

## MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on January 18, 2007, in Room 423-S of the Capitol.

All members were present.

## Committee staff present:

Raney Gilliland, Kansas Legislative Research Department  
Art Griggs, Revisor of Statutes Office  
Judy Holliday, Committee Assistant

## Conferees appearing before the committee:

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture  
Steve Swafford, Director of Natural Resources, Kansas Farm Bureau  
Tracy Streeter, Director, Kansas Water Office  
John Donley, Government Affairs Department, Kansas Livestock Association  
Greg Foley, Director, State Conservation Commission

## Others attending:

See attached list.

Chairman McGinn asked staff members Raney Gilliland, Legislative Research Department; Judy Holliday, Committee Assistant; and Art Griggs, Revisor of Statutes Office, to introduce themselves to the group.

Chairman McGinn asked for bill introductions. Senator Ralph Ostmeyer suggested a bill to amend K.S.A. 65-34 et. seq., the Kansas Storage Tank Act to include applicable provisions of the Federal Energy Policy Act of 2005 (Attachment 1). Senator Ostmeyer made a motion that the bill be introduced. Senator Teichman seconded the motion. The motion carried.

Raney Gilliland reviewed **SB 15, Bill by Special Committee on Agriculture and Natural Resources establishing the Kansas dam rehabilitation program to provide cost-share assistance to rehabilitate certain deficient dams**. Mr. Gilliland explained that the program would be administered by the State Conservation Commission in consultation with the Chief Engineer of the Division of Water Resources, Department of Agriculture. In the program, no money would be provided to a participant until a permit is issued by the Division of Water Resources. The State Conservation Commission is required to adopt rules and regulations to implement the program.

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture, testified as a proponent of **SB 15 (Attachment 2)**. Deputy Secretary Cotsoradis explained that the bill would create the Kansas Dam Rehabilitation Program, which would be administered by the State Conservation Commission in consultation with the Chief Engineer of the Division of Water Resources, Department of Agriculture. The Program is a cost-share program for assistance to rehabilitate or renew unsafe dams or dams reclassified as a result of development downstream. He referenced new language on pages 2 and 3 of the bill which sets out parameters of the program and criteria for participation in the program.

Steve Swafford, Director of Natural Resources, Kansas Farm Bureau, testified as a proponent of **SB 15 (Attachment 3)**. Mr. Swafford stated that the bill addresses the problem of dam upgrades resulting from downstream developments beyond the control of the dam owner. Kansas Farm Bureau believes flood inundation maps should be a component of the dam safety issue.

Tracy Streeter, Director, Kansas Water Office, testified as a proponent of **SB 15 (Attachment 4)**. Mr. Streeter explained that the Kansas Legislature appropriated \$750,000 from the 2005 State Water Plan Fund to the State Conservation Commission to address rehabilitation of existing watershed structures or those reclassified due to downstream development. The State Soil Conservation Commission was directed to adopt rules and regulations governing how funds would be spent. Federal cost-share assistance was available for rehabilitation of structures built with Natural Resources Conservation Service assistance. In addition, the policy section adopted in 2005 intended to provide a framework for state action regarding dam rehabilitation.

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on January 18, 2007 in Room 423-S of the Capitol.

In the FY2008 budget, money allocated to this program within the State Conservation Commission is recommended to be used for dam construction located above federal reservoirs with public water supply storage, with the remainder of funds utilized statewide. In November 2006, the Kansas Water Authority expressed support for rehabilitation or mitigation of high or significant hazard privately owned dams from the State General Fund.

John Donley, Government Affairs Department, Kansas Livestock Association, testified as a proponent of **SB 15 (Attachment 5)**. Mr. Donley stated KLA supports **SB 15** because private landowners should not be solely responsible for funding repairs that benefit public safety where third party development has created the need for higher safety standards, and that private dam owners should not be forced into expensive repairs on their own dams when the only parties endangered by the dams are the owners themselves.

Greg Foley, Director, State Conservation Commission, testified as a proponent of **SB 15 (Attachment 6)**. Mr. Foley offered comments that the Commission believes would assist in implementing the program. He told the Committee that the State Conservation Commission supports the mission of a state funded program to provide rehabilitation for existing high and significant deficient dams and provide the most efficient and cost-effective program possible.

Senator Francisco introduced a balloon to **SB 15 (Attachment 7)**. Chairman McGinn asked Senator Francisco to hold the balloon to give the Committee an opportunity to read it before further discussion.

Chairman McGinn told the Committee they would continue work on **SB 15** next Friday or the following week.

Chris Tymeson, Chief Counsel, Kansas Wildlife and Parks, asked for the introduction of bills dealing in several areas: one dealing with hunter education, one on deer statutory review, and one dealing with changes needed on permits. Senator Taddiken made a motion to introduce Mr. Tymeson's bills, seconded by Senator Teichman. The motion carried.

Chairman McGinn told the Committee that Friday's meeting would be an update by the Kansas Department of Health and Environment.

The meeting adjourned at 9:25 a.m.

# SENATE NATURAL RESOURCES COMMITTEE

## Guest Roster

1/18/07

(Date)

CV Cotsoyadis	KDA
Tracy Stubb	KWO
Steve Swaffar	KFB
Kent Askren	KFB
John Donley	KS West Assn.
Matt Scherer	KDA
Woody Moses	KAPP
Wendy Harris	KCMCA
Gilda A. Foley	SCC
Shelley	KDWP
Derek Kush	Hugh Law Firm
Scott Heibner	Gaches, Braden, Barber & Assoc
Pat Lehman	KACD
Tom Thompson	Sierra Club

Please use black ink only!!

Tom Pallace  
2 Pet. Marketer

## State Compliance with the Federal Energy Policy Act of 2005

### Background:

The federal Energy Policy Act of 2005 amended several provisions of Section 9004 of the federal Solid Waste Disposal Act (42 U.S.C. 6991c), which provides for the regulation of USTs. The Kansas Storage Tank Act generally follows the federal act and provides the statutory basis for the regulation of USTs by the state. Because the Kansas program fulfilled the federal requirements of Subtitle I of the Resource Conservation and Recovery Act, Kansas was given state program approval. Additionally, the federal Environmental Protection Agency (EPA) recognizes the Kansas program as having authority to enforce federal rules regarding UST regulations. The amendments to the federal act now place new conditions on the Kansas UST program for more frequent inspections, increased public reporting, new training requirements for operators of USTs, and greater financial responsibility for UST installers.

The federal act requires that the state conduct onsite inspections of all UST facilities every three years with a more extensive inspection criteria. With existing staff and funding, the state program will have difficulty performing the additional duties required by the act and meet current program commitments.

Additionally, many releases of petroleum from USTs result from operator error or failure to follow procedures stipulated by regulations. The federal act requires training for operators of USTs, however, the Kansas Storage Tank Act does not provide KDHE with this authority.

The federal act requires increased reporting by the state to EPA regarding its UST program. The reports must include detailed compliance, inspection, and enforcement information, as well as the number, sources, and causes of petroleum releases from all private and publicly owned USTs in the state. The state is further required to prepare a report on an annual basis and make it readily available to the public.

The federal act requires installers of USTs to carry financial liability insurance of \$1,000,000 per incident and \$2,000,000 annual aggregate to pay for the cost of corrective action in the event their lack of workmanship results in a release of petroleum to the environment. The Kansas Storage Tank Act requires lesser amounts of liability insurance for UST installers.

The Essential Fuels Supply Trust fund provisions were adopted during the 2006 legislative session with a deadline of October 30<sup>th</sup>, 2007 to complete the required upgrades to be eligible for reimbursement under the act. Since the passage of the act, EPA has extended the deadline for compliance with the requirements of 40 CFR 112 to July 1, 2009. To align the Kansas program with the federal deadlines the dates of the act should be amended.

### Recommendations:

Senate Natural Resources  
January 18, 2007  
Attachment 1  
Tom Pallace

Amend the Kansas Storage Tank Act to comply with the applicable provisions of the federal Energy Policy Act of 2005. Add a provision in the UST Fund to allow for the use of UST funds for performing the required inspections, enforcement activities, reporting and to establish and operate a training program for UST operators. The use of these funds within the UST program does not constitute the diversion of funds from the State UST fund that is referred to by the Energy Policy Act of 2005. Amend the Energy policy act deadlines to correspond with the new federal dates.

**Legislative Implications:**

Implementation of the recommendations will require amending K.S.A. 65-34 et. seq., the Kansas Storage Tank Act to include applicable provisions of the federal Energy Policy Act of 2005.

*Petroleum Dealers*  
+  
KDFE



# KANSAS

DEPARTMENT OF AGRICULTURE  
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on Senate Bill 15 to the  
Committee on Natural Resources**  
by  
**Constantine Cotsoradis**  
**Deputy Secretary**  
**Kansas Department of Agriculture**

**January 18, 2007**

Good morning, Chairman McGinn and members of the committee. I am Constantine Cotsoradis, deputy secretary of agriculture, and I am here to testify in support of Senate Bill 15.

Dam inspections, and the impact of dam hazard classification and reclassification, were discussed throughout the last legislative session. That discussion focused on how public safety can be compromised by a deficient dam and how a dam owner can be impacted economically when a dam's hazard classification is upgraded because of downstream development. The discussion continued through the legislative interim, and the result is SB 15.

We support SB 15 because it protects the public by providing cost-share assistance to dam owners to help them correct deficiencies in high- and significant-hazard dams, or to help them meet more stringent requirements when downstream development dictates a higher dam hazard classification.

Dams often provide regional benefits – primarily flood control – for more than the dam owner, so it is appropriate for the state to provide cost-share assistance. It promotes public safety for those living in a home or driving on a road in the area that would be inundated if a dam failed.

We have an excellent dam inspection program in Kansas, and none of our dams have failed in recent times as they have in other states. However, dams must be properly maintained to the appropriate hazard classification standard, and deficiencies must be remedied, if we are to maintain this record.

I will answer questions at the appropriate time.

*Senate Natural Resources*  
*January 18, 2007*  
*Attachment 2*

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**Kansas Farm Bureau**  
**POLICY STATEMENT**

**Senate Natural Resources Committee**

**SB 15, an act concerning the state conservation commission,**  
**relating to dam safety**

**January 18, 2007**

**Submitted by:**

**Steve M. Swaffar**

**Director of Natural Resources**

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Chairperson McGinn and members of the committee, thank you for this opportunity to provide testimony today on Senate Bill 15. I am Steve Swaffar, Director of Natural Resources for the Kansas Farm Bureau. KFB supports SB 15.

Dam safety, inspections, upgrades, maintenance and inundation zone mapping are topics that were discussed often last legislative session and during interim committees this fall. KFB is engaged in these discussions because many of our members are either dam owners, members of watershed districts or benefactors of watershed structures; simply, our members have investments in dams and investments protected by dams. For this reason, KFB believes it is important that adequate but not overly burdensome regulatory oversight be given to these structures and the investments of our members protected.

Clearly there is a growing problem for dam owners that needs to be addressed. Upgrades and maintenance of dams are costly and many dam owners simply cannot afford those costs on their own. Some of the dam upgrades being required now and in the future are the result of downstream development that dam owners have no control over, yet become financially responsible for the upgrades. These instances are putting dam owners in difficult situations financially and are putting lives and property at risk. KFB believes SB 15 provides a mechanism for state cost-share dollars to mitigate some of those costs and protect the investments of our members.

We do have one question about the bill the committee may want to consider. Section 1(k), page 3, line 11 addresses the cost of alternatives for remedying an upgrade or repair of a dam. The cost-share rate that would be awarded to a dam

owner would be the "least expensive alternative" that properly addresses the dam problem. Our question regarding this section is: What if the least expensive alternative is to breach the dam? Although the bill clearly states dam owners are not required to implement the least expensive alternative, we question if it is wise to utilize cost-share dollars to breach critical watershed structures that protect human life, property and serve as sediment traps, simply because the dam owner is unable to afford a more expensive alternative. The committee may want to have some discussion about this provision.

This bill addresses the problem of dam upgrades as a result of development below the structure that is beyond the control of the dam owner. This is one of the biggest challenges dam owners, the Division of Water Resources (DWR), the State Conservation Commission (SCC) and watershed districts face with respect to dams. Although not addressed in this bill, KFB believes flood inundation zone maps are an important component of the overall solution to dam upgrades. The maps of these zones are a key to the regulatory program that establishes hazard classifications and the maintenance and inspections requirements administered by DWR. We request the committee consider this important component of the overall dam safety issue as you move forward.

KFB believes SB 15 is piece of the puzzle to solve the mounting issues with dam upgrades and repairs. We encourage you to act favorably on SB 15. Thank you for this opportunity to provide testimony.





# K A N S A S

TRACY STREETER, DIRECTOR

KANSAS WATER OFFICE

KATHLEEN SEBELIUS, GOVERNOR

## Testimony on Senate Bill 15 – Dam Rehabilitation

Presented to  
Senate Natural Resources Committee

Tracy Streeter  
Kansas Water Office  
January 18, 2007

Chair McGinn and members of the Committee, I am Tracy Streeter, Director of the Kansas Water Office. I appreciate the opportunity to appear this morning to discuss the Kansas Water Authority position regarding small dam safety and rehabilitation.

Many small dams have been constructed in Kansas by local watershed districts, municipalities and others. With time, structural components of many projects have deteriorated while demographic and land use changes have greatly changed the setting in which some projects are located. In addition, dam construction standards have been revised since many dams were built.

The 2005 Kansas Legislature provided an appropriation of \$750,000 from the State Water Plan Fund (SWPF) to the State Conservation Commission to address rehabilitation of existing watershed structures that have structural problems or that are now in a more stringent dam safety classification due to downstream development. The SCC was directed to adopt rules and regulations that guide how these funds would be spent. Federal cost-share assistance is available for rehabilitation of structures built with Natural Resources Conservation Service (PL 566) assistance.

On June 3, 2005, the Kansas Water Authority directed that dam rehabilitation be addressed as a policy issue in the Kansas Water Plan. An expedited planning process was utilized and the Kansas Water Authority approved the policy section on November 18, 2005.

While the approved dam rehabilitation recommendations provided general guidance for development of the rules and regulations, they were also intended to provide a framework for overall state action regarding dam rehabilitation.

Policy issues addressed were:

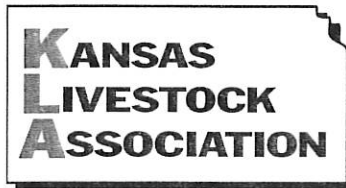
- Expenditure of the FY2006 SCC appropriation
- Controlling dam hazard class changes due to development
- Limiting dam owner liability for damages due to dam failure
- Financial assistance for small dam rehabilitation and upgrades

Implementation actions completed or contemplated include:

- Amending SCC Watershed Dam Construction Program Administrative Regulations to cover dam rehabilitation and breach area mapping (adopted March 24, 2006)
- Receipt of Attorney General's Opinion regarding watershed district powers to levy special assessments (affirmative opinion)
- Proposed amendment of Kansas Stream Obstructions Act regarding filing of approved dam breach inundation maps with Registrar of Deeds in affected counties
- KWA FY2008 State Water Plan Project Initiative Proposal includes SCC funding for additional dam rehabilitation and breach inundation mapping work

At its August 2006 meeting, the Kansas Water Authority approved a recommended budget regarding watershed dam and rehabilitation. The total recommended FY2008 budget for this program within the State Conservation Commission is \$1,055,000 of SWPF monies. This represents an increase of \$453,501, which the Kansas Water Authority recommended be used for dam construction located above federal reservoirs with public water supply storage. The remaining \$601,499 can be utilized statewide. At its meeting in November 2006, the KWA also expressed support for rehabilitation or mitigation of high or significant hazard privately owned dams from the State General Fund.

Thank you again for the opportunity to appear today. I would be happy to answer questions at the appropriate time.



*Since 1894*

TESTIMONY

To: Senate Natural Resources Committee  
Senator Carolyn McGinn, Chair

From: John Donley, Kansas Livestock Association

Date: January 18, 2007

Re: SB 15

*The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 6,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, grazing land management and diversified farming operations.*

Good morning Madame Chair and members of the Committee. My name is John Donley, and I serve in the Government Affairs department for the Kansas Livestock Association. I appreciate the opportunity to testify this morning to discuss KLA's support for SB 15.

KLA supports SB 15 because we are concerned about the rising cost of dam inspections and repairs caused by third party downstream development. We believe the funding plan set out in SB 15 is important because it will help remove some of the burden from dam owners for rising repair costs that are imposed under Kansas law by downstream development that is out of the landowner's control.

Kansas law currently grants the Department of Water Resources (DWR) the power to promulgate safety regulations for the construction and maintenance of dams. Under current DWR guidelines, dams that are not a threat to human life are classified as hazard class A dams. Any dam at which a failure would endanger one human life is classified as a hazard class B dam, and any dam at which a failure would endanger two or more human lives is classified as a hazard class C dam.

Under the current provisions of K.S.A. 82a-303b, hazard class A dams are not required to be inspected. A dam owner who owns a dam that is classified as a hazard class B dam is required to have an inspection performed by a licensed engineer at the owner's expense once every five years. The owner of a hazard class C dam is required to have the dam inspected by a licensed engineer at the owner's expense once every three

*Senate Natural Resources  
January 18, 2007  
Attachment 5*

years. The provisions of K.S.A. 82a-303c in turn require the repair of any structural defects in a dam that an inspection might discover. So class A dams are generally the cheapest to maintain because no inspections are required for those dams, while class B and C are respectively more expensive to maintain because of the increased inspections requirements for each class.

The regulatory arrangement set out in these statutes is causing two problems for dam owners around the state. The first problem that has arisen for some dam owners with respect to these statutes is that downstream construction by third parties within a dam's breach inundation area causes the dam's hazard class to be changed to a higher classification. Dams that were once hazard class A dams have become hazard class B or C dams with the construction of downstream homes. Thus the dam owner, through actions beyond his or her control, may be subjected to significantly increased inspection costs and repair liabilities.

The second problem caused by these statutes is that some dams have been classified as hazard class C even though the only lives or homes they threaten are those of the dam's owner or operator, or their immediate families. For example, KLA has a member in south-central Kansas whose farm dam has been classified as a hazard class C dam because two houses, both of which belong to him, sit below the dam. Under current law to repair any defects in the dam to DWR specifications. This has created a situation in which it would be cheaper for the landowner to move both houses from their current locations than to repair the dam to DWR's satisfaction.

KLA has been in discussions with the Kansas Department of Agriculture (KDA) and DWR for over a year regarding dam issues, and has added input for the development of SB 15. KLA supports SB 15 because we believe that private landowners should not be solely responsible for funding repairs that benefit public safety in cases where third party development has created the need for higher safety standards, and that private dam owners should not be forced into expensive repairs on their own dams when the only parties endangered by the dams are the owners themselves.

In conclusion, KLA supports SB 15 and would like to thank KDA for their work to find a solution to the dam safety problem in Kansas. I appreciate the chance to discuss our concerns with you this morning, and KLA stands ready to assist the Committee in any way we can with this important issue. Thank you.



Greg A. Foley, Executive Director

**KANSAS**  
State Conservation Commission

Kathleen Sebelius, Governor

**Testimony on the SB 15 relating to Dam Rehabilitation**  
to  
**Senate Committee on Natural Resources**  
By  
**Greg Foley**  
**Executive Director**  
**State Conservation Commission**

**January 18, 2007**

Chairperson McGinn and members of the committee, thank you for the opportunity to provide testimony on SB 15. I appear before you today to discuss State Conservation Commission (SCC) implementation roles and responsibilities along with a few agency recommendations.

The SCC currently implements the Watershed Dam Construction Program (WDCP) exclusively through the Kansas Watershed Districts. The Watershed Districts are statutorily authorized with many powers and authorities under the Watershed District Act. Their primary function is to construct, operate and maintain works of improvement needed to provide for water management: controlling erosion, reducing floodwater and or sediment damages for all tangibles property included therein. There are 86 organized districts encompassing approximately 35% of the total land mass within the state. The SCC began providing rehabilitation cost-share in FY 2007 on Watershed District sponsored dams. The SCC's current definition of dam rehabilitation is *"any work, except work required due to inadequate operation and maintenance, to extend the service life of a dam and to meet the applicable safety and performance standards."*

The current dam rehabilitation program administered by the SCC provides up to 70% cost-share, with an additional 10% for engineering in cost-share assistance for the rehabilitation of existing dams sponsored by organized Watershed Districts only. Dams outside of Watershed District sponsorship are not eligible for the current program. This proposal will require the SCC to develop rule and regulations and implement a program to address high and significant hazard dams in need of rehabilitation or removal, within the limits of appropriations for all dams.

The SCC and the Kansas Department of Agriculture, Division of Water Resources (DWR) have identified 167 dams needing some level of rehabilitation. The SCC would propose to work with the Division of Water Resources to develop high and significant deficient dam priority order for participation in the program. The total fiscal impact of this proposal is \$9,193,700.

**Testimony on the SB 15**

**January 18, 2007**

**Page 2**

Respectfully, the SCC would offer the following administrative comments that we believe could assist in achieving successful program implementation:

**Topics to Consider:**

- ❖ The SCC recommends that only existing dams that exist on the effective date of this act be eligible.
- ❖ The SCC requests that the Chief Engineer provide guidance and assistance for ranking high and significant deficient dam applications.
- ❖ In order to implement this proposal, the SCC will need ingress/egress authority. The SCC requests clarification of Legislative intent pertaining to instances or particular sites in which a landowner does not want rehabilitation performed on his or her dam. Most other SCC programs are voluntary in nature.

In conclusion, the SCC supports the mission of a state funded program to provide rehabilitation of existing high and significant deficient dams and will work diligently to provide the most efficient and cost-effective program possible.

Mr. Chairman, I would like to thank you for the opportunity to provide testimony on SB 15. I will stand for questions at the pleasure of the committee.

**SENATE BILL No. 15**

By Special Committee on Agriculture and Natural Resources

1-5

Proposed Amendment  
January 18, 2007  
By Senator Francisco

Senate Natural Resources  
January 18 2007  
Attachment 7  
Sen. Francisco

9 AN ACT concerning the state conservation commission; relating to dam  
10 safety; creating the Kansas dam rehabilitation program; amending  
11 K.S.A. 2006 Supp. 2-1915 and repealing the existing section.  
12

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

14 Section 1. K.S.A. 2006 Supp. 2-1915 is hereby amended to read as  
15 follows: 2-1915. (a) Appropriations may be made for grants out of funds  
16 in the treasury of this state for terraces, terrace outlets, check dams, dikes,  
17 ponds, ditches, critical area planting, grassed waterways, tailwater recov-  
18 ery irrigation systems, precision land forming, range seeding, detention  
19 and grade stabilization structures and other enduring water conservation  
20 practices installed on public lands and on privately owned lands, *dam*  
21 *rehabilitation projects* and, the control and eradication of *sericea lespe-*  
22 *deza* as provided in subsection (n) of K.S.A. 2-1908, and amendments  
23 thereto, on public lands and on privately owned lands. Except as provided  
24 by the multipurpose small lakes program act, any such grant shall not  
25 exceed 80% of the total cost of any such practice.

26 (b) A program for protection of riparian and wetland areas shall be  
27 developed by the state conservation commission and implemented by the  
28 conservation districts. The conservation districts shall prepare district pro-  
29 grams to address resource management concerns of water quality, erosion  
30 and sediment control and wildlife habitat as part of the conservation dis-  
31 trict long-range and annual work plans. Preparation and implementation  
32 of conservation district programs shall be accomplished with assistance  
33 from appropriate state and federal agencies involved in resource  
34 management.

35 (c) Subject to the provisions of K.S.A. 2-1919, and amendments  
36 thereto, any holder of a water right, as defined by subsection (g) of K.S.A.  
37 82a-701, and amendments thereto, who is willing to voluntarily return all  
38 or a part of the water right to the state shall be eligible for a grant not to  
39 exceed 80% of the total cost of the purchase price for such water right.  
40 The state conservation commission shall administer this cost-share pro-  
41 gram with funds appropriated by the legislature for such purpose. The  
42 chief engineer shall certify to the state conservation commission that any  
43 water right for which application for cost-share is received under ~~this~~

1 section is eligible in accordance with the criteria established in K.S.A. 2-  
2 1919, and amendments thereto.

3 (d) (1) Subject to appropriation acts therefor, the state conservation  
4 commission shall develop the Kansas water quality buffer initiative for  
5 the purpose of restoring riparian areas using best management practices.  
6 The executive director of the state conservation commission shall ensure  
7 that the initiative is complementary to the federal conservation reserve  
8 program.

9 (2) There is hereby created in the state treasury the Kansas water  
10 quality buffer initiative fund. All expenditures from such fund shall be  
11 made in accordance with appropriation acts upon warrants of the director  
12 of accounts and reports issued pursuant to vouchers approved by the  
13 executive director of the state conservation commission or the executive  
14 director's designee. Money credited to the fund shall be used for the  
15 purpose of making grants to install water quality best management prac-  
16 tices pursuant to the initiative.

17 (3) The county or district appraiser shall identify and map riparian  
18 buffers consisting of at least one contiguous acre per parcel of real prop-  
19 erty located in the appraiser's county. Notwithstanding any other provi-  
20 sions of law, riparian buffers shall be valued by the county or district  
21 appraiser as tame grass land, native grass land or waste land, as appro-  
22 priate. As used in this subsection (3), "riparian buffer" means an area of  
23 stream-side vegetation that: (A) Consists of tame or native grass and may  
24 include forbs and woody plants; (B) is located along a perennial or inter-  
25 mittent stream, including the stream bank and adjoining floodplain; and  
26 (C) is a minimum of 66 feet wide and a maximum of 180 feet wide.

27 (e) The state conservation commission shall adopt rules and regula-  
28 tions to administer such grant and protection programs.

29 (f) Any district is authorized to make use of any assistance whatsoever  
30 given by the United States, or any agency thereof, or derived from any  
31 other source, for the planning and installation of such practices. The state  
32 conservation commission may enter into agreements with other state and  
33 federal agencies to implement the Kansas water quality buffer initiative.

34 (g) *Within the limits of appropriations therefor, the state conservation*  
35 *commission shall develop and administer the Kansas dam rehabilitation*  
36 *program in consultation with the chief engineer of the division of water*  
37 *resources of the Kansas department of agriculture.*

38 (h) *Any dam permit holder may apply for cost-share assistance to*  
39 *rehabilitate or remove unsafe high and significant hazard dams or low*  
40 *hazard dams that are reclassified to high or significant hazard dams re-*  
41 *lated to downstream development.*

42 (i) *The division of water resources of the Kansas department of ag-*  
43 *riculture shall assist the state conservation commission by reviewing ~~and~~*

purchase and raze residential structures pursuant to subsection (l) or  
to



1 recommending a dam priority order for applications for participation in  
2 the program based on the following criteria:

- 3 (1) The highest severity of potential impact of dam failure;
- 4 (2) the greatest risk of failure due to the dams' deficiencies; and
- 5 (3) which deficiencies were a result of downstream development be-  
6 yond the control of the dam owner.

7 (j) Any dam permit holder may apply to the state conservation com-  
8 mission for cost-share assistance in the amount of 70% of the rate pre-  
9 scribed pursuant to subsection (k), and if engineering costs are incurred,  
10 an additional 10% of the rate prescribed pursuant to subsection (k).

11 (k) The cost-share grant awarded pursuant to subsection (j) shall be  
12 in an amount not to exceed a rate approved by the state conservation  
13 commission for the least expensive alternative that such commission de-  
14 termines properly addresses the problem or problems identified with such  
15 dam. Dam owners shall not be required to implement such least expensive  
16 alternative.

17 (l) An applicant who is not a dam permit holder shall be eligible to  
18 apply for cost-share assistance under the Kansas dam rehabilitation pro-  
19 gram subject to the following:

20 (1) Such applicant shall submit a rehabilitation plan to the chief en-  
21 gineer of the division of water resources of the Kansas department of  
22 agriculture in a form prescribed by such chief engineer;

23 (2) such rehabilitation plan shall comply with policies and procedures  
24 adopted by the chief engineer of the division of water resources of the  
25 Kansas department of agriculture; and

26 (3) cost-share assistance funds shall not be remitted until such appli-  
27 cant is granted a permit pursuant to K.S.A. 82a-301, and amendments  
28 thereto.

29 (m) As used in subsection (g) through ~~(n)~~ of this section, "dam permit  
30 holder" means any person, partnership, association, corporation, agency  
31 or political subdivision of the state government or other entity who holds  
32 a permit pursuant to K.S.A. 82a-301, and amendments thereto.

33 (n) The state conservation commission shall adopt rules and regula-  
34 tions to implement the Kansas dam rehabilitation act.

35 Sec. 2. K.S.A. 2006 Supp. 2-1915 is hereby repealed.

36 Sec. 3. This act shall take effect and be in force from and after its  
37 publication in the statute book.

If the least expensive alternative is to purchase and raze residential structures not owned by the dam permit holder in the inundation area of the dam, a cost share grant may be awarded for the purchase and razing of all residential structures in the inundation area if: (1) A permanent conservation easement prohibiting future residential development is placed on the inundation area; and (2) other terms and conditions of the state conservation commission, if any, are met.  
(m)

and by relettering the remaining subsections accordingly

(o)