read as follows:

(a) For the purpose of preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, and to protect beneficial uses of the waters of the state and to require the treatment of sewage predicated by a technologically based effluent limitations, the secretary of health and environment shall make such rules and regulations, including regis-

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1 tration of potential sources of pollution, as may in the secretary's judgment  
2 be necessary to: (1) Protect the soil and waters of the state from  
3 pollution resulting from underground storage reservoirs of hydrocarbons  
4 and liquid petroleum gas; (2) control the disposal, discharge or escape of  
5 sewage as defined in K.S.A. 65-164 and amendments thereto, by or from  
6 municipalities, corporations, companies, institutions, state agencies, federal  
7 agencies or individuals and any plants, works or facilities owned or  
8 operated, or both, by them; and (3) establish water quality standards for  
9 the waters of the state to protect their beneficial uses.

10 (b) The secretary of health and environment may adopt by reference  
11 any regulation relating to water quality and effluent standards promul-  
12 gated by the federal government pursuant to the provisions of the federal  
13 clean water act and amendments thereto, as in effect on January 1, 1980,  
14 which the secretary is otherwise authorized by law to adopt.

15 (c) For the purposes of this act, including K.S.A. 65-161 through  
16 65-171h and amendments thereto, and rules and regulations adopted pur-  
17 suant thereto:

18 (1) "Pollution" means: (A) Such contamination or other alteration of  
19 the physical, chemical or biological properties of any waters of the state  
20 as will or is likely to create a nuisance or render such waters harmful,  
21 detrimental or injurious to public health, safety or welfare, or to the plant,  
22 animal or aquatic life of the state or to other designated beneficial uses;  
23 or (B) such discharge as will or is likely to exceed state effluent standards  
24 predicated upon technologically based effluent limitations.

25 (2) "Confined feeding facility" means any lot, pen, pool or pond: (A)  
26 Which is used for the confined feeding of animals or fowl for food, fur  
27 or pleasure purposes; (B) which is not normally used for raising crops;  
28 and (C) in which no vegetation intended for animal food is growing.

29 (3) "Animal unit" means a unit of measurement calculated by adding  
30 the following numbers: The number of beef cattle weighing more than  
31 700 pounds multiplied by 1.0; plus the number of cattle weighing less  
32 than 700 pounds multiplied by 0.5; plus the number of mature dairy cattle  
33 multiplied by 1.4; plus the number of swine weighing more than 55  
34 pounds multiplied by 0.4; plus the number of swine weighing 55 pounds  
35 or less multiplied by 0.1; plus the number of sheep or lambs multiplied  
36 by 0.1; plus the number of horses multiplied by 2.0; plus the number of  
37 turkeys multiplied by 0.018; plus the number of laying hens or broilers,  
38 if the facility has continuous overflow watering, multiplied by 0.01; plus  
39 the number of laying hens or broilers, if the facility has a liquid manure  
40 system, multiplied by 0.033; plus the number of ducks multiplied by 0.2.  
41 However, each head of cattle will be counted as one full animal unit for  
42 the purpose of determining the need for a federal permit. "Animal unit"  
43 also includes the number of swine weighing 55 pounds or less multiplied



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1 by 0.1 for the purpose of determining applicable requirements for new  
2 construction of a confined feeding facility for which a permit or registra-  
3 tion has not been issued before January 1, 1908, and for which an appli-  
4 cation for a permit or registration and plans have not been filed with the  
5 secretary of health and environment before January 1, 1908, or for the  
6 purpose of determining applicable requirements for expansion of such  
7 facility. However, each head of swine weighing 55 pounds or less shall be  
8 counted as 0.0 animal unit for the purpose of determining the need for  
9 a federal permit.

10 (4) "Animal unit capacity" means the maximum number of animal  
11 units which a confined feeding facility is designed to accommodate at any  
one time.

12 (5) "Habitable structure" means any of the following structures which  
13 is occupied or maintained in a condition which may be occupied: A dwell-  
14 ing, church, school, adult care home, medical care facility, child care  
15 facility, library, community center, public building, office building or li-  
16 censed food service or lodging establishment.

17 (d) In adopting rules and regulations, the secretary of health and en-  
18 vironment, taking into account the varying conditions that are probable  
19 for each source of sewage and its possible place of disposal, discharge or  
20 escape, may provide for varying the control measures required in each  
21 case to those the secretary finds to be necessary to prevent pollution. If  
22 a freshwater reservoir or farm pond is privately owned and where com-  
23 plete ownership of land bordering the reservoir is under common private  
24 ownership, such freshwater reservoir or farm pond shall be exempt from  
25 water quality standards except as it relates to water discharge or seepage  
26 from the reservoir to waters of the state, either surface or groundwater,  
27 or as it relates to the public health of persons using the reservoir or pond  
or waters therefrom.

28 (e) (1) Whenever the secretary of health and environment or the  
29 secretary's duly authorized agents find that the soil or waters of the state  
30 are not being protected from pollution resulting from underground stor-  
31 age reservoirs of hydrocarbons and liquid petroleum gas or that storage  
32 or disposal of salt water not regulated by the state corporation commission  
33 or refuse in any surface pond is causing or is likely to cause pollution of  
34 soil or waters of the state, the secretary or the secretary's duly authorized  
35 agents shall issue an order prohibiting such underground storage reservoir  
36 or surface pond. Any person aggrieved by such order may within 15 days  
37 of service of the order request in writing a hearing on the order.

38 (2) Upon receipt of a timely request, a hearing shall be conducted in  
39 accordance with the provisions of the Kansas administrative procedure  
act.

40 (3) Any action of the secretary pursuant to this subsection is subject  
41  
42  
43

1 to review in accordance with the act for judicial review and civil enforce-  
2 ment of agency actions.

3 (f) The secretary may adopt rules and regulations establishing fees  
4 for the following services:

5 (1) Plan approval, monitoring and inspecting underground or buried  
6 petroleum products storage tanks; for which the annual fee shall not ex-  
7 ceed \$5 for each tank in place;

8 (2) permitting, monitoring and inspecting salt solution mining oper-  
9 ators; for which the annual fee shall not exceed \$1,950 per company; and

10 (3) permitting, monitoring and inspecting hydrocarbon storage wells  
11 and well systems; for which the annual fee shall not exceed \$1,875 per  
company.

13 (g) Prior to any new construction of a confined feeding facility with  
14 an animal unit capacity of 300 to 900, such facility shall register with the  
15 secretary of health and environment. Facilities with less than 300 animal  
16 units may register with the secretary. Any such registration shall be ac-  
17 companied by a \$25 fee. Within 30 days of receipt of such registration,  
18 the department of health and environment shall identify any significant  
19 water pollution potential or separation distance violations pursuant to sub-  
20 section (h). If there is identified a significant water pollution potential,  
21 such facility shall be required to obtain a permit from the secretary. If  
22 there is no water pollution potential posed by a facility with an animal  
23 unit capacity of less than 300, the secretary may certify that no permit is  
24 required. If there is no water pollution potential nor any violation of  
25 separation distances posed by a facility with an animal unit capacity of  
26 300 to 900, the secretary shall certify that no permit is required and that  
27 there are no certification conditions pertaining to separation distances. If  
a separation distance violation is identified, the secretary may reduce the  
separation distance in accordance with subsection (i) and shall certify any  
such reduction of separation distances.

31 (h) Any new construction or new expansion of a confined feeding  
32 facility shall meet or exceed the following requirements in separation  
33 distances from any habitable structure:

34 (1) 1320 feet for facilities with an animal unit capacity of 300 to 900;  
35 and

36 (2) 4000 feet for facilities with an animal unit capacity of 1,000 or  
37 more.

38 (i) The separation distance requirements of subsection (h) shall not  
39 apply if such person newly constructing or newly expanding a confined  
feeding facility obtains a written agreement from all owners of habitable  
structures which are within the separation distance stating such owners  
42 are aware of such construction or expansion and have no objections to  
43 such construction or expansion. The written agreement shall be filed in

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1 the register of deeds office of the county in which the habitable structure  
2 is located. The secretary may reduce separation distance requirements if:  
3 (1) No substantial objection from owners of habitable structures within  
4 the separation distance is received in response to public notice; or (2) the  
5 board of county commissioners of the county where the confined feeding  
6 facility is located submits a written request seeking a reduction of separa-  
7 tion distances.

8 (j) The separation distances required pursuant to subsection (h) shall  
9 not apply to:

10 (1) Confined feeding facilities which are permitted or certified by the  
11 secretary on the effective date of this act;

12 (2) confined feeding facilities which exist on the effective date of this  
13 act and register with the secretary before July 1, 1996; or

14 (3) expansion of a confined feeding facility, including any expansion  
15 for which an application is pending on the effective date of this act, if:

16 (A) In the case of a facility with an animal unit capacity of 1,000 or more  
17 prior to the effective date of this act, the expansion is located at a distance  
18 not less than the distance between the facility and the nearest habitable  
19 structure prior to the expansion; or (B) in the case of a facility with an  
20 animal unit capacity of less than 1,000 prior to the effective date of this  
21 act and, the expansion is located at a distance not less than the distance  
22 between the facility and the nearest habitable structure prior to the ex-  
23 pansion the animal unit capacity of the facility after expansion does not  
24 exceed 2,000.

25 (k) All plans and specifications submitted to the department for new  
26 construction or new expansion of confined feeding facilities may be, but  
27 are not required to be, prepared by a professional engineer or a consult-  
28 ant.

29 Sec. 36. Upon expiration of the provisions of this act pursuant to  
30 section 30, K.S.A. 70-32,117 is hereby revived to read as follows: 70-  
31 32,117. (a) The Kansas adjusted gross income of an individual means such  
32 individual's federal adjusted gross income for the taxable year, with the  
33 modifications specified in this section:

34 (b) There shall be added to federal adjusted gross income:

35 (i) Interest income less any related expenses directly incurred in the  
36 purchase of state or political subdivision obligations; to the extent that  
37 the same is not included in federal adjusted gross income; on obligations  
38 of any state or political subdivision thereof; but to the extent that interest  
39 income on obligations of this state or a political subdivision thereof issued  
40 prior to January 1, 1988, is specifically exempt from income tax under the  
41 laws of this state authorizing the issuance of such obligations; it shall be  
42 excluded from computation of Kansas adjusted gross income whether or  
43 not included in federal adjusted gross income. Interest income on obli-

1 gations of this state or a political subdivision thereof issued after Decem-  
2 ber 31, 1987, shall be excluded from computation of Kansas adjusted  
3 gross income whether or not included in federal adjusted gross income.

4 (ii) Taxes on or measured by income or fees or payments in lieu of  
5 income taxes imposed by this state or any other taxing jurisdiction to the  
6 extent deductible in determining federal adjusted gross income and not  
7 credited against federal income tax. This paragraph shall not apply to taxes  
8 imposed under the provisions of K.S.A. 70-1107 or 70-1108, and amend-  
9 ments thereto, for privilege tax year 1995, and all such years thereafter.

10 (iii) The federal net operating loss deduction.

11 (iv) Federal income tax refunds received by the taxpayer if the de-  
12 duction of the taxes being refunded resulted in a tax benefit for Kansas  
13 income tax purposes during a prior taxable year. Such refunds shall be  
14 included in income in the year actually received regardless of the method  
15 of accounting used by the taxpayer. For purposes hereof, a tax benefit  
16 shall be deemed to have resulted if the amount of the tax had been de-  
17 ducted in determining income subject to a Kansas income tax for a prior  
18 year regardless of the rate of taxation applied in such prior year to the  
19 Kansas taxable income, but only that portion of the refund shall be in-  
20 eluded as bears the same proportion to the total refund received as the  
21 federal taxes deducted in the year to which such refund is attributable  
22 bears to the total federal income taxes paid for such year. For purposes  
23 of the foregoing sentence, federal taxes shall be considered to have been  
24 deducted only to the extent such deduction does not reduce Kansas tax-  
25 able income below zero.

26 (v) The amount of any depreciation deduction or business expense  
27 deduction claimed on the taxpayer's federal income tax return for any  
28 capital expenditure in making any building or facility accessible to the  
29 handicapped, for which expenditure the taxpayer claimed the credit al-  
30 lowed by K.S.A. 70-32,177, and amendments thereto.

31 (vi) Any amount of designated employee contributions picked up by  
32 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4010 and 74-4965,  
33 and amendments to such sections.

34 (vii) The amount of any charitable contribution made to the extent  
35 the same is claimed as the basis for the credit allowed pursuant to K.S.A.  
36 70-32,106, and amendments thereto.

37 (e) There shall be subtracted from federal adjusted gross income:

38 (i) Interest or dividend income on obligations or securities of any  
39 authority, commission or instrumentality of the United States and its pos-  
40 sessions less any related expenses directly incurred in the purchase of  
41 such obligations or securities, to the extent included in federal adjusted  
42 gross income but exempt from state income taxes under the laws of the  
43 United States.

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1 (ii) Any amounts received which are included in federal adjusted  
2 gross income but which are specifically exempt from Kansas income tax-  
3 ation under the laws of the state of Kansas.

4 (iii) The portion of any gain or loss from the sale or other disposition  
5 of property having a higher adjusted basis for Kansas income tax purposes  
6 than for federal income tax purposes on the date such property was sold  
7 or disposed of in a transaction in which gain or loss was recognized for  
8 purposes of federal income tax that does not exceed such difference in  
9 basis; but if a gain is considered a long-term capital gain for federal in-  
10 come tax purposes, the modification shall be limited to that portion of  
11 such gain which is included in federal adjusted gross income.

12 (iv) The amount necessary to prevent the taxation under this act of  
13 any annuity or other amount of income or gain which was properly in-  
14 cluded in income or gain and was taxed under the laws of this state for a  
15 taxable year prior to the effective date of this act, as amended, to the  
16 taxpayer, or to a decedent by reason of whose death the taxpayer acquired  
17 the right to receive the income or gain, or to a trust or estate from which  
18 the taxpayer received the income or gain.

19 (v) The amount of any refund or credit for overpayment of taxes on  
20 or measured by income or fees or payments in lieu of income taxes im-  
21 posed by this state, or any taxing jurisdiction, to the extent included in  
22 gross income for federal income tax purposes.

23 (vi) Accumulation distributions received by a taxpayer as a beneficiary  
24 of a trust to the extent that the same are included in federal adjusted  
25 gross income.

26 (vii) Amounts received as annuities under the federal civil service  
27 retirement system from the civil service retirement and disability fund  
28 and other amounts received as retirement benefits in whatever form  
29 which were earned for being employed by the federal government or for  
30 service in the armed forces of the United States.

31 (viii) Amounts received by retired railroad employees as a supple-  
32 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)  
33 *et seq.*

34 (ix) Amounts received by retired employees of a city and by retired  
35 employees of any board of such city as retirement allowances pursuant to  
36 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter  
37 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and  
38 amendments thereto.

39 (x) For taxable years beginning after December 31, 1976, the amount  
40 of the federal tentative jobs tax credit disallowance under the provisions  
41 of 26 U.S.C. 280 G. For taxable years ending after December 31, 1978,  
42 the amount of the targeted jobs tax credit and work incentive credit dis-  
43 allowances under 26 U.S.C. 280 G.

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1 (xi) For taxable years beginning after December 31, 1986, dividend  
2 income on stock issued by Kansas Venture Capital, Inc.

3 (xii) For taxable years beginning after December 31, 1980, amounts  
4 received by retired employees of a board of public utilities as pension and  
5 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249  
6 and amendments thereto.

7 (xiii) For taxable years beginning after December 31, 1993, the  
8 amount of income earned on contributions deposited to an individual  
9 development account under K.S.A. 70-32,117h, and amendments thereto.

10 (xiv) For all taxable years commencing after December 31, 1996, that  
11 portion of any income of a bank organized under the laws of this state or  
12 any other state, a national banking association organized under the laws  
13 of the United States, an association organized under the savings and loan  
14 code of this state or any other state, or a federal savings association or-  
15 ganized under the laws of the United States, for which an election as an  
16 S corporation under subchapter S of the federal internal revenue code is  
17 in effect, which accrues to the taxpayer who is a stockholder of such  
18 corporation and which is not distributed to the stockholders as dividends  
19 of the corporation.

20 (t) There shall be added to or subtracted from federal adjusted gross  
21 income the taxpayer's share, as beneficiary of an estate or trust, of the  
22 Kansas fiduciary adjustment determined under K.S.A. 70-32,135, and  
23 amendments thereto.

24 (e) The amount of modifications required to be made under this sec-  
25 tion by a partner which relates to items of income, gain, loss, deduction  
26 or credit of a partnership shall be determined under K.S.A. 70-32,131,  
27 and amendments thereto, to the extent that such items affect federal  
28 adjusted gross income of the partner.

29 New Sec. 37. ~~31.~~ The secretary of health and environment shall  
30 adopt rules and regulations establishing standards and procedures for  
31 composting livestock, including chickens and turkeys.

37.

32 ~~Sec. 32. K.S.A. 17-5908 is hereby amended to read as follows:~~

33 ~~17-5908. (a) (1) The board of county commissioners, by resolution,~~  
34 ~~may permit a swine production facility, as defined in K.S.A. 17-~~  
35 ~~5903, and amendments thereto, to be established within the~~  
36 ~~county upon approval of the voters as provided in this section. Such~~  
37 ~~resolution shall be published once each week for two consecutive~~  
38 ~~weeks in the official county newspaper. The resolution shall take~~  
39 ~~effect 60 days after final publication unless a valid petition in opposition~~  
40 ~~to the same is filed after approval of the voters as provided in this section.~~

41 ~~[(2) If within 60 days of the final publication of the resolution, a valid~~  
42 ~~petition to submit the resolution to the qualified voters of the~~  
43 ~~county is signed by qualified electors of the county equal in number to~~



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not less than 5% of the electors of the county who voted for the office of secretary of state at the last preceding general election at which such office was elected and is filed with the county election officer. After such resolution has been adopted by the board as provided in subsection (a) (1), the county election officer shall submit the question of whether a swine production facility shall be allowed to be established in such county at the next state or county-wide regular or special election.

(b) (1) The board of county commissioners, upon a petition filed in accordance with paragraph (b)(2), shall submit to the qualified electors of the county a proposition to permit a swine production facility, as defined in K.S.A. 17-5003, and amendments thereto, to be established within the county.

(2) A petition to submit a proposition to the qualified voters of a county pursuant to this section shall be filed with the county election officer. The petition shall be signed by qualified electors of the county equal in number to not less than 5% of the electors of the county who voted for the office of secretary of state at the last preceding general election at which such office was elected. The following shall appear on the petition:

"We request an election to determine whether a corporate swine production facility shall be allowed to be established in \_\_\_\_\_ county, pursuant to K.S.A. 17-5004."

(3) Upon the submission of a valid petition calling for an election pursuant to this subsection, the county election officer shall submit the question of whether a swine production facility shall be allowed to be established in such county at the next state or county-wide regular or special election which occurs more than 60 days after the petition is filed with the county election officer.

(e) If a majority of the votes cast and counted are in opposition to allowing swine production facilities to be established in such county, the county election officer shall transmit a copy of the result to the secretary of state who shall publish in the Kansas register the result of such election and that swine production facilities are not allowed to be established in such county.

(d) (c) If a majority of the votes cast and counted is in favor of the proposition, the county election officer shall transmit a copy of the result to the secretary of state who shall publish in the Kansas register the result of such election and that swine production facilities are allowed to be established in such county.

(e) (d) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.

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1 ~~[(e) When the proposition of whether a swine production facility shall~~  
2 ~~be allowed to be established in a county has been submitted to the electors~~  
3 ~~as provided in this section, such proposition may be resubmitted to the~~  
4 ~~electors of such county not more often than once every two years there-~~  
5 ~~after, whenever a valid petition has been submitted to the board of county~~  
6 ~~commissioners signed by qualified electors of the county equal in number~~  
7 ~~to not less than 5% of the electors of the county who voted for the office~~  
8 ~~of secretary of state at the last preceding general election of which such~~  
9 ~~office was elected. The county election officer shall submit the question at~~  
10 ~~the next state or county-wide regular or special election which occurs~~  
11 ~~more than 60 days after the petition is filed with the county election~~  
12 ~~officer. The results of such election shall be binding and shall supersede~~  
13 ~~any previous election. The provisions of this subsection are applicable~~  
14 ~~regardless of whether the previous election opposed or approved estab-~~  
15 ~~lishment of swine production facility in such county.]~~

16 [Sec. 33. K.S.A. 74-5065 is hereby amended to read as follows:  
17 74-5065. As used in this act:

18 [(a) "Kansas industrial training program" or "KIT program"  
19 means a program under which the secretary provides for training,  
20 customized to meet the specifications of a new or expanding in-  
21 dustry, of new employees or prospective employees, or both, of  
22 the industry.

23 [(b) "Kansas industrial retraining program" or "KIR program"  
24 means a program under which the secretary provides for retrain-  
25 ing, customized to meet the specifications of a restructuring in-  
26 dustry, of employees of the industry.

27 [(c) "New or expanding industry" means an industry which is  
28 locating or is newly located in Kansas or an existing industry which  
29 is located in Kansas and is expanding its work force.

30 [(d) "Training" means training of employees or preemploy-  
31 ment training of prospective employees for jobs newly created by  
32 a new or expanding industry.

33 [(e) "Restructuring industry" means an existing industry which  
34 is located in Kansas and is restructuring its operations through  
35 incorporation of existing technology, development and incorpora-  
36 tion of new technology, diversification of production or devel-  
37 opment and implementation of new production.

38 [(f) "Retraining" means retraining of employees of a restruc-  
39 turing industry who are likely to be displaced because of obsolete  
or inadequate job skills and knowledge.

40 [(g) "Job training agency" means any public or private educa-  
41 tional or job training institution and any other public or private  
42 entity which is qualified to provide the training or retraining re-  
43 ]

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1 ~~Required under the KIT and KIR programs.~~  
2 [(h) "Secretary" means the secretary of commerce.  
3 [(i) "Agricultural land," "corporation," "corporate partnership,"  
4 "limited liability company," "limited partnership," "swine production fa-  
5 cility" and "trust" have the meanings ascribed pursuant to K.S.A. 17-  
6 5903, and amendments thereto.  
7 [Sec. 34. K.S.A. 1997 Supp. 74-5066 is hereby amended to  
8 read as follows: 74-5066. (a) The secretary shall administer the KIT  
9 program and the KIR program and shall:  
10 [(1) Consider proposals from industries and job training agencies  
11 for training or retraining services under the programs;  
12 [(2) publicize the programs and the procedures for making and  
13 submitting proposals for participation therein;  
14 [(3) establish standards and criteria for consideration of pro-  
15 posals and for assigning priorities among industries making pro-  
16 posals;  
17 [(4) ensure the provision of adequate fiscal and accounting  
18 controls under the programs;  
19 [(5) allocate and distribute funds made available for adminis-  
20 tration of the programs;  
21 [(6) evaluate the programs each year and make a report on the  
22 performance and cost effectiveness thereof as a part of the annual  
23 report required by K.S.A. 1997 Supp. 74-5049, and amendments  
24 thereto; and  
25 [(7) adopt rules and regulations necessary for administration  
26 of the programs.  
27 [(b) Contractual agreements may be entered into by the sec-  
28 retary with any industry or job training agency for participation in  
29 the programs and such agreements may be in the form of fixed-  
30 fee performance contracts. Training services under the KIT pro-  
31 gram may be provided at no cost to the industry or on a shared-  
32 cost basis with the industry as determined through negotiation  
33 between the secretary and the industry. Retraining services under  
34 the KIR program shall be provided on a shared cost basis. All ex-  
35 penditures for the payment of costs under the KIT and KIR pro-  
36 grams shall be made in accordance with appropriation acts upon  
37 warrants of the director of accounts and reports issued pursuant  
38 to vouchers approved by the secretary or by a person or persons  
39 designated by the secretary. Notwithstanding any provision of law  
40 to the contrary, contractual agreements entered into under the  
41 KIT program or the KIR program shall not be subject to compet-  
42 itive bidding procedures of K.S.A. 75-3739 and amendments  
43 thereto.]

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1 ~~[(c) Within the limitation of funds available for the KIT and~~  
2 ~~KIR programs and to the extent practicable, the secretary shall~~  
3 ~~make participation in the programs available to all industries~~  
4 ~~which submit proposals to participate therein, if consistent with~~  
5 ~~program goals and objectives and the allocation of resources for~~  
6 ~~the programs. Goals and objectives for the KIT and KIR programs~~  
7 ~~shall include appropriate priorities for basic industries.~~

8 *[(d) The secretary shall not use any funds in the KIT program or KIR*  
9 *program for the training or retraining of employees who are employed*  
10 *by a swine production facility on agricultural land which is owned, ac-*  
11 *quired, obtained or leased by a corporation, limited liability company,*  
12 *limited partnership, corporate partnership or trust.*

13 [Sec. 35. K.S.A. 1997 Supp. 74-8902 is hereby amended to  
14 read as follows: 74-8902. The following words or terms used in this  
15 act shall have the following meanings unless a different meaning  
16 clearly appears from the context:

17 [(a) "Act" means the Kansas development finance authority  
18 act.

19 [(b) "Authority" means the Kansas development finance au-  
20 thority created by K.S.A. 74-8903, and amendments thereto.

21 [(c) "Agricultural business enterprises" means facilities sup-  
22 porting or utilized in the operation of farms, ranches and other  
23 agricultural, aquacultural or silvicultural commodity producers  
24 and services provided in conjunction with the foregoing. "Agricul-  
25 tural business enterprise" shall not include a swine production facility on  
26 agricultural land which is owned, acquired, obtained or leased by a cor-  
27 poration, limited liability company, limited partnership, corporate part-  
28 nership or trust.

29 [(d) "Board of directors" means the board of directors of the  
30 authority created by K.S.A. 74-8903, and amendments thereto.

31 [(e) "Bonds" means any bonds, notes, debentures, interim cer-  
32 tificates, grant and revenue anticipation notes, interest in a lease,  
33 lease certificate of participation or other evidences of indebted-  
34 ness, whether or not the interest on which is subject to federal  
35 income taxation, issued by the authority pursuant to this act.

36 [(f) "Capital improvements" means any physical public better-  
37 ment or improvement or any preliminary plans, studies or surveys  
38 relative thereto; land or rights in land, including, without limita-  
39 tions, leases, air rights, easements, rights-of-way or licenses; and  
40 any furnishings, machinery, vehicles, apparatus or equipment for  
41 any public betterment or improvement.

42 [(g) "Construct" means to acquire or build, in whole or in part,  
43 in such manner and by such method as the authority shall deter-

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1 ~~mine to be in the public interest and necessary to accomplish the~~  
2 ~~purposes of and authority set forth in this act.~~

3 [(h) "Loans" means loans made for the purposes of financing  
4 any of the activities authorized within this act, including loans  
5 made to financial institutions for funding or as security for loans  
6 made for accomplishing any of the purposes of this act and re-  
7 serves and expenses appropriate or incidental thereto.

8 [(i) "Educational facilities" means real, personal and mixed  
9 property of any and every kind intended by an educational insti-  
10 tution in furtherance of its educational program.

11 [(j) "Facilities" means any real property, personal property or  
12 mixed property of any and every kind.

13 [(k) "Health care facilities" means facilities for furnishing  
14 physical or mental health care.

15 [(l) "Housing development" means any work or undertaking,  
16 whether new construction or rehabilitation, which is designed and  
17 financed pursuant to the provisions of this act for the primary pur-  
18 pose of providing dwelling accommodations for elderly persons  
19 and families of low income in need of housing.

20 [(m) "Industrial enterprise" means facilities for manufactur-  
21 ing, producing, processing, assembling, repairing, extracting,  
22 warehousing, distributing, communications, computer services,  
23 transportation, corporate and management offices and services  
24 provided in connection with any of the foregoing, in isolation or  
25 in any combination, that involve the creation of new or additional  
26 employment or the retention of existing employment.

27 [(n) "Political subdivision" means political or taxing subdivi-  
28 sions of the state, including municipal and quasi-municipal cor-  
29 porations, boards, commissions, authorities, councils, committees,  
30 subcommittees and other subordinate groups or administrative  
31 units thereof, receiving or expending and supported, in whole or  
32 in part, by public funds.

33 [(o) "Pooled bonds" means bonds of the authority, the interest  
34 on which is subject to federal income taxation, which are issued  
35 for the purpose of acquiring bonds issued by two or more political  
36 subdivisions.

37 [(p) "State" means the state of Kansas.

38 [(q) "State agency" means any office, department, board, com-  
39 mission, bureau, division, public corporation, agency or instru-  
40 mentality of this state.

41 [(r) "Agricultural land," "corporation," "corporate partnership,"  
42 "limited liability company," "limited partnership," "swine production fa-  
43 cility" and "trust" have the meanings ascribed pursuant to K.S.A. 17

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~~5905, and amendments thereto.~~

[Sec. 36. K.S.A. 1997 Supp. 74-8905 is hereby amended to read as follows: 74-8905. (a) The authority is hereby authorized and empowered to issue bonds, either for a specific activity or on a pooled basis for a series of related or unrelated activities or projects duly authorized by a political subdivision or group of political subdivisions of the state in such amounts as shall be determined by the authority for the purpose of financing capital improvement facilities, educational facilities, health care facilities and housing developments. Nothing in this act shall be construed to authorize the authority to issue bonds or use the proceeds thereof to (1) purchase, condemn, or otherwise acquire a utility plant or distribution system owned or operated by a regulated public utility or, (2) finance any capital improvement facilities, educational facilities, or health care facilities which are authorized under the laws of the state to be financed by the issuance of general obligation or utility revenue bonds of a political subdivision, except that the acquisition by the authority of general obligation or utility revenue bonds issued by political subdivisions with the proceeds of pooled bonds shall not violate the provisions of the foregoing; or (3) purchase, acquire, construct, reconstruct, improve, equip, furnish, repair, enlarge or remodel property for any swine production facility on agricultural land which is owned, acquired, obtained or leased by a corporation, limited liability company, limited partnership, corporate partnership or trust. Nothing in this subsection (a) shall prohibit the issuance of bonds by the authority when any statute specifically authorizes the issuance of bonds by the authority or approves any activity or project of a state agency for purposes of authorizing any such issuance of bonds in accordance with this section and provides an exemption from the provisions of this subsection (a).

[(b) The authority is hereby authorized and empowered to issue bonds for activities and projects of state agencies as requested by the secretary of administration. No bonds may be issued pursuant to this act for any activity or project of a state agency unless the activity or project either has been approved by an appropriation or other act of the legislature or has been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto. When requested to do so by the secretary of administration, the authority is further authorized and empowered to issue bonds for the purpose of refunding, whether at maturity or in advance of maturity, any outstanding bonded indebted-



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1 ~~edness of any state agency. The revenues of any state agency which~~  
2 ~~are pledged as security for any bonds of such state agency which~~  
3 ~~are refunded by refunding bonds of the authority may be pledged~~  
4 ~~to the authority as security for the refunding bonds.~~

5 [(c) The authority is hereby authorized and empowered to is-  
6 sue bonds for the purpose of financing industrial enterprises, ag-  
7 ricultural business enterprises, educational facilities, health care  
8 facilities and housing developments, or any combination of such  
9 facilities, or any interest in facilities, including without limitation  
10 leasehold interests in and mortgages on such facilities. No less than  
11 30 days prior to the issuance of any bonds authorized under this  
12 act with respect to any project or activity which is to be undertaken  
13 for the direct benefit of any person or entity which is not a state  
14 agency or a political subdivision, written notice of the intention of  
15 the authority to provide financing and issue bonds therefor shall  
16 be given by the president of the authority to the governing body  
17 of the city in which the project or activity is to be located, or, if  
18 the project or activity is not proposed to be located within a city,  
19 such notice shall be given to the governing body of the county. No  
20 bonds for the financing of the project or activity shall be issued by  
21 the authority for a one-year period if, within 15 days after the  
22 giving of such notice, the governing body of the political subdivi-  
23 sion in which the project or activity is proposed to be located shall  
24 have duly enacted an ordinance or resolution stating express dis-  
25 approval of the project or activity and shall have notified the pres-  
26 ident of the authority of such disapproval.

27 [(d) The authority is hereby authorized and empowered to is-  
28 sue bonds for the purpose of establishing and funding one or more  
29 series of venture capital funds in such principal amounts, at such  
30 interest rates, in such maturities, with such security, and upon such  
31 other terms and in such manner as is approved by resolution of  
32 the authority. The proceeds of such bonds not placed in a venture  
33 capital fund or used to pay or reimburse organizational, offering  
34 and administrative expenses and fees necessary to the issuance and  
35 sale of such bonds shall be invested and reinvested in such secu-  
36 rities and other instruments as shall be provided in the resolution  
37 under which such bonds are issued. Moneys in a venture capital  
38 fund shall be used to make venture capital investments in new,  
39 expanding or developing businesses, including, but not limited to,  
40 equity and debt securities, warrants, options and other rights to  
41 acquire such securities, subject to the provisions of the resolution  
42 of the authority. The authority shall establish an investment policy  
43 with respect to the investment of the funds in a venture capital

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1 ~~fund not inconsistent with the purposes of this act. The authority~~  
 2 shall enter into an agreement with a management company ex-  
 3 perience in venture capital investments to manage and adminis-  
 4 ter each venture capital fund upon terms not inconsistent with the  
 5 purposes of this act and such investment policy. The authority may  
 6 establish an advisory board to provide advice and consulting as-  
 7 sistance to the authority and the management company with re-  
 8 spect to the management and administration of each venture cap-  
 9 ital fund and the establishment of its investment policy. All fees  
 10 and expenses incurred in the management and administration of  
 11 a venture capital fund not paid or reimbursed out of the proceeds  
 12 of the bonds issued by the authority shall be paid or reimbursed  
 13 out of such venture capital fund.

14 [(e) The authority is hereby authorized and empowered to use  
 15 the proceeds of any bond issues herein authorized, together with  
 16 any other available funds, for venture capital investments or for  
 17 purchasing, leasing, constructing, restoring, renovating, altering  
 18 or repairing facilities as herein authorized, for making loans, pur-  
 19 chasing mortgages or security interests in loan participations and  
 20 paying all incidental expenses therewith, paying expenses of au-  
 21 thORIZING and issuing the bonds, paying interest on the bonds until  
 22 revenues thereof are available in sufficient amounts, purchasing  
 23 bond insurance or other credit enhancements on the bonds, and  
 24 funding such reserves as the authority deems necessary and desir-  
 25 able. All moneys received by the authority, other than moneys re-  
 26 ceived by virtue of an appropriation, are hereby specifically de-  
 27 clared to be cash funds, restricted in their use and to be used solely  
 28 as provided herein. No moneys of the authority other than moneys  
 29 received by appropriation shall be deposited with the state trea-  
 30 surer.

31 [(f) Any time the authority is required to publish a notification  
 32 pursuant to the tax equity and fiscal responsibility act of 1982, the  
 33 authority shall further publish such notification in the Kansas reg-  
 34 ister.

35 [(g) Any time the authority issues bonds pursuant to this sec-  
 36 tion, the authority shall publish notification of such issuance of  
 37 bonds 14 days prior to any bond hearing in the official county  
 38 newspaper where such bonds will be used and in the Kansas reg-  
 39 ister.]

38.

40 Sec. 38. ~~[37.]~~ K.S.A. 2-3302, 2-3305, 2-3307, ~~[17-5008], [74-5005]~~  
 41 and 79-32,117 and K.S.A. 1997 Supp. 47-1219 ~~[and], [65-171d], [74-5006,~~  
 42 ~~74-8002 and 74-8005]~~ are hereby repealed.

and 65-171d

43 See. 39. Upon expiration of the provisions of this act pursuant to

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1 section 30, K.S.A. 2-3302, as amended by section 23 of this act, 2-3305,  
2 as amended by section 25 of this act, 2-3307, as amended by section 26  
3 of this act, and 70-32,117, as amended by section 20 of this act, and K.S.A.  
4 1997 Supp. 47-1210, as amended by section 27 of this act, and 65-171d,  
5 as amended by section 1 of this act, are hereby repealed.

6 ~~[New Sec. 38. In accordance with the provisions of appropri-~~  
7 ~~ation acts, the cost of the operating expenses required by the new,~~  
8 ~~expanded or additional duties and functions prescribed by this act~~  
9 ~~for the secretary of health and environment and department of~~  
10 ~~health and environment for the fiscal year ending June 30, 1998,~~  
11 ~~and for each fiscal year thereafter, specifically including the cost~~  
12 ~~of operating expenses for additional state officers and employees,~~  
13 ~~shall be funded from the state economic development initiatives~~  
14 ~~fund.]~~

40.

15 Sec. 40. ~~[30.]~~ This act shall take effect and be in force from and after  
16 its publication in the Kansas register.

## Memorandum

**TO:** Members of the Senate Energy and Natural Resources Committee

**FROM:** Lila McClafflin, Committee Secretary *Lila*  
phone # 6-7388

**DATE:** April 8, 1998

**RE:** Attached are the committee minutes from the meetings of March 26 at 8:15 a.m., March 26, at 12:20 p.m., March 27, at 12:11 p.m., and on March 30 12:18. Please review them and if there are any corrections let me know by Friday, April 10 at 12:00 p.m., or they will stand approved as printed.

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