

version works or to perfect a water right if there is demonstrable impairment of a use under an existing water right from the same source of supply, as determined pursuant to K.S.A. 82a-711, and amendments thereto.

(e) Evaporation from sand and gravel pits, as calculated by the chief engineer, will be reported as an industrial use to the director of taxation for the purpose of assessing the water protection fee pursuant to K.S.A. ~~92a-954~~ 82a-954, and amendments thereto.

(f) *This section shall be part of and supplemental to the Kansas water appropriations act.*

New Sec. 2. The chief engineer of the division of water resources of the department of agriculture and the state geological survey shall study and develop recommendations regarding: (a) The use of water banking as it pertains to sand and gravel pits; (b) calculation of evapotranspiration and its effects on consumptive use from sand and gravel pits, with special emphasis on salt cedar (tamarisk); and (c) the pollution control and flood control impacts of diverting water runoff into sand and gravel pits. On or before January 20, 2006, the chief engineer and the state geological survey shall submit a report of the study and recommendations to the house standing committee on environment and the senate standing committee on natural resources.

Sec. 3. K.S.A. 82a-734 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 16, 2004.

CHAPTER 101

SENATE BILL No. 524
(Amended by Chapter 180)

AN ACT concerning agriculture; relating to the Kansas department of agriculture and the secretary of agriculture; amending K.S.A. 2-127, 2-128, 2-129, 2-129i, 2-131b, 2-131d, 2-131e, 2-132, 2-137, 2-144d, 2-158, 2-714, 2-716, 2-907, 2-1002, 2-1004, 2-1004a, 2-1008, 2-1010, 2-1012, 2-1013, 2-1014, 2-1201, 2-1209, 2-1220, 2-1226, 2-1227, 2-1228, 2-1314, 2-1316, 2-1317, 2-1318, 2-1319, 2-1322, 2-1327, 2-1331, 2-1421a, 2-1424a, 2-1425, 2-1427, 2-1437, 2-2003, 2-2005, 2-2009, 2-2202, 2-2210, 2-2212, 2-2438a, 2-2439, 2-2444a, 2-2461, 2-2464a, 2-2469, 2-2472, 2-2501, 2-2802, 2-2803, 2-2814, 2-2901, 2-2903, 2-2911, 2-3002a, 2-3309, 2-3315, 2-3601, 11-201, 12-636, 12-761, 12-766, 12-2713, 16-1503, 16-1505, 19-1561b, 19-2963, 24-407, 24-418, 24-656, 24-659, 24-1202, 24-1204, 27-328, 28-813, 34-101c, 34-125, 34-132, 34-133, 34-134, 34-223, 42-701, 42-725, 44-820, 47-1902, 47-1903, 47-1904, 47-1905, 47-2001, 47-2301, 50-905, 55-153, 65-1,177, 65-1,182, 65-688, 65-6a19, 65-6a20, 65-6a24, 65-6a26, 65-6a28, 65-6a29, 65-6a30, 65-6a31, 65-6a32, 65-6a33, 65-6a35, 65-6a44, 65-6a44a, 65-6a45, 65-6a56, 65-771, 65-772, 65-34,103, 65-5703, 66-1,160, 68-506b, 68-1414, 68-1702, 68-2203, 74-504, 74-504a, 74-504b, 74-504e, 74-505, 74-505c, 74-506a, 74-506b, 74-506d, 74-509, 74-510a, 74-511, 74-515a, 74-515b, 74-542, 74-550, 74-552, 74-553, 74-554, 74-555, 74-561, 74-562, 74-578, 74-2610, 74-5048, 75-3149, 75-3150, 76-478, 82a-301a, 82a-303a, 82a-307a, 82a-405, 82a-603, 82a-612, 82a-701, 82a-706e, 82a-732, 82a-734, 82a-903, 82a-1021, 82a-1023, 82a-1301, 82a-1335, 82a-1501, 82a-1803, 83-205 and 83-403 and K.S.A. 2003 Supp. 2-1205, 2-1333, 2-2906, 2-3002, 2-3602, 34-101, 47-816, 55-443, 55-447, 65-6a18, 74-567, 74-2622, 74-50,159, 74-50,162, 74-8101, 79-3425c, 82a-731, 82a-954, 82a-1603, 82a-1903, 82a-1904, 83-219, 83-302 and 83-402 and repealing the existing sections.

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

Section 1. K.S.A. 2-127 is hereby amended to read as follows: 2-127.
(a) To become a county fair association 25 or more qualified electors representing the majority of the townships of the county shall have been incorporated as a nonprofit corporation with a paid-up capital of not less than \$5,000, and have received recognition as the _____ county fair association from the ~~state board~~ *secretary* of agriculture. The ~~state board~~ *secretary* of agriculture shall not give official recognition to any fair association until the fair association has submitted satisfactory evidence that it owns land or buildings of an appraised value of at least \$5,000 or has paid-up stock subscriptions in its treasury to this amount appropriated to the purchase of land or buildings or both.

(b) Fair associations located in counties (1) which have a population

of more than 5,000 and less than 6,000 and an assessed tangible valuation of less than \$40,000,000 or (2) where there are facilities for the holding of fairs which are available to a fair association and the value of such facilities is in excess of \$75,000, may qualify without having lands or buildings of an appraised value of at least \$5,000 or without paid-up stock subscriptions in its treasury in the amount of \$5,000 appropriated to the purchase of lands or buildings or both.

(c) Any incorporated or unincorporated fair association by whatever name now recognized by the ~~state board~~ *secretary* of agriculture operating under previous laws may avail itself of the provisions of K.S.A. 2-125 to 2-145a, inclusive, and ~~acts amendatory or supplemental amendments~~ thereto, without changing its charter, articles of incorporation, name, constitution, organization or methods of operation, except as provided in K.S.A. 2-137, *and amendments thereto*. The ~~state board~~ *secretary* of agriculture shall not recognize more than one fair association in each county, except where such recognition has already been accorded.

Sec. 2. K.S.A. 2-128 is hereby amended to read as follows: 2-128. Immediately upon incorporation and annually thereafter on or before the second Tuesday of December the stockholders of record or members of fair associations governed by the provisions of chapter 1, Laws of 1929 and acts amendatory or supplemental thereto, shall meet and elect a board of directors representing each township of the county (provided there are stockholders resident of such townships willing to serve) who shall serve for a term of three years, and so arranged that one-third of the directors' terms shall expire annually. A personal notification stating the time and place of the annual election shall be mailed to each stockholder, or to each member, or published in one issue of a newspaper of general circulation in the county at least ten days prior thereto. Immediately at the close of the annual meeting the board of directors shall meet and elect managing officers for the ensuing year, consisting of a president and vice-president, who shall be members of the board of directors, and a secretary and treasurer and such other officers and committees as they may deem necessary, who may or may not be members of the board of directors. ~~Provided, That~~ At the first election of directors one-third of said directors shall be chosen for terms of one year, one-third for terms of two years, and one-third for terms of three years. ~~At the same time and place there shall be elected by the stockholders or members one delegate and one alternate to represent the fair association at the annual meeting of the state board of agriculture if it is eligible, and a person to make such reports of the condition and activities of the association as may be required by the secretary of the state board of agriculture.~~

Sec. 3. K.S.A. 2-129 is hereby amended to read as follows: 2-129. Each fair association complying with the provisions of K.S.A. 2-127 and 2-128, and amendments thereto, upon filing with the clerk of the county an estimate and a report as provided in K.S.A. 2-130 and 2-131, and amendments thereto, shall be entitled to receive from the county, and the board of county commissioners shall pay to each such fair association, a sum equal to the actual cost of providing and paying for the premiums and rewards actually awarded at its annual fair for the current year including but not limited to the actual cost of the printing of the premiums list and the amount to be paid judges of the fair exhibits for the current year. In counties having a population of more than 125,000 and an assessed tangible valuation of more than \$150,000,000, the ~~state board~~ *secretary* of agriculture may give official recognition to both a county fair association and a livestock show association, and where such recognition is given, the county shall pay to each such county fair and livestock show association a sum equal to the actual cost of providing and paying for the premiums and rewards actually awarded at its annual show for the current year including but not limited to the actual cost of the printing of the premiums list and the amount to be paid judges of the fair exhibits for the current year. In counties having a population of not less than 17,500 nor more than 22,000 which have an assessed tangible valuation of not less than \$31,000,000 nor more than \$47,000,000 and not adjoining another state, the county may pay additional funds which may be used for the purchase of grounds and the erecting and maintenance of buildings to be used for such fair. In Leavenworth county and counties having a population of not less than 34,000 and not more than 50,000 and having an assessed taxable tangible valuation of more than \$60,000,000, the

county, in addition, may pay to another fair in such county, if such fair has been established and in operation for more than 10 years, a sum for the purpose of providing and paying for the premiums and rewards actually awarded at its annual fair for the current year including but not limited to the actual cost of the printing of the premiums list and the amount to be paid judges of the fair exhibits for the current year. The board of county commissioners may make an annual tax levy upon all of the assessed taxable tangible valuation of such county to raise the funds for the purposes hereinbefore authorized and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county.

Sec. 4. K.S.A. 2-129i is hereby amended to read as follows: 2-129i. The board of county commissioners of any county designated as an urban area by K.S.A. 19-2654, and amendments thereto, and in which there is a county fair association officially recognized by the ~~state board~~ *secretary* of agriculture, upon request of the fair association may make an annual tax levy of not to exceed $\frac{1}{10}$ mill upon all the taxable tangible property of the county for the purpose of raising funds to be used for the purchase of land and the erection and maintenance of buildings and improvements thereon, including construction of streets and sewers for such fair association and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. No levy shall be made under the provisions of this section until a resolution authorizing the making of such levy is passed by the county commissioners and published for two consecutive issues in the official county paper. Whereupon, such levies may be made unless a petition in opposition thereto signed by not less than 5% of the qualified electors of the county, as determined by the vote for secretary of state at the last preceding election, is filed with the county election officer within 60 days following the last publication of the resolution of the board. In the event such a petition is filed, it shall be the duty of the board of commissioners to submit the question to the voters at an election called for such purpose or at the next general election. If no protest petition is filed or if the question is submitted on a question submitted ballot and those voting on the question shall vote in favor of such tax levy, then the board of county commissioners shall make such tax levies. The amounts collected by the county for the purposes hereinbefore specified from tax levies, except for an amount to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, shall be paid to the fair association, upon request of the association.

Sec. 5. K.S.A. 2-131b is hereby amended to read as follows: 2-131b. The board of county commissioners of any county in which there is a fair association or a society which is organized and operating under the provisions of K.S.A. 2-125 to 2-131, inclusive, and amendments thereto, upon request of such fair association or society is hereby authorized and empowered to make an annual tax levy of not to exceed five-tenths of one mill upon all the taxable tangible property of the county for the purpose of raising funds to be used for the erection and maintenance of buildings of such a fair association having obtained recognition from the ~~state board~~ *secretary* of agriculture as an official county fair association and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. No levy shall be made for such purposes until a resolution authorizing the making of such levy is passed by the county commissioners and published for two consecutive issues in the official county paper. Whereupon, such levies may be made unless a petition in opposition thereto signed by not less than five percent of the qualified electors of the county, as determined by the vote for secretary of state at the last preceding election, is filed with the county election officer within sixty days following the last publication of the resolution of the board. In the event such a petition is filed, it shall be the duty of the board of commissioners to submit the question to the voters at an election called for such purpose or at the next general election. If no protest petition is filed or if the question is submitted on a question submitted ballot and those voting on the question shall vote in favor of such tax levy, then the board of county commissioners shall make such tax levies. The board of county commissioners shall determine the amount necessary to be raised by such levy for such purposes. The tax levy authorized by this section shall be in

addition to all other tax levies authorized or limited by law and shall be outside the aggregate limitation provided in K.S.A. 79-1947, *and amendments thereto*, and the amount collected therefrom shall be paid to such association or society for the purposes herein specified, and shall be in addition to the amount allowed to such association or society under the provisions of K.S.A. 2-129 and amendments thereto.

Sec. 6. K.S.A. 2-131d is hereby amended to read as follows: 2-131d. The board of county commissioners of any county in which there is a county fair association officially recognized by the ~~Kansas state board~~ *secretary* of agriculture, upon the request of such fair association, may make an annual tax levy for the purpose of raising funds to be used for the purchase of grounds and the erection and maintenance of buildings of such fair associations and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. No levy shall exceed a rate, which multiplied by the total assessed tangible valuation of the county, will result in producing more than ~~three thousand dollars (\$3,000)~~ \$3,000 and an amount to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county in any one year. The tax levy authorized shall be in addition to all other tax levies authorized or limited by law and shall not be subject to or within the aggregate tax levy limit prescribed by K.S.A. 79-1947, *and amendments thereto*. The amount collected by the county for such purpose, except for an amount to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, shall be paid to such fair associations for the purposes herein specified, upon request of such fair association. The fair association may use any portion of this amount, not needed for purchase of grounds and the erection and maintenance of buildings, to supplement and increase premiums and awards for exhibitions by 4-H members and organized F.F.A. members.

Sec. 7. K.S.A. 2-131e is hereby amended to read as follows: 2-131e. Whenever the board of county commissioners of any county in which there is a county fair association officially recognized by the ~~Kansas state board~~ *secretary* of agriculture, and having a population of not less than ~~thirty five thousand (35,000)~~ 35,000 nor more than ~~forty five thousand (45,000)~~ 45,000, and having an assessed tangible valuation of not less than ~~fifty million dollars (\$50,000,000)~~ \$50,000,000 and not more than ~~eighty million dollars (\$80,000,000)~~ \$80,000,000, shall determine, upon the request of such fair association, that it is in the best interest of the county to raise funds for the purchase of grounds or the erection and maintenance of buildings for such fair association, ~~said such~~ board of commissioners is hereby authorized and empowered to issue no-fund warrants in an amount not to exceed, in the aggregate, ~~five thousand dollars (\$5,000)~~ \$5,000 for the purposes stated hereinbefore. No-fund warrants issued hereunder shall be issued in the manner and form and bear interest and be redeemed as prescribed by K.S.A. 79-2940, and acts amendatory thereof, except that they may be issued without the approval of the state board of tax appeals, and without the notation required by K.S.A. 79-2940: ~~Provided, That~~ *and amendments thereto*. The authority to issue no-fund warrants, as provided herein, shall not be exercised by the board of county commissioners more than once in any ten-year period: ~~Provided further, That~~ Such warrants shall mature serially in approximately equal annual installments at such yearly dates as to be payable by not more than five (5) tax levies, and the board of county commissioners issuing such warrants shall make a tax levy at the first tax levying period after such warrants are issued, and at such of the next succeeding tax levying periods as may be required, sufficient to pay such warrants as they mature and the interest thereon as the same becomes due: ~~And provided further, That~~ The money collected from issuance of ~~said such~~ warrants shall be paid to such fair associations for the purposes herein specified: ~~And provided further, That~~ Such tax levy or levies shall be in addition to all other tax levies authorized or limited by law and shall not be subject to or within the aggregate tax levy limit prescribed by K.S.A. 79-1947 ~~or acts amendatory thereof and amendments thereto~~.

Sec. 8. K.S.A. 2-132 is hereby amended to read as follows: 2-132. Whenever in the opinion of the board of county commissioners of any county in this state the agricultural and industrial interests of such county can be advanced by the establishment and maintenance of a county-

owned and operated free fair, and a petition to the same effect, signed by ~~sixty percent (60%)~~ 60% of the landowners of such county, is presented to the board of county commissioners therefor, it shall be the duty of the board of county commissioners to call an election to submit to the voters a proposition to purchase a fairground, and if a majority of the votes cast on that proposition shall be favorable to such purchase it shall be the duty of the board of county commissioners to purchase such grounds. In any county which has established a free fair under this section and in which there is no county fair association recognized by the ~~state board~~ *secretary* of agriculture, such county free fair shall be recognized by the ~~state board~~ *secretary* of agriculture as the official county fair of such county if the ~~state board~~ *secretary* of agriculture shall have first determined that the county within which such county free fair is located: (1) Has fairgrounds, or fairgrounds and buildings combined, with an appraised value of at least ~~five thousand dollars (\$5,000)~~ \$5,000; (2) has conformed to adequate standards for a "fair" as defined in K.S.A. 2-125, *and amendments thereto*; and (3) has paid premiums and awards for exhibitors and contestants of at least ~~two thousand dollars (\$2,000)~~ \$2,000 annually for the two (~~2~~) consecutive years last preceding. Nothing in this act shall prevent the board of county commissioners of any county in Kansas from receiving and accepting as a gift, lands to be used as a fairground except that where the board of county commissioners of any county in Kansas has received and accepted lands for uses of fairgrounds as a gift from a fair association organized under the provisions of K.S.A. 2-127 and 2-128, and amendments thereto, and such fair association at the time of ~~said~~ *such* gift had official recognition from the ~~Kansas state board~~ *secretary* of agriculture as an official county fair association, the board of county commissioners of such county may make an annual tax levy on the equalized assessed valuation of all tangible property in said county in an amount which will produce at least ~~two thousand dollars (\$2,000)~~ \$2,000 and at least such amount shall be spent by ~~said~~ *such* county for premiums and awards for exhibitors and contestants at ~~said~~ *such* county free fair if there are exhibitors and contestants qualifying for such premiums and awards. When any county has purchased a fairground as provided herein, or when any county has provided a suitable fairground, either by lease, devise or otherwise, the board of county commissioners shall annually at the time set by law for making levies, levy a tax for the erection, maintenance, upkeep and repair of the equipment, buildings and improvements thereon, the care of the grounds, the payment of premiums and awards, the actual expense of operating the fair, and retiring any indebtedness on lands received through gift, devise or purchase and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county but no part of such levy shall be used for the expense of purses and compensation for all purely entertainment features and racing. No charge shall be made for access and admission entrance to exhibits competing for premiums at any fair operating under the provisions of this section and K.S.A. 2-133, *and amendments thereto*. Recognition of any such county free fair, as an official county fair by the ~~state board~~ *secretary* of agriculture, may be forfeited by the ~~board~~ *secretary* of agriculture for failure to comply with this act or for failure to pay at least ~~two thousand dollars (\$2,000)~~ \$2,000 each year, in premiums and awards for exhibitors and contestants.

Sec. 9. K.S.A. 2-137 is hereby amended to read as follows: 2-137. Any county fair association organized and operating under the provisions of this act failing to hold a fair each year shall forfeit all benefits provided in this act, including recognition by the ~~state board~~ *secretary* of agriculture, and the ~~said board~~ *secretary* may, upon application, recognize some other qualified fair in the same county, as provided in K.S.A. 2-127, ~~Provided, That, and amendments thereto~~. Upon application of the president and secretary, approved by the board of directors of any recognized fair association, the ~~state board~~ *secretary* of agriculture, for good cause shown, may exempt ~~said~~ *such* fair association from the provisions of this section for the current year, in which case the fair premium fund for that year shall be used to pay premiums for the next succeeding year's fair, and no levy shall be made for the next succeeding year's fair in excess of the limitations provided in K.S.A. 2-129: ~~Provided further, That, and amendments thereto~~. During the emergency resulting from the United States being engaged in war, county fair associations, as recognized by the ~~state board~~ *secretary* of agriculture, may discontinue holding ~~said~~ *such* fairs

until the next regular fair date following a twelve months period after the termination of such emergency.

Sec. 10. K.S.A. 2-144d is hereby amended to read as follows: 2-144d. Any county free fair established pursuant to K.S.A. 2-142, and amendments thereto, may apply to the ~~state board~~ *secretary* of agriculture for designation as an official fair association. If recognized as an official fair association, any county free fair established pursuant to K.S.A. 2-142, and amendments thereto, shall have all powers and duties as other officially recognized county fair associations.

Sec. 11. K.S.A. 2-158 is hereby amended to read as follows: 2-158. A meeting shall be held at 7:00 p.m. on December 8, 1987, at the Kaw Valley cooperative building at 5715 West 21st Street in Topeka, Kansas, for the purpose of electing the initial members of the board of directors of the Shawnee county fair association established under the provisions of this act. The qualified electors residing in each township in Shawnee county may participate in such meeting to elect from among the residents of that township one director of the fair association. The qualified electors residing in the city of Topeka may participate in such meeting to elect from among the residents of the city three directors of the fair association. Upon assembling at such meeting the qualified electors of each such township and the qualified electors of the city shall separate into their individual groups and make such election.

Of the members first elected to the board of directors by the qualified electors of the city of Topeka at such election meeting, one director shall serve for a term of one year, one director shall serve for a term of two years and one director shall serve for a term of three years. Of the members first elected to the board of directors by the qualified electors of the various townships at such election meeting, directors elected from Auburn, Dover, Grove and Menoken townships shall serve for a term of one year, directors elected from Monmouth, Mission, Rossville and Silver Lake shall serve for a term of two years, and directors elected from Soldier, Tecumseh, Topeka and Williamsport townships shall serve for a term of three years. The directors so elected shall constitute the Shawnee county fair association.

An annual election meeting shall be held on the first Tuesday of December in 1988 and each year thereafter at which meeting the qualified electors of the city and the qualified electors of each township shall elect from among the residents of such city or township a successor to serve for a term of three years for each director whose term expires on such date. The executive board, as provided for in K.S.A. 2-159, *and amendments thereto*, shall fix the time and place of such annual election meeting and shall cause a notice of the election meeting to be published once in a newspaper of general circulation in the county at least 10 days prior to the date fixed for such election meeting.

Elections of directors at such annual election meetings shall be conducted in the same manner as the elections conducted at the 1987 meeting were required to be conducted, except that the city shall elect only one director to succeed the director whose term has expired and only those townships having directors whose terms have expired shall elect directors to succeed such directors.

Directors shall be eligible to serve for two consecutive terms. Vacancies in the membership of the board of directors shall be filled by appointment by the executive board of the fair association for the unexpired term of office.

The fair association established under the provisions of this act shall be given recognition by the ~~state board~~ *secretary* of agriculture without having lands or buildings of an appraised value of at least \$5,000 or without paid-up stock subscriptions in its treasury in the amount of \$5,000 appropriated to the purchase of lands or buildings or both.

Sec. 12. K.S.A. 2-714 is hereby amended to read as follows: 2-714. ~~The state board secretary of agriculture, its officers, assistants and employees are~~ is hereby authorized to destroy or cause to be destroyed all such plants, or parts thereof capable of propagation, wherever and whenever found, and may ~~co-operate~~ *cooperate* with other agencies and individuals within the state and with the United States department of agriculture in the removal of these plants and in the control of the black stem rust disease in agricultural crops and wild grasses. The ~~board~~ *secretary* of agriculture is hereby authorized to enter into agreements with any agency of the federal government for the purpose of carrying out the common

barberry eradication program. Such agreement may provide for proportionate contributions of funds for such a program and when such is the case, the agreement shall clearly state the amounts to be contributed by the federal agency and the amounts to be contributed by the ~~board~~ *Kansas department* of agriculture. All funds contributed by any federal agency and the funds contributed by the ~~board~~ *Kansas department* of agriculture shall be deposited in the state treasury in a fund to be known as the "barberry eradication fund," which fund is hereby created and the ~~board~~ *secretary* of agriculture is hereby authorized to expend said funds in carrying out its common barberry eradication program.

Sec. 13. K.S.A. 2-716 is hereby amended to read as follows: 2-716. The ~~state board~~ *secretary* of agriculture, ~~its officers, assistants and employees~~ shall supervise performance of all duties incident to the enforcement of this act, and acts amendatory thereof and supplemental thereto, and shall have the authority to inspect all premises to ascertain the presence of any of the prohibited plants and to destroy any and all such plants in accordance with the terms and provisions of K.S.A. 2-702, ~~and amendments thereto~~, and they are further authorized and empowered to intercept, condemn or return to an out-of-state shipper at the shipper's expense all prohibited plants, or parts thereof capable of propagation.

Sec. 14. K.S.A. 2-907 is hereby amended to read as follows: 2-907. The Kansas poultry improvement association of Manhattan, Kan., whose articles of incorporation are recorded in the office of the secretary of state, is hereby designated and declared to be the official state agency for the state of Kansas, for the purpose of carrying out the national poultry improvement plan. The Kansas poultry improvement association shall cooperate with the United States department of agriculture, Kansas state university of agriculture and applied science, ~~Kansas state board~~ *Kansas department* of agriculture and the Kansas livestock commissioner for the purpose of promoting the poultry industry and its allied branches and shall supervise and administer the national improvement plan in this state.

Sec. 15. K.S.A. 2-1002 is hereby amended to read as follows: 2-1002. Every lot, package, bag or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state shall have printed or stenciled thereon or affixed thereto a tag or label, in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language clearly and truthfully stating: ~~(A)~~ ~~(a)~~ (a)(1) The net weight of the contents of the package, bag or parcel; ~~(b)~~ (2) the name of the feeding stuffs; ~~(c)~~ (3) the name and principal address of the manufacturer, or person responsible for placing the commodity on the market; ~~(d)~~ (4) the minimum percentage of crude protein; ~~(e)~~ (5) the minimum percentage of crude fat; ~~(f)~~ (6) the maximum percentage of crude fiber; ~~(g)~~ ~~and~~ (7) the specific name of each ingredient used in the manufacture of the feeding stuff;

~~(B)~~ (b) and for mineral feeding stuffs, materials either mixed or unmixed, used as mineral supplements for the purpose of supplying mineral elements, in addition to the information required by ~~(a), (b), (c) and (g)~~ ~~of subsection A~~ subsections (a)(1), (a)(2), (a)(3) and (a)(7), the following, if present: ~~(h)~~ (1) the minimum and maximum percentage of calcium (Ca); ~~(i)~~ (2) the minimum percentage of phosphorus (P); ~~(j)~~ (3) the minimum percentage of iodine (I); ~~(k)~~ ~~and~~ (4) the maximum percentage of salt (NaCl);

~~(C)~~ (c) and for feeding stuffs to which more than ~~five percent (5%)~~ 5% of mineral ingredients or unmixed materials used as mineral supplements for the purpose of supplying mineral elements have been added, the information required in subsections ~~(A) and (B)~~ (a) and (b);

~~(D)~~ (d) and for vitamin products, carriers and preparations, and for feeding stuffs containing urea, minerals or drugs, in addition to the information as may be otherwise required by this section, such information and guarantees as the ~~state board~~ *secretary* of agriculture shall determine and prescribe as necessary to fully inform and protect purchasers; and when the feeding stuffs or any of its ingredients are potentially dangerous to the health of animals; ~~(l)~~ (1) adequate directions for use; and ~~(m)~~ (2) adequate warnings;

~~(E)~~ (e) and for customer formula feeds, the following information shall be shown on the label, delivery statement, or invoice, in lieu of the requirements of subsections ~~(A), (B), (C), and (D)~~, ~~said~~ (a), (b), (c) and (d), ~~such~~ label, delivery statement or invoice, shall accompany delivery and shall be supplied to the purchaser at the time of delivery of such

feed: (1) Name and address of the mixer; (2) name and address of the purchaser; (3) date of sale; (4) the product name and brand name, if any, and the number of pounds of each registered commercial feeding stuffs used in the mixture, and the name and number of pounds of each other feed ingredient added; (5) the percentage or quantity of protein, vitamin, mineral or other nutritive component, which the purchaser specifies the feed shall contain; (6) if it contains a nonnutritive substance, which is intended for use in the cure, mitigation, treatment, or prevention of disease, or which is intended to affect the structure or any function of the animal body, the amount of such substance present, the directions for use, and warnings against misuse of the feed, and adequate withdrawal periods; and

~~(F)~~ (f) bulk lots of commercial feeding stuffs, other than customer formula feeds, shall be accompanied by a label and presented to the purchaser or tacked on the bin at the time of delivery of the feed.

Sec. 16. K.S.A. 2-1004 is hereby amended to read as follows: 2-1004. (a) (1) On and after the effective date of this act through June 30, 1999, each manufacturer, importer, jobber, firm, association, corporation or person, manufacturing or selling any commercial feeding stuffs, shall pay to the ~~secretary of the state board~~ *Kansas department* of agriculture an inspection fee of \$.105 per ton of 2,000 pounds, or fraction thereof, for each commercial feeding stuffs sold, offered or exposed for sale or distributed in this state.

(2) On and after July 1, 1999, each manufacturer, importer, jobber, firm, association, corporation or person, manufacturing or selling any commercial feeding stuffs, shall pay to the ~~secretary of the state board~~ *Kansas department* of agriculture an inspection fee of \$.10 per ton of 2,000 pounds, or fraction thereof, for each commercial feeding stuffs sold, offered or exposed for sale or distributed in this state.

(b) Each manufacturer, importer, jobber, firm, corporation, association of persons or person shall report to the ~~secretary of the state board~~ *Kansas department* of agriculture the tonnage of commercial feeding stuffs sold and shall pay the inspection fee on the basis of such report.

(c) In the case of specialty pet foods or pet foods which are distributed in the state in packages of 10 pounds or less, an annual fee of \$25 shall be paid in lieu of the inspection fee.

(d) In the case of specialty pet foods which is distributed in the state in packages of one pound or less, an annual fee of \$15 shall be paid in lieu of the inspection fee.

(e) The minimum inspection fee shall be \$15 and shall be paid semi-annually.

(f) The applicant shall keep such records as may be necessary to indicate accurately the tonnage of commercial feeding stuffs sold, and as are satisfactory to the secretary, and granting the secretary or the secretary's duly authorized representative permission to verify the statement of tonnage. The report shall be filed ~~in the office of~~ *with* the secretary of ~~the state board of~~ agriculture, and the report of tonnage and inspection fee shall be due semiannually on the first day of January and the first day of July, covering the tonnage of commercial feeding stuffs sold the preceding six months.

(g) If more than one manufacturer, importer, jobber, firm, association, corporation or person is involved in the chain of distribution, the manufacturer, importer, jobber, firm, association, corporation or person who first sells or distributes a commercial feeding stuff for further sale or distribution in this state shall be responsible for payment of the applicable inspection fee for each commercial feeding stuff sold or distributed by the manufacturer, importer, jobber, firm, association, corporation or person.

(h) No inspection fee shall be required for any commercial feeding stuff sold under the name and label of another licensee if the inspection fee has or will be paid by a prior manufacturer, importer, jobber, firm, association, corporation or person in the chain of distribution as evidenced by an invoice or sales receipt.

(i) No inspection fee shall be required for any commercial feeding stuff on which the inspection fee has or will be paid by a prior manufacturer, importer, jobber, firm, association, corporation or person in the chain of distribution as evidenced by an invoice or sales receipt.

(j) If inspection fees, which are due and owing, have not been remitted to the secretary within 30 days following the due date or if the

report of tonnage is not accurate, the secretary shall impose a delinquency fee equal to 10% of the amount due or \$50, whichever is greater. Such delinquency fee shall be in addition to the amount due.

Sec. 17. K.S.A. 2-1004a is hereby amended to read as follows: 2-1004a. ~~The state board~~ *secretary* of agriculture is hereby authorized and empowered, whenever ~~it~~ *the secretary* shall determine that the fees and charges provided by K.S.A. 2-1004, *and amendments thereto*, and paid into the state treasury as provided by law, are yielding more than is required for the purposes to which such fees and charges are devoted by law, to reduce such fees and charges for such period as ~~said board shall deem~~ *deemed* justified, but not less than one year; and in the event that ~~said board~~ *the secretary*, after reducing any such fees or charges, finds that sufficient revenues are not being produced by such reduced fees and charges, ~~said board~~ *the secretary* is authorized and empowered to restore in full or in part said fees and charges, or any of them, to such rates as will, in ~~its~~ *the secretary's* judgment, produce sufficient revenues for the purposes as provided in K.S.A. 2-1012, and ~~acts amendatory and supplemental~~ *amendments* thereto, but not exceeding those now provided by K.S.A. 2-1004, *and amendments thereto*.

Sec. 18. K.S.A. 2-1010 is hereby amended to read as follows: 2-1010. If it appears that any provisions of this act have been violated, the ~~said~~ secretary shall certify the facts to the proper prosecuting attorney and furnish that officer with a copy of the result of the analysis or other examination of such feeding stuffs duly authenticated by the analyst or other officer making the determination, under the oath of such officer. ~~Provided, That~~ If it shall appear from any such examination that any provisions of this act have been violated, the ~~said~~ secretary shall cause notice to be given to the manufacturer or dealer from whom ~~said~~ *the* sample was taken; any party so notified shall be given an opportunity to be heard in ~~his or her~~ defense under such rules and regulations as may be prescribed by the ~~said~~ secretary of ~~the state board of~~ agriculture before the facts shall be certified to the proper prosecuting attorney. In all prosecutions arising under the provisions of this act, certificates of the analyst making the analysis, when duly sworn to by such analyst shall be prima facie evidence of the fact or facts therein certified.

Sec. 19. K.S.A. 2-1013 is hereby amended to read as follows: 2-1013. (a) The secretary of ~~the state board of~~ agriculture is hereby empowered to: (1) Enforce the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto; (2) prescribe the form of labels to be used; and (3) adopt and enforce rules and regulations relating to manufacturing practices for commercial feeding stuffs and to the sale, offering for sale or distribution of commercial feeding stuffs as the secretary may deem necessary to carry into effect the lawful intent and meaning of article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

(b) The secretary, by rules and regulations, may establish a collective term or terms for two or more ingredients, which ingredients serve a similar nutritional function, and may permit the use of such collective term or terms in the ingredient statement on the label.

(c) Nothing in article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, shall be construed as requiring the secretary or the authorized representative of the secretary to report for prosecution, institute seizure proceedings or issue a withdrawal from distribution order for any minor violations of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, whenever the secretary or the authorized representative of the secretary believes that the public interest will be best served by a suitable notice of warning in writing.

Sec. 20. K.S.A. 2-1014 is hereby amended to read as follows: 2-1014.

(a) No manufacturer, importer, jobber, firm, association, corporation or person shall sell, offer or expose for sale or distribute in this state any commercial feeding stuffs unless such person holds a valid license for each manufacturing or distribution facility in this state. No license shall be required of persons distributing only packages or containers of a licensed manufacturer, importer, jobber, firm, association, corporation or person as packaged and labeled by the manufacturer, importer, jobber, firm, association, corporation or person and whose name and address appear on the label as required in K.S.A. 2-1002, and amendments thereto. Any out-of-state manufacturer, importer, jobber, firm, associa-

tion, corporation or person who has no distribution facility within this state shall obtain a license for such entity's principal out-of-state office if such out-of-state manufacturer, importer, jobber, firm, association, corporation, person or other entity sells, offers or exposes for sale or distributes any commercial feeding stuffs in this state. Application shall be made on forms prescribed and furnished by the secretary of ~~the board of~~ agriculture. The application shall be accompanied by an annual license fee of \$10. Licenses shall be renewed annually on or before July 1.

(b) The secretary, pursuant to rules and regulations, may deny, suspend, revoke or refuse to renew the commercial feed license if the applicant or the licensee of any manufacturing or distribution facility is not in compliance with the provisions of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto and any rules and regulations promulgated thereunder. The secretary may deny, suspend, revoke or refuse to renew any commercial feed license subsequently found not to be in compliance with any provision of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto and any rules and regulations promulgated thereunder. No commercial feed license shall be denied, suspended, revoked or refused renewal unless the applicant or licensee has been given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(c) The secretary, pursuant to rules and regulations, may request copies of labels and labeling in order to determine compliance with the requirements of article 10 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 21. K.S.A. 2-1201 is hereby amended to read as follows: 2-1201.

(1) The term "commercial fertilizer" means any substance designed, intended, used or susceptible for use to supply food for plants or to increase crops produced by land, except the following: (a) Limestone (calcium carbonate), (b) dolomite (calcium magnesium carbonate), (c) lime (calcium oxide), (d) slaked lime (calcium hydroxide), (e) gypsum (calcium sulphate), (f) the dung of domestic animals, (g) compost, and (h) fertilizer materials. The term commercial fertilizer shall also include specialty fertilizer as defined below.

(2) The term "fertilizer materials" means any substance containing plant food elements or compounds in possession of manufacturers for use in compounding mixed commercial fertilizers.

(3) The term "brand" means the name, number, trademark, trade name or other designation of a commercial fertilizer.

(4) The term "grade" means the minimum percentages of total nitrogen, available phosphoric acid, and soluble potash, stated in the order given in this definition. When applied to mixed or blended fertilizers, whole numbers only shall be given.

(5) The term "person" includes individual, partnership, association, firm and corporation.

(6) The term "secretary" means the secretary of ~~the Kansas state board of~~ agriculture.

(7) The term "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial fertilizer is distributed, or on the invoice slip or delivery slip with which a commercial fertilizer or custom blended fertilizer is distributed.

(8) The term "custom blended fertilizer" means a fertilizer blended according to specifications furnished by the customers prior to blending.

(9) The term "custom blender" means any person who blends only registered commercial fertilizers at the request of and according to specifications furnished by the customer-purchaser.

(10) The term "specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries, and may include commercial fertilizers used for research or experimental purposes and is not used primarily for application to crops produced for commercial value.

(11) The term "process tankage" means a product made under steam pressure from crude inert nitrogenous materials such as horn, hoof, hair, feathers or other similarly inert nitrogenous matter, for the purpose of increasing the activity of nitrogen. The water-insoluble nitrogen in these products shall test at least 50% by the alkaline method or at least 80% by the neutral permanganate method.

Sec. 22. K.S.A. 2-1209 is hereby amended to read as follows: 2-1209.

The ~~state board~~ *secretary* of agriculture ~~aforsaid~~ shall at ~~their~~ *the secretary's* discretion publish a report of the analysis of official samples of commercial fertilizers, a list of the commercial fertilizers registered in this state with their guaranteed composition, and such other information as may be deemed valuable to the public concerning fertilizers and their use.

Sec. 23. K.S.A. 2-1220 is hereby amended to read as follows: 2-1220. Unless the context otherwise requires, as used in this act, the following definitions shall apply: (a) "Person" means any individual, any association of persons or any corporation.

(b) "Anhydrous ammonia" and "product" means the compound formed by the combination of the two gaseous elements, nitrogen and hydrogen, in the proportion of one part nitrogen to three parts hydrogen (by volume), and used or intended for use as an agricultural fertilizer. Anhydrous ammonia is ammonia gas in compressed and liquefied form. It does not include aqueous ammonia which is a solution of ammonia gas in water.

(c) ~~"Board"~~ "Department" means the ~~state board~~ *Kansas department* of agriculture.

(d) "Secretary" means the secretary of ~~the state board~~ of agriculture.

Sec. 24. K.S.A. 2-1226 is hereby amended to read as follows: 2-1226. As used in this act:

(a) "Commercial fertilizer" shall have the meaning ascribed to such term under K.S.A. 2-1201 and amendments thereto.

(b) "Fertilizer materials" shall have the meaning ascribed to such term under K.S.A. 2-1201 and amendments thereto.

(c) "Bulk fertilizer" means any liquid, blended or dry fertilizer or fertilizer material stored in a fluid or dry nonpackage form.

(d) "Facility" means a place where commercial fertilizer materials are stored, mixed, blended, manufactured, weighted or handled.

(e) ~~"Board"~~ "Department" means the ~~state board~~ *Kansas department* of agriculture.

(f) "Secretary" means the secretary of ~~the state board~~ of agriculture.

(g) "Person" means any individual, partnership, association of persons, governmental agency or corporation.

Sec. 25. K.S.A. 2-1227 is hereby amended to read as follows: 2-1227. The ~~board~~ *secretary* is authorized to adopt rules and regulations:

(a) For the safe handling and storage of commercial fertilizers and fertilizer materials in bulk;

(b) for the establishment of minimum general standards covering the design, construction, location, installation and operation for the storage and handling of commercial fertilizer and fertilizer in bulk and the prevention of commercial fertilizer, fertilizer materials or fertilizer in bulk from being introduced into the ground or surface waters of the state;

(c) for the establishment of minimum general standards covering the design, construction, location and installation of a structure constructed for the purpose of confining any spills or discharged fertilizer or fertilizer material within a specified area;

(d) for the prompt recovery of fertilizer or fertilizer materials spilled within a specified area;

(e) for dates by which the owners or operators, or both, of facilities and equipment subject to the provision of this act and in existence prior to the effective date of this act shall comply with this act;

(f) for the issuance of a stop sale order or stop use order, pursuant to K.S.A. 2-1232; and

(g) for the administration of this act.

Sec. 26. K.S.A. 2-1228 is hereby amended to read as follows: 2-1228.

(a) A person beginning construction of or substantial alteration to an existing facility or equipment used for the manufacture, blending, handling or bulk storage of commercial fertilizer or fertilizer materials shall apply to the secretary, on forms provided by the secretary, for approval of such construction or alteration. The person shall provide the secretary with such information as the secretary deems necessary. The secretary shall approve the construction or alteration of the facility or equipment if such construction or alteration is consistent with the standards and other requirements established by rules and regulations under K.S.A. 2-1227, *and amendments thereto*.

(b) The approval shall be transferable from the owner issued the approval to another owner if the new owner notifies the ~~board~~ *department*

within 30 days after the facility has changed ownership. Approval shall not be transferable from one location to another.

(c) The owner or operator of a facility or equipment used for the manufacture, blending, handling or bulk storage of commercial fertilizer or fertilizer materials established prior to the effective date of this act shall obtain the secretary's approval of the facility or equipment according to the dates specified in rules and regulations.

Sec. 27. K.S.A. 2-1316 is hereby amended to read as follows: 2-1316.

(a) The board of county commissioners of each county shall, and the governing body of any incorporated city or any group of counties or cities may, employ for a stated time each year, with the approval of the secretary of ~~the state board of~~ agriculture, a competent person as county, city or district weed supervisor.

(b) The weed supervisor shall consult and cooperate with the state division of noxious weeds and with the assistant weed control director appointed for the supervisor's district, make annual surveys of infestations (compile data on areas eradicated and under treatment), and submit an annual report to the county commissioners and to the state division of noxious weeds, to consult and advise upon all matters pertaining to the best and most practical methods for noxious weed control and eradication and to render every possible assistance and direction for the most effective control and eradication within the supervisor's district; investigate or aid in the investigation and prosecution of any violation of this act and report violations of which the supervisor has knowledge to the county attorney.

(c) The salary of the county weed supervisor shall be borne as follows: The ~~state board~~ *Kansas department* of agriculture to pay not more than one-fourth thereof from any funds available, not less than three-fourths thereof to be paid out of the county noxious weed fund, prorated as may be decided at the time of such employment by the governing body or bodies employing such supervisor.

(d) The boards of county commissioners, governing bodies of cities and township boards, with the aid of their weed supervisors, shall make by February 15th each year an annual weed eradication progress report to the ~~state board~~ *secretary* of agriculture for the preceding calendar year, on a form supplied by the ~~state board~~ *secretary*, and such other weed reports as established by rules and regulations of the ~~state board~~ *secretary* of agriculture.

Sec. 28. K.S.A. 2-1317 is hereby amended to read as follows: 2-1317.

The secretary of ~~the state board of~~ agriculture or the secretary's duly authorized representative and the local district or county weed supervisor shall confer, at such time or times as seems necessary and advisable, with persons and associations of persons, the secretary of transportation, the board of county commissioners, the township boards or other boards and the governing body of cities, railroad companies or other corporations, or their authorized agents, as to the extent of noxious weed infestation on their lands, and the methods deemed best suited to the control and eradication of each kind of noxious weeds within their respective jurisdictions. The county commissioners and the governing body of cities, shall report to the secretary of ~~the state board of~~ agriculture as to the extent and the official methods of control and eradication of noxious weeds to be undertaken in any one season in their jurisdiction, subject to the approval of ~~said~~ *the* secretary.

Sec. 29. K.S.A. 2-1318 is hereby amended to read as follows: 2-1318.

The county weed supervisor of each county is hereby directed and it shall be the duty of the county weed supervisor to ascertain each year the approximate amount of land and highways infested with each kind of noxious weeds and its location in the county, and transmit such information tabulated by cities and townships not later than June 1 of each year, to the secretary of ~~the state board of~~ agriculture, board of county commissioners, and to the governing body of each city and township in the district pertaining to such noxious weed infestation in their respective jurisdiction. On the basis of such information the tax levying body of each county, township or incorporated city shall make a tax levy each year for the purpose of paying their part of the cost of control and eradication thereof as provided in this act and, in the case of cities and counties, to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. Each county, city, and township, separately, shall make a

levy each year for such purpose. Any city may budget expenditures for weed control within its general operating fund in lieu of levying a special tax therefor or maintaining a separate noxious weed eradication fund. Moneys collected from such levy, except for an amount to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, shall be set apart as a noxious weed eradication fund and warrants duly verified by the county or city supervisor if such be employed or if no supervisor be employed, then by county, township or city clerk, as the case may be, may be drawn against this fund for all items of expense incident to control of noxious weeds in such district respectively. Any moneys remaining in the noxious weed eradication fund at the end of any year for which a levy is made under this section may be transferred to the noxious weed capital outlay fund for making of capital expenditures incident to the control of noxious weeds.

Sec. 30. K.S.A. 2-1319 is hereby amended to read as follows: 2-1319.

(a) The cost of controlling and eradicating noxious weeds on all lands or highways owned or supervised by a state agency, department or commission shall be paid by the state agency, department or commission supervising such lands or highways from funds appropriated to its use; on county lands and county roads, on township lands and township roads, on city lands, streets and alleys by the county, township or city in which such lands, roads, streets and alleys are located, and from funds made available for that purpose; on drainage districts, irrigation districts, cemetery associations and other political subdivisions of the state, the costs shall be paid from their respective funds made available for the purpose. If the governing body of any political subdivision owning or supervising lands infested with noxious weeds within their jurisdiction fails to control such noxious weeds after 15 days' notice directing any such body to do so, the board of county commissioners shall proceed to have proper control and eradication methods used upon such lands, and shall notify the governing body of the political subdivision by certified mail of the costs of such operations, with a demand for payment. The governing body of the political subdivision shall pay such costs from its noxious weed fund, or if no such fund is available, from its general fund or from any other funds available for such purpose. Copy of the statement, together with proof of notification, shall at the same time be filed with the county clerk, and if the amount is not paid within 30 days, such clerk shall spread the amount upon the tax roll of the subdivision, and such amount shall become a lien against the entire territory located within the particular political subdivision, and shall be collected as other taxes are collected.

(b) All moneys collected pursuant to this section shall be paid into the county noxious weed eradication fund.

(c) As used in this section, "governing body" means the board, body, or persons in which the powers of a political subdivision as a body corporate are vested; and "political subdivision" means any agency or unit of the state authorized to levy taxes or empowered to cause taxes to be levied.

(d) On all other lands the owner thereof shall pay the cost of control and eradication of noxious weeds. Except as provided in K.S.A. 2-1333 and amendments thereto, chemical materials for use on privately owned lands may be purchased from the board of county commissioners at a price fixed by the board of county commissioners which shall be in an amount equal to not less than 50% nor more than 75% of the total cost incurred by the county in purchasing, storing and handling such chemical materials. However, once the tax levying body of a county, city or township has authorized a tax levy of 1.5 mills or more, the board of county commissioners may collect from the owner of privately owned lands an amount equal to 75% but not more than 100% of the total cost incurred by the county in purchasing, storing and handling of chemical materials used in the control and eradication of noxious weeds on such privately owned lands. Whenever official methods of eradication, adopted by the ~~state board~~ *secretary* of agriculture, are not followed in applying the chemical materials so purchased, the board of county commissioners may collect the remaining portion of the total cost thereof.

Sec. 31. K.S.A. 2-1322 is hereby amended to read as follows: 2-1322.

(a) The board of county commissioners, or the governing body of incorporated cities, cooperating with the secretary of ~~the state board of~~ agriculture, shall purchase or provide for needed and necessary equipment

and necessary chemical material for the control and eradication of noxious weeds. The board of county commissioners of any county or the governing body of any city may use any equipment or materials purchased as provided for in this section, upon the highways, streets and alleys, for the treatment and eradication of weeds which have not been declared noxious by legislative action.

(b) Except as provided in K.S.A. 2-1333 and amendments thereto, the board of county commissioners shall sell chemical material to the landowners in their jurisdiction at a price fixed by the board of county commissioners which shall be in an amount equal to not less than 50% nor more than 75% of the total cost incurred by the county in purchasing, storing and handling such chemical materials used in the control and eradication of noxious weeds, and may make such charge for the use of machines or other equipment and operators as may be deemed by them sufficient to cover the actual cost of operation. However, once the tax levying body of a county, city or township has authorized a tax levy of 1.5 mills or more, the board of county commissioners may collect from the landowners in their jurisdiction an amount equal to 75% but not more than 100% of the total cost incurred by the county in purchasing, storing and handling of chemical materials used in the control and eradication of noxious weeds.

(c) Whenever official methods of eradication adopted by the ~~state board~~ *secretary* of agriculture are not used in applying the chemical material purchased, the board of county commissioners may collect the remaining portion of the total cost thereof from the landowner.

(d) The board of county commissioners, township boards, and the governing body of cities shall keep a record showing purchases of material and equipment for control and eradication of noxious weeds. The board of county commissioners and the governing body of cities shall also keep a complete itemized record showing sales for cash or charge sales of material and shall maintain a record of charges and receipts for use of equipment owned by each county or city on public and private land. Such records shall be open to inspection by citizens of Kansas at all times.

Sec. 32. K.S.A. 2-1327 is hereby amended to read as follows: 2-1327. It shall be unlawful for any person, company or corporation to (1) bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners, or field ensilage cutters or other farm vehicles or machinery into the state without first cleaning such equipment free from all weed seed and litter, or (2) to move any harvesting or threshing machines, portable feed grinders, portable seed cleaners or field ensilage cutters from any field or farm infested with any noxious weed without first cleaning such equipment free from all weed seed and litter. Each such machine operated by a person doing work for another shall be labeled with an appropriate label on a form provided by the ~~state board~~ *secretary* of agriculture containing this section of the law.

Sec. 33. K.S.A. 2-1331 is hereby amended to read as follows: 2-1331. (a) When a county weed supervisor has knowledge that any land in the supervisor's county is infested, in any current year, with any noxious weed, the supervisor shall give notice, by publication of a general notice in the official county newspaper pursuant to subsection (b) or an official notice by mail, of such infestation to the person, association of persons, governmental agency, corporation or agent thereof, which owns the land. As used in this section, governmental agency means the state or any agency or political subdivision thereof or the government of the United States or any agency or instrumentality thereof. In the event the land is under the control or supervision of an operator or supervising agent, the notice shall also be mailed to the operator or supervising agent. Such notice shall contain the procedures described in the Kansas official methods and regulations for the control and eradication of any noxious weed found on the land and shall contain a specified time within which the owner, operator or supervising agent shall complete the required treatment for the control or eradication of any such noxious weed.

(b) On or before March 1 of each year, the ~~state board~~ *secretary* of agriculture shall notify in writing each county weed supervisor of a general notice of noxious weed infestation, as established by rules and regulations. On or before April 1 of each year, the county weed supervisor may publish in the official county newspaper the general notice of noxious weed infestation which shall remain in effect until March 31 of the following year. The cost of such publication shall be paid from the noxious weed

eradication fund.

(c) If an inspection, by the county weed supervisor, made on or after the completion date stated in the official notice prescribed under subsection (a) or publication of the general notice under subsection (b), reveals satisfactory treatment progress has not been made, the county weed supervisor may send, by certified mail, to the owner and to the operator or supervising agent of the noxious weed infested land a legal notice as described in subsection (e).

(d) In the event the county weed supervisor determines that musk thistle plants which are found on land in the supervisor's county have reached a stage of maturity where weed control methods applied currently would not give satisfactory results, the supervisor may give legal notice requiring fall treatment to be performed in the current year.

(e) Legal notice given to the owner and to the operator or supervising agent of any noxious weed infested land shall include, but not be limited to, the following:

- (1) A legal description of the noxious weed infested land;
- (2) the name of the owner and operator or supervising agent of the noxious weed infested land, as shown by records of the county clerk;
- (3) the approximate acreage of each noxious weed in the infestation or infestations involved;
- (4) a copy of the Kansas official methods and regulations applicable for controlling each named noxious weed;
- (5) a specified time, within which noxious weed control methods are required to be completed; such specified time shall not be less than five days after mailing of the notice;
- (6) a statement that unless the owner, operator or supervising agent completes the required noxious weed control methods within the specified time, the county weed supervisor may enter or cause to be entered upon the noxious weed infested land as often as is necessary and use such approved methods as are best adapted for the eradication and control of noxious weeds on the particular area of land;
- (7) a statement to inform the owner, operator or supervising agent that they may be prosecuted pursuant to K.S.A. 2-1323, and amendments thereto, and if convicted, fined as established by law.

(f) Prior to issuing any legal notice pursuant to subsection (c) or (d), the county weed supervisor shall notify the owner, operator or supervising agent by telephone call, personal contact or first class mail of the noxious weed infestation.

Sec. 34. K.S.A. 2003 Supp. 2-1333 is hereby amended to read as follows: 2-1333. (a) The board of county commissioners may adopt a resolution to authorize the establishment of a program to provide chemical materials used in the control and eradication of noxious weeds to landowners through chemical dealers on a discount basis.

(b) If such program is authorized, the county weed supervisor shall issue discount certificates, prior to the chemicals being purchased from the chemical dealers, to the landowners. Such certificate shall be taken to a chemical dealer and be presented for the purchase of the chemical material. The chemical dealer shall issue an invoice showing the credit amount of the discount certificate. The dealer shall send the certificate and a copy of the invoice to the county weed supervisor. The certificates and invoices shall be turned over to the board of county commissioners, and no more than the stated amount on the certificate shall be reimbursed to the chemical dealers. The discount certificates shall be paid from the noxious weed fund.

(c) If such program is authorized, on January 1 of each year, the board of county commissioners shall determine the amount of money that may be used from the noxious weed fund to provide for the control and eradication of noxious weeds on privately owned land. The board shall state the dollar amount the county shall pay per unit for the purchase of chemical materials used on privately owned lands. Whenever official methods of eradication, adopted by the ~~state board~~ *secretary* of agriculture, are not followed in applying the chemical materials, the board of county commissioners may refuse to pay the discount certificate and the total cost shall be paid by the private landowner.

(d) (1) If a board of county commissioners does not issue discount certificates as provided in subsection (b), a petition to submit a proposition calling for an election to establish the program to provide chemical materials used in the control and eradication of noxious weeds to land-

owners through chemical dealers on a discount basis may be filed with the county election officer. Such petition shall be signed by qualified voters of the county equal in number to not less than 5% of the voters of the county who voted for the office of secretary of state at the last preceding general election at which such officer was elected.

(2) 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 the program as provided in this section shall 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.

(3) If a majority of the votes cast and counted are in opposition to establishing the program as provided in this section 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 the program as provided in this section shall not be established in such county.

(4) If a majority of the votes cast and counted are in favor of the proposition, the county election officer shall transmit a copy of the results to the secretary of state who shall publish in the Kansas register the result of such election and that the program as provided in this section shall be established in such county within 18 months.

(5) 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, except that the county election officer shall publish in the official county newspaper a notice of such election once each week for two consecutive weeks, the first publication to be not less than 21 days before the election, and such notice shall state the date and time of the election and the proposition that will appear on the ballot.

Sec. 35. K.S.A. 2-1424a is hereby amended to read as follows: 2-1424a. The ~~state board~~ *secretary* of agriculture shall establish and maintain a seed laboratory, and employ such qualified analysts, helpers, and agents, as it may deem *deemed* to be necessary to carry out the provisions of chapter 2, article 14, of the Kansas Statutes Annotated, and ~~acts amendatory thereof or supplemental amendments~~ thereto.

Sec. 36. K.S.A. 2-1425 is hereby amended to read as follows: 2-1425. (a) Any person may submit to the state seed laboratory samples of agricultural seed for germination or purity tests, or both, or other examination and receive the test upon paying to the secretary a fee per sample, test or examination as the ~~state board~~ *secretary* of agriculture may decide. The ~~state board~~ *secretary* of agriculture shall establish by rule and regulation a schedule of fees for seed testing and examination to be used as the basis of charges. Such fees shall not be less than \$5 or more than \$45 per test or examination. The secretary may extend credit for work done, and the sender of the sample may be invoiced for such charges from time to time. Testing shall be discontinued for any person who fails to pay such charges within 30 days after invoice is issued. The limitation on free tests shall not apply to the state boards, commissions or educational, penal or eleemosynary institutions. The state seed laboratory shall not be obligated to analyze any uncleaned, unprocessed, and other time-consuming sample or any sample which obviously does not meet state seed law requirements.

(b) The *secretary of agriculture* shall remit all moneys received by or for the *secretary of agriculture* under article 14 of chapter 2 of Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the seed examination fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the ~~state board~~ of agriculture or by a person or persons designated by the secretary.

Sec. 37. K.S.A. 2-1427 is hereby amended to read as follows: 2-1427. The ~~state board~~ *secretary* of agriculture is hereby empowered to make and publish such rules and regulations after public hearing as it may deem necessary to carry into effect the full intent and meaning of chapter 2, article 14, of the Kansas Statutes Annotated, and ~~acts amendatory thereof and supplemental amendments~~ thereto, and the secretary is hereby em-

powered to enforce the provisions of this act and the rules and regulations promulgated by the ~~state board~~ *secretary* of agriculture.

Sec. 38. K.S.A. 2-1437 is hereby amended to read as follows: 2-1437. The agency or agencies designated by the Kansas state university of agriculture and applied science may call upon the ~~Kansas state board~~ *secretary* of agriculture to investigate or aid in the investigation and prosecution of any violations of this act. ~~Provided, That said. The Kansas state board~~ *secretary* of agriculture may on ~~its~~ *the secretary's* own initiative investigate and prosecute any violations of the provisions of this act.

Sec. 39. K.S.A. 2-2003 is hereby amended to read as follows: 2-2003. To carry out and make effective the purposes of this act it is hereby made the duty of the secretary of the ~~state board of~~ agriculture to collect from all available sources data and information respecting soil erosion, dust storms and plant or weed blowing and practical methods of preventing or minimizing them by planting or cultivating the soil, with particular reference to the different kinds of planting and types of cultivation most suitable to the respective types of soil in the different parts of the state taking into consideration topography and climatic conditions thereof, and most effective to accomplish the principal purposes of this act, and to transmit such data and information to the respective boards of county commissioners, members of the legislature, the governor, and make the same available to the general public.

Sec. 40. K.S.A. 2-2005 is hereby amended to read as follows: 2-2005. Further to carry out and make effective the purposes of this act it is hereby made the duty of the board of county commissioners of each county to make, or cause to be made, before June 30 of each year, a complete survey of the county with respect to soil erosion and dust, any plant or weed blowing from soil in the county. In doing so they shall ascertain what lands, plants or weeds have blown, and for what time, the kinds of soil of such lands, the kinds of plants or weeds blowing, when the blowing occurred, climatic conditions at the time, and what, if anything, was done to prevent or minimize the blowing, and the result produced by what was done. A report of this survey, accompanied by a map showing the location of the land, shall be filed with the county clerk and a copy sent to the secretary of the ~~state board of~~ agriculture, who shall compile and publish by December 1 of each year a summary of such reports and distribute the same to the county officials, members of the legislature, the governor, and upon request to the owners of land reported to have been affected.

Sec. 41. K.S.A. 2-2009 is hereby amended to read as follows: 2-2009. The secretary of the ~~state board of~~ agriculture is hereby made the agent of the state for the purpose of entering into any agreement with the federal government, or any agency thereof, for cooperation in efforts to prevent soil erosion by wind storms, dust storms and any plant or weed blowing produced thereby, and is hereby authorized to accept any money disbursed for that purpose by the federal government, or any of its agencies, and to distribute such moneys among the counties in accordance with the direction of the federal government or its agency.

Sec. 42. K.S.A. 2-2202 is hereby amended to read as follows: 2-2202. For the purpose of this act: (a) The terms "agricultural chemical" and "economic poison" shall be construed as synonymous terms, and shall mean and include any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling, or mitigating any insects, rodents, predatory animals, fungi, weeds, nematodes and other forms of plant or animal life or viruses, which the secretary shall declare to be a pest, and any substance labeled, designed or intended for use as a defoliant, and any substance or mixture of substances, labeled, designed or intended for use as a plant regulator, or desiccant. Viruses on or in living man or other animals are specifically excepted and excluded from this definition. Drugs recognized by the United States pharmacopoeia or the national formulary, the label of which bears the descriptive abbreviations for these compendia, U.S.P. or N.F. as the case may be, are specifically excepted and excluded from this definition.

(b) The term "insecticide" means and includes any substance or mixture of substances, labeled, designed or intended for use in preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.

(c) The term "fungicide" means and includes any substance or mix-

ture of substances, labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating any fungi.

(d) The term "rodenticide" means and includes any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating rodents or any other vertebrate animals which the secretary shall declare to be a pest.

(e) The term "herbicide" means and includes any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any weed.

(f) The term "nematocide" means any substance or mixture of substances, labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating any nematodes.

(g) The term "defoliant" means and includes any substance or mixture of substances, labeled, designed, or intended for use for defoliating plants, preparatory to harvest for purpose of obtaining early or controlled maturity.

(h) The term "plant regulator" means any substance or mixture of substances, labeled, designed, or intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(i) The term "desiccant" means any substance or mixture of substances labeled, designed, or intended for artificially accelerating the drying of plant tissues.

(j) The term "insect" means a small invertebrate animal generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(k) The term "fungi" means and includes any nonchlorophyll-bearing thallophytes (any nonchlorophyll-bearing plants of a lower order than mosses and liverworts) and includes rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

(l) The term "weed" means and includes any plant which grows where not wanted.

(m) The term "nematode" means invertebrate animals of the phylum nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

(n) The term "fumigant" means any substance or mixture of substances which emits or liberates a gas or gases, which are used in controlling, destroying, or mitigating insects or rodents and which are usually dangerous to man and other animals.

(o) The term "ingredient statement" means a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the agricultural chemical. If the agricultural chemical contains arsenic in any form, the statement shall include the percentages of total and water soluble arsenic, each calculated as elemental arsenic. ~~Providing That~~ If the agricultural chemical is not highly toxic to man, and if the agricultural chemical does not contain arsenic in any form, and if the agricultural chemical is not a fumigant, and if a statement of the total percentage of each active ingredient is filed with the secretary, then the term "ingredient statement" shall be construed to mean a statement of the name of each active ingredient listed in the order of greatest percentage of each present in the product, together with the name and total percentage of the inert ingredients, if any there be in the agricultural chemical.

(p) The term "active ingredient" means (1) in the case of any agricultural chemical other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds or other pests;

(2) in the case of a plant regulator an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

(q) The term "inert ingredient" means an ingredient which is not an active ingredient.

(r) The term "antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(s) The term "person" means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

(t) The term "secretary" means the secretary of ~~the Kansas state board of~~ agriculture.

(u) The term "registrant" means the person registering any agricultural chemical pursuant to the provisions of this act.

(v) The term "label" means the written, printed, or graphic matter on, or attached to, the agricultural chemical or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be.

(w) The term "labeling" means all labels and other written, printed or graphic matter:

(1) Upon the agricultural chemical or any of its containers or wrappers;

(2) accompanying the agricultural chemical at any time;

(3) to which reference is made on the label or in literature accompanying the agricultural chemical, except when accurate, nonmisleading reference is made to current official publications of the United States department of agriculture or interior, the United States public health service, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of agricultural chemicals.

(x) The term "adulterated" shall apply to any agricultural chemical:

(1) The strength or purity of which falls below the professed standard or quality as expressed on labeling or under which it is sold;

(2) if any substance has been substituted wholly or in part for the article;

(3) if any valuable constituent of the article has been wholly or in part abstracted.

(y) The term "misbranded" shall apply:

(1) To any agricultural chemical if its labeling bears any statement, design, or graphic representation relative thereto, or to its ingredients, which is false or misleading in any particular;

(2) to any agricultural chemical:

(a) Which is an imitation of or is offered for sale under the name of another agricultural chemical;

(b) the labeling of which bears any reference to registration under this act;

(c) the labeling accompanying which does not contain instructions for use which are necessary for effective results; and which, if complied with, are adequate for the protection of the public;

(d) if the label of which does not contain a warning or caution statement which, if complied with, is adequate to prevent injury to living man and other vertebrate animals;

(e) the label of which does not bear an ingredient statement on the immediate container;

(f) the label of which does not bear an ingredient statement on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read;

(g) upon which there appears any word, statement, or other information required by or under the authority of this act to appear on the labeling, which is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(3) To any insecticide, fungicide, nematocide, or herbicide which when used as directed, or when used in accordance with commonly recognized practices:

(a) Shall be injurious to living man or other vertebrate animals, to

which it is applied, or to the person applying such agricultural chemical;

(b) shall be injurious to vegetation, other than weeds, to which it is applied, or to the person applying such agricultural chemical. ~~Provided, That~~ Physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when this is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.

Sec. 43. K.S.A. 2-2210 is hereby amended to read as follows: 2-2210. All authority vested in the secretary by virtue of the provisions of this act may with like force and effect be executed by such employees of the Kansas ~~state board~~ *department* of agriculture as the secretary may from time to time designate for said purpose.

Sec. 44. K.S.A. 2-2212 is hereby amended to read as follows: 2-2212. The secretary shall remit all moneys received by or for the secretary under article 22 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the agricultural chemical fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the ~~state board~~ of agriculture or by a person or persons designated by the secretary.

Sec. 45. K.S.A. 2-2438a is hereby amended to read as follows: 2-2438a. As used in this act, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed to them in this section:

(a) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish and shellfish.

(b) ~~"Board"~~ "Department" means the ~~board~~ *Kansas department* of agriculture of the state of Kansas.

(c) "Certified applicator" means any individual who is certified under this act to use or supervise the use of any restricted use pesticide which is classified for restricted use by a certified applicator.

(1) "Certified commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided in paragraph (2) of this subsection (c).

(2) "Certified private applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of: (A) producing any agricultural commodity, (i) on property owned or rented by such person or such person's employer or, (ii) if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person; or (B) controlling ornamental shrubbery or turf pests on property which is owned or rented by such person and which is used as such person's residence.

(d) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

(e) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(f) "Equipment" means any ground, water or aerial apparatus, used to apply any pesticide but shall not include any pressurized hand size household apparatus used to apply any pesticide or any equipment, apparatus or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.

(g) "Fungus" means any nonchlorophyll-bearing thallophyte, including, but not limited to, rust, smut, mildew, mold, yeast and bacteria, except those on or in man or other animals and those on or in processed food, beverages or pharmaceuticals.

(h) "General use pesticide" shall mean and include all pesticides which have not been designated, by rule or regulation of the secretary ~~or the board~~, as being restricted use pesticides.

(i) "Insect" means any small invertebrate animal having the body segmented, belonging to the class insecta and other classes of arthropods, including, but not limited to, beetles, bugs, bees, flies, spiders, mites, ticks and centipedes.

(j) “Registered pest control technician” means an uncertified commercial applicator who applies pesticides for wood destroying pest control, for structural pest control, for ornamental pest control, or for turf pest control, or for any combination of these types of pest control, and who has received verifiable training.

(k) “Nematode” means any unsegmented roundworms of the class nematoda, with elongated, fusiform, or saclike bodies covered with cuticle, inhabiting soil, water, plants or plant parts. Such roundworms may also be referred to as nemas or eelworms.

(l) “Person” means any individual, partnership, association of persons, corporation or governmental agency.

(m) “Pest” means, but is not limited to, any insect, rodent, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacteria or other microorganisms on or in man or other animals, or which the secretary may declare to be a pest.

(n) “Pesticide” means, but is not limited to, (1) any substance or mixture of substances used to prevent, destroy, control, repel, attract or mitigate any pest and (2) any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant.

(o) “Pesticide business” means any individual, partnership, association of persons or corporation which applies pesticides to the property of another for compensation.

(p) “Pesticide business licensee” shall mean an individual, business, association of persons or corporation who is licensed or would be required to be licensed under the provisions of K.S.A. 2-2440, and amendments thereto.

(q) “Pesticide dealer” means any person who sells a pesticide to another person for application.

(r) “Plant regulator” means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants but shall not include substances insofar as they are used as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments. The term “plant regulator” shall not include any such nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health and propagation of plants, and not for pest destruction if such mixtures or soil amendments, in the undiluted packaged concentration are nontoxic and nonpoisonous.

(s) “Restricted use pesticide” shall mean and include all pesticide uses designated as such by rules and regulations of the secretary or the board.

(t) “Secretary” means the secretary of ~~the state board of~~ agriculture.

(u) “Under the supervision of” means, unless otherwise provided by the labeling of the pesticide product, acting under the instructions and control of another person who is available if and when needed, even though such other person is not physically present at the time and place the act is done.

(v) “Weed” means any plant or part thereof which grows where not wanted.

(w) “Use of any pesticide in a manner inconsistent with its label or labeling” means to use any pesticide in a manner not permitted by the label or labeling.

(x) “Pest control” means the destruction, prevention, repulsion or mitigation of a population, infection or infestation of a pest.

(y) “Pesticide management area” means a site or area designated by the secretary pursuant to K.S.A. 2-2472, *and amendments thereto*, within which a pesticide management plan is deemed necessary for the protection of the public health, safety, welfare or natural resources of the state.

(z) “Natural resources” means and includes soils, water and any form of terrestrial or aquatic or animal life.

(aa) “Pesticide rinsate” means the water contaminated with pesticides from the cleaning of the inside of pesticide containers or pesticide tanks.

Sec. 46. K.S.A. 2-2439 is hereby amended to read as follows: 2-2439. The secretary is hereby authorized and empowered to administer and enforce the provisions of this act. The secretary is authorized to promulgate rules and regulations designating certain pesticides as restricted use pesticides.

The secretary ~~or the board~~ shall have the authority, by rules and regulations, to make any additional changes in the classification of restricted use pesticides.

Sec. 47. K.S.A. 2-2444a is hereby amended to read as follows: 2-2444a. (a) The categories of qualification for certification and licensing shall include:

- (1) Agricultural pest control;
- (2) forest pest control;
- (3) ornamental and turf pest control;
- (4) seed treatment;
- (5) aquatic pest control;
- (6) right-of-way pest control;
- (7) industrial, institutional, structural and health related pest control;
- (8) public health pest control;
- (9) regulatory pest control; and
- (10) demonstration and research pest control.

(b) The secretary shall have authority to subdivide any category of qualification for certification or licensing enumerated in subsection (a) of this section in order to account for the special needs or business practices of this state. The secretary may also adopt any additional categories he or she deems necessary for any reason. Any such changes in the categories enumerated in subsection (a) shall be adopted by rules and regulations of the ~~board~~ secretary.

Sec. 48. K.S.A. 2-2461 is hereby amended to read as follows: 2-2461. (a) Any person other than a certified private applicator violating or failing to comply with any provision of this act or any authorized rule or regulation of the ~~board or the~~ secretary shall be deemed guilty of a class A misdemeanor. Each separate violation shall constitute a separate offense.

(b) Any certified private applicator who violates any of the provisions of this act or any authorized ~~rule or regulation~~ rules and regulations of the ~~board or the~~ secretary shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than ~~one hundred dollars (\$100)~~ \$100 and not more than ~~five hundred dollars (\$500)~~ \$500. Each day of operation after notice shall constitute a separate offense.

(c) The district courts of Kansas shall have jurisdiction to restrain violations of this act by injunction without the institution of criminal proceedings. Said injunction shall be issued without bond.

Sec. 49. K.S.A. 2-2464a is hereby amended to read as follows: 2-2464a. The secretary shall remit all moneys received by or for the secretary under this act and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the pesticide use fee fund. All expenditures from the pesticide use fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~the state board of~~ agriculture or by a person or persons designated by such secretary.

Sec. 50. K.S.A. 2-2469 is hereby amended to read as follows: 2-2469.

(a) Each person who is a pesticide dealer shall register with the ~~state board~~ secretary of agriculture. Registration shall be required for each business location distributing pesticides and shall be on a form provided by the secretary. Each registration shall expire on June 30 following issuance unless such registration is renewed annually. A registration fee of \$20 shall accompany the application.

(b) The provisions of this section shall not apply to a licensed pesticide business which sells pesticides only as an integral part of such business' pesticide application service when the pesticides are dispensed only through equipment used for this pesticide application, nor to the sale of general use pesticides purchased for household use only, nor to any federal, state, county or municipal agency which provides pesticides only for its own programs nor to any individual who is the final purchaser of a pesticide for application to property or property rights owned, leased, or otherwise acquired by such person.

(c) Each registered pesticide dealer is responsible for the acts of each individual employed by such dealer in the solicitation and sale of pesticides and all claims and recommendations for use of pesticides. The dealer's registration shall be subject to denial, suspension, or revocation after a hearing in accordance with the provisions of the Kansas adminis-

trative procedure act for any violation of this act whether committed by the dealer or by the dealer's officers, agents or employees.

(d) All fees received under this section shall be remitted to the state treasurer in accordance with K.S.A. 2-2464a and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and 75% of such amount shall be credited to the pesticide use fee fund and 25% of each such amount shall be credited to the publications fee fund of the ~~state board~~ *Kansas department* of agriculture.

Sec. 51. K.S.A. 2-2472 is hereby amended to read as follows: 2-2472.

(a) The secretary of the ~~Kansas state board~~ *department* of agriculture is hereby authorized and may develop pesticide management areas after receiving notification by the administrator of the United States environmental protection agency or by the secretary of the Kansas department of health and environment, that a pesticide poses a serious threat to the public health, safety and welfare or the natural resources of this state.

(b) The secretary upon the secretary's own investigation may initiate such proceedings whenever the secretary has reason to believe that a pesticide poses a serious threat to the public health, safety and welfare or the natural resources of this state.

Sec. 52. K.S.A. 2-2802 is hereby amended to read as follows: 2-2802. This act shall be administered by the secretary of the ~~state board~~ of agriculture.

Sec. 53. K.S.A. 2-2803 is hereby amended to read as follows: 2-2803. As used in this act, unless the context otherwise requires:

(a) "Soil amendment" means and includes any substance which is intended to improve the physical, chemical or other characteristics of the soil or improve agricultural crop production, except that it shall not include the following: Commercial fertilizers, agricultural liming materials including ground and slaked lime, unmanipulated animal manures, vegetable compost and pesticides.

(b) "Name" means the specific designation under which the individual product is offered for sale.

(c) "Bulk" means in nonpackaged form.

(d) "Distribute" means to import, consign, offer for sale, sell, barter or to otherwise supply soil amendments to any person in this state.

(e) "Label" means the display of written, printed or graphic matter upon the immediate container of a soil amendment.

(f) "Unmanipulated animal manures" means the refuse of stables, barnyards or feedlots consisting of animal excreta with or without litter.

(g) "Secretary" means the secretary of the ~~state board~~ of agriculture.

(h) ~~"Board"~~ "Department" means the ~~state board~~ *Kansas department* of agriculture.

(i) "Active ingredient" means the ingredient or ingredients which affect the physical, chemical or other characteristics of the soil and thereby improve soil condition.

(j) "Inert ingredient" means the ingredients which do not have any beneficial effect but are present in the product.

(k) "Person" means individuals, partnerships, associations and corporations.

(l) "Percent" or "percentage" means by weight.

(m) "Registrant" means any person who registers a soil amendment under the provisions of this act.

(n) "Value" means that a product provides statistically established economic benefits to the end user of the product.

(o) "Usefulness" means that there exists data on a product that proves that the product has a beneficial contribution towards the improvement of the physical, chemical or other characteristics of the soil or that the product improves agricultural crop production.

(p) "Agricultural crop production" means the production of field crops commonly grown in Kansas as opposed to horticultural or landscaping stock.

Sec. 54. K.S.A. 2-2814 is hereby amended to read as follows: 2-2814. The secretary shall remit all moneys received by or for the secretary under this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the soil amendment fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants

of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~the state board of~~ agriculture or by a person or persons designated by the secretary.

Sec. 55. K.S.A. 2-2901 is hereby amended to read as follows: 2-2901. This act shall be known and may be cited as "The Kansas agricultural liming materials act." The provisions of this act shall be administered by the secretary of ~~the state board of~~ agriculture, hereinafter referred to as the secretary.

Sec. 56. K.S.A. 2-2903 is hereby amended to read as follows: 2-2903.

(a) Every package or container of agricultural liming materials sold, offered or exposed for sale in this state shall have affixed to each package in a conspicuous manner on the outside thereof, a plainly printed, stamped or otherwise marked label, tag or statement setting forth the following information: (1) The name and principal office address of the manufacturer or distributor;

(2) the brand or trade name of the material;

(3) the identification of the product as to type of agricultural liming material;

(4) the net weight of the agricultural liming material;

(5) the calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists, and in minimum amounts as prescribed by rules and regulations of the secretary of ~~the state board of~~ agriculture; and

(6) the minimum percentage by weight passing through U. S. standard sieves, as prescribed by rules and regulations;

(7) the minimum percentage of weight of effective calcium carbonate equivalent (ECC), a function of calcium carbonate equivalent and fineness as prescribed by rules and regulations of the secretary of ~~the state board of~~ agriculture.

(b) In any case where a bulk sale of agricultural liming materials is made, the delivery slip identifying such sale shall contain the information required by subsection (a) (7).

(c) No information or statement shall appear on any package, label, delivery slip or advertising material which is false or misleading to the purchaser as to the quality, analysis, type or composition of the agricultural liming material.

(d) In the case of any material which has been adulterated subsequent to packaging, labeling or loading thereof but before delivery to the consumer, a plainly marked notice to that effect shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of adulteration therein.

(e) At every site from which agricultural liming materials are delivered in bulk or orders for bulk deliveries are placed by consumers, there shall be conspicuously posted a statement setting forth the information required by subsection (a) of this section for each brand of material.

Sec. 57. K.S.A. 2003 Supp. 2-2906 is hereby amended to read as follows: 2-2906. (a) Within 30 days following expiration of registration, each registrant shall submit, on a form furnished by the secretary of ~~the state board of~~ agriculture, an annual statement setting forth the number of net tons of each agricultural liming material sold by such registrant for use within the state during the previous 12-month period. Such statement shall be accompanied by payment of an inspection fee which shall be at the rate of \$.05, or commencing July 1, 2002, and ending June 30, 2005, the rate of \$.07 per ton.

(b) The secretary is hereby authorized and empowered to reduce the inspection fee provided for in subsection (a) whenever the secretary determines that such fee is yielding more than is necessary for the purpose of administering the provisions of this act. The secretary is authorized and empowered to increase such inspection fee, or restore such inspection fee, in full or in part, when such inspection fee is necessary to produce sufficient revenues for the purposes of administering the provisions of this act, but not in excess of the fee as provided in this section.

Sec. 58. K.S.A. 2-3309 is hereby amended to read as follows: 2-3309.

(a) The ~~state board~~ secretary of agriculture shall administer this act and ~~the secretary of the board~~ shall have authority to employ such qualified persons deemed necessary to carry out the provisions of this act.

(b) The secretary shall adopt, within 60 days after the effective date of this act, such rules and regulations the secretary deems necessary to carry out the provisions of this act.

Sec. 59. K.S.A. 2-3315 is hereby amended to read as follows: 2-3315. The secretary shall remit all moneys received under this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the chemigation fee fund. All expenditures from the chemigation fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~the state board of~~ agriculture or by a person or persons designated by the secretary.

Sec. 60. K.S.A. 11-201 is hereby amended to read as follows: 11-201. (a) Except as otherwise provided in subsections (b) and (c), the most recent population figures available from the United States bureau of the census as certified to the secretary of state by the division of the budget on July 1 of each year shall be used for all purposes in the application of the statutes of this state. Whenever the use of the population figures or the census of the ~~state board~~ *Kansas department* of agriculture is referred to or designated by a statute, such reference or designation shall be deemed to mean the population figures certified to the secretary of state pursuant to this section. The city and county population figures certified to the secretary of state pursuant to this section shall be distributed by the division of the budget to the cities and counties of the state and to such other governmental entities as the division deems appropriate and shall be made available by the division upon request of any other person.

The population figures certified to the secretary of state pursuant to this section shall be disposed of in accordance with K.S.A. 75-3501 *et seq.* and amendments thereto.

(b) On July 1 of each year, the division of the budget shall distribute to the treasurer of each county and to the secretary of revenue a table showing the total population of the county, the total population of the county residing outside the boundaries of any incorporated city and the population of each incorporated city within the county, using the most recent information which is available from the United States bureau of the census and which provides actual or estimated population figures for both cities and counties as of the same date. Such table shall be used as the basis for apportioning revenue from any countywide retailers' sales tax pursuant to K.S.A. 12-192 and amendments thereto.

(c) Population figures established by the enumeration authorized under K.S.A. 11-204 to 11-208 and amendments thereto shall be used only as a basis for the reapportionment of any state legislative districts, reapportionment of which is authorized pursuant to section 1 of article 10 of the constitution of the state of Kansas, in the year 1989, and for such other purposes as shall be specifically authorized by K.S.A. 11-204 and amendments thereto.

Sec. 61. K.S.A. 12-636 is hereby amended to read as follows: 12-636. Before making the improvements mentioned in K.S.A. 12-635 and amendments thereto, the governing body of the city, by resolution duly passed, shall declare it necessary for the public good and convenience that the property described in the resolution be protected from the overflow of the watercourse and shall require a competent engineer to make a survey thereof and file the same with the city clerk of the city with maps and profiles of the survey and a full and complete plan of protecting the property from the overflow or damage by water of the watercourse and also the physical characteristics and location of any right-of-way, roadbed, bridge or bridges, streets and alleys and other property liable to be injured or damaged by the overflow of the watercourse. The engineer shall also make an estimate of the cost of the entire work and improvement required to protect the property, showing the several items of the same. The engineer shall inspect and examine all lots and buildings thereon, rights-of-way, roadbeds, bridges, culverts, depot grounds, grades, streets, and all railroads, telephone and telegraph and other property liable to be injured or damaged by the overflow of the watercourse. The engineer shall file a report, in duplicate, with the city clerk. Upon the approval of engineer's report by the governing body of the city, the city clerk of the city shall immediately cause one copy of the engineer's report to be filed with the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture.

Sec. 62. K.S.A. 12-761 is hereby amended to read as follows: 12-761. (a) Any violation of any regulation adopted under the authority of this act

shall be a misdemeanor and shall be punishable by a fine of not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

(b) Any city or county, and any person the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce the adopted zoning regulations and to abate nuisances maintained in violation thereof.

(c) Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained or any building, structure or land is or is proposed to be, used in violation of any zoning regulations, the city or county, or in the event the violation relates to a provision concerning flood plain zoning, the attorney general and the chief engineer of the division of water resources of the ~~Kansas state board~~ *department* of agriculture, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of such building, structure or land.

(d) Any person, company, corporation, institution, municipality or agency of the state who violates any provision of any regulation relating to flood plain zoning shall be subject to the penalties and remedies provided for herein.

(e) The provisions of this section shall become effective on and after January 1, 1992.

Sec. 63. K.S.A. 12-766 is hereby amended to read as follows: 12-766.

(a) The governing body may establish flood plain zones and districts and restrict the use of land therein and may restrict the application thereof to lands, adjacent to watercourses, subject to floods of a lesser magnitude than that having a chance occurrence in any one year of 1%. Any flood plain regulations shall comply with the minimum requirements of the national flood insurance act of 1968, as amended (42 U.S.C. §4001 *et seq.*) or any rules and regulations adopted pursuant thereto.

(b) Prior to the adoption thereof, the governing body shall submit to the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture any ordinance, resolution, regulation or plan that proposes to create or to effect any change in a flood plain zone or district, or that proposes to regulate or restrict the location and use of structures, encroachments, and uses of land within such an area. The chief engineer may require, pursuant to rules and regulations, each submission hereunder to be accompanied by complete maps, plans, profiles, specifications and textual matter. The chief engineer shall approve or disapprove any such ordinance, resolution, regulation or plan or changes thereof within 90 days of the date of receipt of all such data required by the chief engineer as specified in rules and regulations adopted thereby. If the chief engineer fails to approve or disapprove within the ~~ninety day~~ *90 day* period required by this section, such ordinance, resolution, regulation or plan or change thereof shall be deemed approved. The chief engineer shall provide, in writing, specific reasons for any disapproval.

(c) The chief engineer shall adopt such rules and regulations deemed necessary to administer and enforce the provisions of this section.

Sec. 64. K.S.A. 12-2713 is hereby amended to read as follows: 12-2713. Nothing contained in this act shall be held to alter or abridge the powers and duties of the secretary of health and environment or of the division of water resources of the ~~state board~~ *Kansas department* of agriculture over water supply matters.

Sec. 65. K.S.A. 16-1503 is hereby amended to read as follows: 16-1503. (a) For the benefit of orderly marketing of swine in Kansas and to facilitate the capture of markets by swine producers and to improve the quality of the state's swine herd, registered swine marketing pools may be created. To qualify for participation under this act a swine marketing pool created pursuant to this act must register with the ~~Kansas state board~~ *secretary* of agriculture. The ~~Kansas state board~~ *secretary* of agriculture will facilitate creation of swine marketing pools and information sharing to foster contract agreements between swine marketing pools and purchasers of hogs for slaughter. Such registration for any swine marketing pool may be revoked by the secretary of agriculture for failure to properly carry out its functions pursuant to subsection (b) subsequent to a hearing

pursuant to the provisions of the Kansas administrative procedure act.

(b) Swine marketing pools are hereby authorized to do the following on behalf of their members:

- (1) Assume debt;
- (2) enter and negotiate contracts for the sale and delivery of hogs;
- (3) own assets;
- (4) sue and be sued;
- (5) assist members to upgrade the quality of hogs marketed by the pool;
- (6) negotiate in good faith for timely completion and quality assurance of swine marketing contracts; and
- (7) perform any other activities to achieve the goals and objectives of the swine marketing pool.

Sec. 66. K.S.A. 16-1505 is hereby amended to read as follows: 16-1505. Any swine purchasing contract, swine marketing contract or swine production contract between a contractor and a swine production facility owner or swine marketing pool or swine producer shall contain language providing for resolution of contract disputes by either mediation or arbitration. If there is a contract dispute the parties may submit the disputed issue to an arbitrator or mediator selected by the parties pursuant to the contract provisions. All arbitration proceedings held pursuant to this act shall follow the procedures set forth in K.S.A. 5-201 *et seq.*, and *amendments thereto*. If the parties cannot agree upon a mediator or arbitrator, either party may make a written request to the secretary of ~~Kansas state board of~~ agriculture for mediation or arbitration services to facilitate resolution of the dispute.

Sec. 67. K.S.A. 19-1561b is hereby amended to read as follows: 19-1561b. Upon the erection of such building or buildings and furnishings as herein provided, the board of county commissioners of the county wherein such building or buildings and furnishings are located is hereby authorized and empowered to levy annually a tax upon all taxable tangible property within said county for the purpose of purchasing additional equipment, maintaining and repairing such building or buildings and furnishings and for the payment of premiums and rewards awarded at agricultural livestock and 4-H club activities and approved by the board of county commissioners and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. In any county in which there is a fair recognized by the ~~state board~~ *secretary* of agriculture as an official county fair the amount of the payment for premiums and rewards under this section shall not exceed the amount of the payment by the county for premiums and awards for such county fair.

The board of county commissioners is authorized to pay any tax moneys collected and approved by said board for the payment of rewards and premiums to the executive board of the county agricultural extension council, except for an amount to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. The ~~said~~ executive board is authorized to accept such payments and upon acceptance of such moneys shall provide for the awarding of rewards and premiums for the authorized activities and shall make reports, under oath, to the county commissioners of the receipts and expenditures of the moneys so received, on or before December 31 of each year.

Sec. 68. K.S.A. 19-2963 is hereby amended to read as follows: 19-2963. Any county which adopts a resolution under the provisions of this act shall have power to declare the violation thereof a misdemeanor and punishable by a fine not to exceed \$500 for each offense and to provide that each day's violation shall constitute a separate offense. Such counties also shall have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of such resolution and to abate nuisances maintained in violation thereof. In case any building or structure is or is proposed to be erected, constructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any resolution enacted under this act, the county counselor or other appropriate authority of the county, and in the event the violation relates to a provision concerning floodplain zoning, the attorney general and the chief engineer of the division of water resources of the ~~Kansas state board~~ *department* of agriculture, in addition to other remedies, may institute injunction, mandamus, or other

appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or to correct or abate such violation or to prevent the occupancy of such building, structure or land. Any person, company, corporation, institution, municipality or agency of the state or federal government who violates any provision of a resolution relating to floodplain zoning, shall be subject to the penalties and remedies provided for herein.

Sec. 69. K.S.A. 24-407 is hereby amended to read as follows: 24-407. Each drainage district incorporated pursuant to K.S.A. 24-401 *et seq.*, and amendments thereto, shall be a body politic and corporate. Subject to the superior jurisdiction of the United States over navigable waters, the governing body of each drainage district shall have exclusive control of the beds, channels, banks and of all lands the title to which is vested in the state of Kansas lying between the banks at high water mark of all natural watercourses within the district. The board of directors of every drainage district incorporated under the provisions of K.S.A. 24-401 *et seq.*, and amendments thereto, shall have the power:

- (1) To adopt a seal.
- (2) To sue and be sued by its corporate name.
- (3) To purchase, hold, sell and convey real estate and personal property necessary or convenient to carry out the purposes of the district.
- (4) To take charge of and exercise exclusive control of all natural watercourses within the district, and widen, deepen, establish, regulate and maintain the channels thereof, construct and maintain levees along the banks thereof and detention dams and reservoirs in areas adjacent thereto which are necessary to prevent or restrain overflow or lessen the volume thereof or the injury likely to result therefrom. The board may construct ditches, drains, sewers and canals through lands subject to overflow, and may purchase, install and operate pumps necessary to remove, carry off and prevent water from standing or remaining in pools or ponds and becoming stagnant upon overflowed lands or necessary for sanitary purposes or conducive to the public health, convenience and welfare. The board may alter, change or abandon the channel or any part of the channel of any natural watercourse and relocate or excavate and establish a new channel for such watercourse or any part thereof located within the district. The board may take private property for public use by exercise of the right of eminent domain and may condemn and remove obstructions in such watercourses. The board may acquire by gift, purchase or condemnation lands for the purpose of constructing levees along or widening, deepening, changing or otherwise improving the channels of watercourses or for relocating, excavating and establishing new channels or constructing cutoffs, detention dams and reservoirs in areas adjacent to all such watercourses.
- (5) To prescribe, regulate and fix the height of the superstructures above the water, the length of all spans and the location of the piers of all bridges across watercourses located within the district.
- (6) To construct levees across the rights-of-way, roadbeds, tracks and lands of railroad companies and street-railroad companies. The board may condemn and appropriate by the exercise of the right of eminent domain sufficient rights-of-way or other lands of any railroad company or street-railroad company necessary for constructing and maintaining a continuous levee of uniform height across the same.
- (7) To fix, regulate and change the grade or elevation of all public highways, railroads and street-railroads at points where any levee may cross or intersect the same.
- (8) To require all railroad companies to elevate their tracks at all points where intersected by any levee so that the tracks will not interfere with the construction or maintenance of the levee as a continuous and effective work of uniform height to prevent the overflow of any natural watercourse.
- (9) To maintain in any court of competent jurisdiction suits to enforce the reasonable orders of its directors, enjoin the placing or maintenance in any natural watercourse of any unauthorized bridge, embankment, pier or other work or structure constituting to any extent whatever an obstruction to the flow of the water, restrain all other wrongful or unauthorized encroachments upon or interference with the channel of the watercourse and to have all obstructions wrongfully placed in the channel of natural watercourses adjudged public nuisances and abated as such.
- (10) To maintain actions in any court of competent jurisdiction to

recover and hold exclusive possession of all land located between the banks of natural watercourses at high water mark, the title to which is vested in the state of Kansas. If the channel of any watercourse is altered, changed or abandoned, in whole or in part, the governing body may sell, convey and give good title to the land constituting the abandoned channel and apply the proceeds thereof to the cost of a new channel or for other improvement of the watercourse.

(11) To annually levy a tax not exceeding five mills on the assessed value of all tangible taxable property within the district to create a general fund.

If the board determines that a higher tax levy limit is necessary, it may adopt a resolution proposing to raise the limitation. Any proposed increase of the levy limitation shall be submitted for approval by the qualified voters of the drainage district. The election shall be called and held in the manner provided by the general bond law. If a majority of the voters voting on the question votes in favor thereof, the levy limitation may be increased.

(12) To levy special assessments against all real property located within the district that may be benefited to pay the costs of the construction and maintenance of levees or other works or improvements to prevent the overflow of natural watercourses, or provide drainage of overflowed lands therein or that may be conducive to the public health, convenience or welfare.

(13) To issue negotiable bonds to pay the costs of widening, deepening and otherwise improving the channels and constructing embankments, drains, levees and other works along the banks of natural watercourses, to pay the cost of constructing detention dams and reservoirs in areas adjacent to all such watercourses, to pay for the purchase or condemnation of land necessary therefor or to prevent overflow and protect the property located within the district from damage and injury thereby. The bonds shall be payable by general taxation of all property located within the district if it is determined that all property located within the district will be benefited thereby or that such work or improvement is necessary or will be conducive to the public health, convenience or welfare and beneficial to all of the inhabitants of the district. No bonds shall be issued until authorized by a vote of the taxpayers.

(14) To contract with other drainage districts or with public corporations organized for similar purposes in any adjoining state for cooperation or joint action in constructing detention dams and reservoirs in areas adjacent to any natural watercourse or in constructing levees along the banks or otherwise improving any natural watercourse to prevent its overflow where the overflow is likely to cause injury or damage to lands located within the territorial limits of all the cooperating districts or corporations. The board may contract and cooperate with private corporations and individuals owning lands located outside of the district or state which are subject to injury by overflow in common with lands located within the district. The board may contract for and receive aid and contributions from the United States, and from all public corporations the property within which will be benefited and with all private corporations and individuals whose property will be benefited by the improvement, whether the property is located within the district or within some other district or state.

(15) To enter contracts and exercise any of its corporate, legislative or administrative powers necessary to accomplish the purpose of the district's organization.

(16) To do all other acts necessary to carry out and execute the general powers granted under the provisions of K.S.A. 24-401 *et seq.*, and amendments thereto, although not specially enumerated. Before any drainage district constructs or modifies any dam, the drainage district shall file an application with the division of water resources of the ~~state board~~ *Kansas department* of agriculture pursuant to K.S.A. 82a-301, *and amendments thereto.*

Sec. 70. K.S.A. 24-418 is hereby amended to read as follows: 24-418. The board of directors may cause any or all natural watercourses within the district to be widened and deepened, walls, embankments and levees to be constructed along the banks, and obstructions and sand bars to be removed from the channel thereof, or such other improvements, including detention dams and reservoirs in areas adjacent to such watercourses, to be made thereto as may be deemed necessary to prevent the overflow

of such watercourses or protect property from damage thereby. Before any such work shall be contracted for, plans and specifications for such work and an estimate of the cost thereof shall be made under oath by a competent engineer appointed for the purpose and embodied in a written report and filed with the secretary. If, upon consideration of such report and such other information as the board of directors may obtain, it shall be determined by the board of directors that the improvement of any natural watercourse by the removal of obstructions from the channel thereof or otherwise or the construction of any levee, levees, system of levees or detention dams and reservoirs will prevent the overflow of such natural watercourse, and thereby protect all of the lands within the drainage district from injury therefrom, and will be conducive to the public health, convenience or welfare, the board of directors shall have power to cause such levee, levees or such detention dams and reservoirs to be constructed and such other improvement and work to be done, and to issue bonds not exceeding in amount 20% on the taxable property of the district as shown by the assessment and tax rolls of the next preceding year to pay the cost thereof, such bonds to be paid by a general tax to be levied upon all of the taxable property within the drainage district issuing the same, except that: (1) Such improvement shall not be made until it has been authorized by a vote of the taxpayers of the district, at a special election to be called and held for that purpose at such time and place and in such manner as the board of directors may prescribe by an order entered upon its journal; and (2) the board of directors of the drainage district shall have no power to remove, lower or injure any dam constructed by any city in this state in or across any nonnavigable natural watercourse for the purpose of holding or storing water for the use of the city and its inhabitants, or to make any excavation or ditch to permit the flow of water around or by said dam, without first filing an application with the division of water resources of the ~~state board~~ *Kansas department of agriculture* pursuant to K.S.A. 82a-301 and amendments thereto.

Sec. 71. K.S.A. 24-656 is hereby amended to read as follows: 24-656. The following terms when used in this act shall be construed to have the meaning ascribed to them in this section:

(a) "Person" shall mean any person, firm, partnership, association or corporation;

(b) "publication" shall mean the publication in a newspaper or newspapers admitted to the United States mail as second-class matter, of general circulation within the joint drainage district;

(c) "land" shall mean real property as that term is defined by the laws of the state of Kansas, and shall include any road, highway, bridge, street or other right-of-way;

(d) "chief engineer" shall mean the chief engineer of the division of water resources of the ~~Kansas state board~~ *department of agriculture*;

(e) "board" shall mean the board of directors of a joint drainage district;

(f) "qualified voter" shall mean any qualified elector of the district and any person ~~eighteen (18)~~ *18* years of age or over owning land within the district, although not a resident therein;

(g) "landowner" shall mean the record owner of the fee in any real estate in the district or the fee in the surface rights of any real estate in the district, but the owners of an oil and gas lease, mineral rights or interest, easements or mortgages as such shall not be considered landowners, and school districts, cemetery associations and municipal corporations shall not be considered landowners;

(h) "steering committee" shall be the group of not less than three (3) qualified voters who shall serve as the governing body of the proposed drainage district until the first board of directors is elected.

Sec. 72. K.S.A. 24-659 is hereby amended to read as follows: 24-659. Said petition shall set forth: (1) The proposed name of the district, which name shall end with the words "joint drainage district number ____." It shall be the duty of the secretary of state to assign a number to each such district in the order in which petitions for their organization are received in his or her office.

(2) A description of the lands to be included within the proposed district, identified by section numbers and fractions thereof, and other platted areas as appropriate.

(3) A statement of the purposes for which the district is to be organized.

(4) A statement that the board of directors of the district shall consist of not less than three (3) members giving the names and addresses of the persons who will constitute the original steering committee.

(5) Any other matter deemed essential.

(6) A prayer for the organization of the district as a nonprofit corporation.

A map showing the lands to be included in the district, prepared in consultation with the chief engineer, shall be attached to the petition as an exhibit and incorporated therein by reference. The petition shall be in substantially the following form:

BEFORE THE SECRETARY OF STATE OF THE STATE OF KANSAS

In the Matter of _____ Joint Drainage District Number _____, _____ and _____ counties, Kansas.

PETITION

Come now the undersigned persons and state that they are landowners within the proposed boundaries of the aforementioned drainage district, hereinafter more fully described, and that each signer states that his respective post-office address is set forth beside his name. That the purposes for which this district is organized are (state purposes). That a steering committee for the organization of the district is hereby fixed and constituted with not less than three members; that the names of persons who will serve on the original steering committee, of which the first named shall be acting chairman, and their respective addresses are as follows:

(List names and addresses.)

The governing body of the district shall be constituted in a board of directors composed of not less than three qualified voters.

That attached hereto, marked Exhibit A and made a part hereof as fully as if set forth herein, is a map showing the lands proposed to be included in the district.

That the lands proposed to be included in said district are described as follows:

(Description of lands.)

That the lands proposed to be included in said district do not embrace the territorial limits of any incorporated city, or any part thereof, except those specifically described in the petition.

Wherefore, the undersigned, individually and collectively, pray that a joint drainage district be organized in the manner provided by law, for the purposes set forth herein, and that the secretary of state and the chief engineer of the division of water resources of the Kansas state board department of agriculture proceed diligently in the performance of their duties so that the organization of this proposed district may be completed and approved at the earliest possible time.

Submitted to the secretary of state this _____ day of _____, 19____.

Sec. 73. K.S.A. 24-1202 is hereby amended to read as follows: 24-1202. The following terms when used in this act shall be construed to have the meaning ascribed to them in this section:

(a) "Person" shall mean any person, firm, partnership, association or corporation;

(b) "publication" shall mean the publication in a newspaper or newspapers admitted to the United States mail as second-class matter, of general circulation within the watershed district;

(c) "land" shall mean real property as that term is defined by the laws of the state of Kansas, and shall include any road, highway, bridge, street or other right-of-way;

(d) "chief engineer" shall mean the chief engineer of the division of water resources of the Kansas state board department of agriculture;

(e) "board" shall mean the board of directors of a watershed district;

(f) "district" shall mean an area comprising a watershed or two or more adjoining watersheds exclusive of lands within other organized watershed districts for which organization is proposed or which has been organized under the provisions of article 12 of chapter 24 of the Kansas Statutes Annotated, and acts amendatory thereof or supplemental amendments thereto. ~~Provided, That such.~~ The district shall not include the territorial limits of any incorporated city unless the petition circulated and filed as provided for in article 12 of chapter 24 of the Kansas Statutes Annotated, and acts amendatory thereof or supplemental amendments thereto, shall clearly indicate that the territory of such a city is to be included in such watershed district;

(g) "specific project" means any project outlined and proposed by the directors and may constitute all or part of a general plan;

(h) "watershed" shall mean all of the area within the state draining toward a selected point on any watercourse, stream, lake or depression;

(i) "subwatershed" shall mean a division of the district as nearly equal in size to other divisions of the district as feasible and including as nearly as practicable one or more tributaries to the main stream which drains from the district;

(j) "qualified voter" shall mean any qualified elector of the district and any person ~~eighteen (18)~~ 18 years of age or over owning land within

the district, although not a resident therein;

(k) "landowner" shall mean the record owner of the fee in any real estate in the district or the fee in the surface rights of any real estate in the district, but the owners of an oil and gas lease, mineral rights or interest, easements or mortgages as such shall not be considered landowners, and school districts, cemetery associations and municipal corporations shall not be considered landowners;

(l) "steering committee" shall be the group of qualified voters, not less than the number to be chosen for the board of directors, who shall serve as the governing body of the proposed watershed district until the first board of directors is elected;

(m) "general plan" shall mean a preliminary engineering report describing the characteristics of the district, the nature and methods of dealing with the soil and water problems within the district, and the projects proposed to be undertaken by the district. It shall include maps, descriptions and such other data as may be necessary for the location, identification and establishment of the character of the work to be undertaken and such other data and information as the chief engineer may require.

Sec. 74. K.S.A. 24-1204 is hereby amended to read as follows: 24-1204. The petition required by K.S.A. 24-1203, and amendments thereto, shall set forth:

(1) The proposed name of the district, which name shall end with the words "watershed district number ____." If the district is located in two or more counties the name of the district shall end with the words "watershed joint district No. ____." It shall be the duty of the secretary of state to assign a number to each such district in the order in which petitions for their organization are received thereby.

(2) A description of the lands to be included within the proposed district, separated as to subwatersheds, if any, and identified by section numbers and fractions thereof, and other platted areas as appropriate.

(3) A statement of the purposes for which the district is to be organized.

(4) A statement of the number of persons that will constitute the board of directors of the district, which shall be an uneven number of not less than three and not more than 15, together with the names and addresses of the persons who will constitute the original steering committee.

(5) Any other matter deemed essential.

(6) A prayer for the organization of the districts as a nonprofit corporation.

A map showing the lands to be included in the district and subwatersheds therein, prepared in consultation with the chief engineer, shall be attached to the petition as an exhibit and incorporated therein by reference. The petition shall be in substantially the following form:

Before the Secretary of State
of the State of Kansas

In the Matter of _____ Watershed (Joint) District Number _____,
and _____ counties, Kansas.

PETITION

Come now the undersigned persons and state that they are landowners within the proposed boundaries of the aforementioned watershed district, hereinafter more fully described, and that each signer states that the signer's respective post-office address is set forth beside the signer's name. That the purposes for which this district is organized are (state purposes). That a steering committee for the organization of the district is hereby fixed and constituted with _____ members; that the names of persons who will serve on the original steering committee, of which the first named shall be acting chairman, and their respective addresses are as follows:

(List names and addresses.)

The governing body of the district shall be constituted in a board of directors composed of (number) qualified voters.

That attached hereto, marked Exhibit A and made a part hereof as fully as if set forth herein, is a map showing the lands proposed to be included in the district and subwatersheds therein:

That the lands proposed to be included in the district and subwatersheds therein are described as follows:

(Description of lands by subwatersheds.)

That the lands proposed to be included in the district and subwatersheds therein do not embrace the territorial limits of any incorporated city, or any part thereof, except those specifically described in the petition.

Wherefore, the undersigned, individually and collectively, pray that a watershed district be organized in the manner provided by law, for the purposes set forth herein, and that the secretary of state and the chief engineer of the division of water resources of the Kansas ~~state board~~ department of agriculture proceed diligently in the performance of their duties so that the organization of this proposed district may be completed and approved at the earliest possible time.

Sec. 75. K.S.A. 27-328 is hereby amended to read as follows: 27-328. The provisions of this act shall apply to: (1) Any county having a population of more than ~~one hundred twenty-five thousand (125,000)~~ 125,000 and less than ~~two hundred thousand (200,000)~~ 200,000 which has an assessed taxable tangible valuation of more than ~~four hundred million dollars (\$400,000,000)~~ \$400,000,000, in which the question of the adoption of the provisions of this act shall have been submitted to and shall have been approved by the qualified electors of the county in the manner provided herein, and in which the United States air force has or shall hereafter acquire, maintain, operate or control an air base, which air base has been or shall hereafter be declared surplus or is otherwise available for disposition by the United States or any of its agencies; and (2) to any city of the first class located in any such county. The population of any county to which this act applied prior to July 1, 1979, shall be determined by reference to the ~~state board~~ *Kansas department* of agriculture census, and any election held and authority created under this act prior to July 1, 1979, shall be governed by such census.

The board of county commissioners of any county to which this act applies shall direct the county election officer to place the question of the adoption of the provisions of this act on the ballot at the next general election following the effective date of this act. Notice of such election shall be given in the manner prescribed by K.S.A. 10-120, and amendments thereto.

Upon the ballot the proposition shall be stated as follows:

"Shall the county of _____ (name of county) adopt the provisions of 1978 Senate Bill No. 564, providing for a city-county airport authority with ability to levy up to 1.85 mills county-wide to replace the current city airport authority with ability to levy up to 3.00 mills city wide?"

If a majority of the qualified electors voting on such proposition shall vote in favor of adopting the provisions of the act, a public airport authority shall thereupon have all of the powers, functions and duties prescribed by this act. If a majority of the qualified electors voting on such proposition are not in favor of adopting the provisions of this act, nothing in this act shall be deemed to prohibit the operation of an airport authority under the provisions of K.S.A. 27-315 *et seq.*, and amendments thereto.

Sec. 76. K.S.A. 28-813 is hereby amended to read as follows: 28-813. The salaries fixed by this act shall be determined by the enumeration of population by the ~~state board~~ *Kansas department* of agriculture and changes in salaries shall be effective beginning with the salaries for the month of January of the year succeeding the year in which the enumeration is made.

Sec. 77. K.S.A. 42-701 is hereby amended to read as follows: 42-701. (a) A majority of the qualified owners of irrigable lands within a proposed irrigation district who shall be three or more persons and who own, collectively, at least 60 acres of land which are susceptible of irrigation, and who own a majority of the irrigable acres in such proposed district, may petition and make application to the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture, for the organization, establishment and authority to incorporate an irrigation district under the provisions of this act. Qualified owners of irrigable land shall be understood and construed to mean taxpayers of such proposed district owning irrigable land or some interest therein, in such proposed district. A qualified owner of irrigable land who is a tenant in common shall be understood and construed to own the number of acres of land to which such person would be entitled in the event that partition were made of such real estate, in kind, upon an acreage basis and not a valuation basis. A qualified owner of irrigable land who is a joint tenant shall be understood and construed to own the number of acres such person would receive in the event that the tract of land involved were divided, in kind, equally among the joint tenants owning such tract, upon an acreage basis and not upon a valuation basis. A corporation incorporated under the provisions of K.S.A. 17-5901, and amendments thereto, trust, association or partnership which legally holds title to such irrigable land shall be a qualified owner of irrigable land under the provisions of this act. Lands to be included in a district need not be contiguous. Irrigation districts may be formed in order to cooperate with the United States under the federal reclamation laws, heretofore or hereafter enacted, or under any act of congress which shall permit the performance by the United States of work in this state for the purpose of construction of irrigation works,

including drainage works, or for purchase, extension, operation, or maintenance of constructed works, or for the assumption, as a principal or guarantor, of indebtedness to the United States on account of district works. When organized, irrigation districts shall have the authority and power conferred, or that may hereafter be conferred, by law upon such irrigation districts.

(b) The certificate of the register of deeds of the county where the land is located shall be sufficient evidence of title for the purposes of this act. Before any such district shall be established, the requisite number of qualified owners of irrigable lands, shall file an application with the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture, for the approval of the creation of the proposed district. Such application shall be accompanied by adequate maps, a general description of the lands proposed to be included in the district and a statement of the source of water supply for the district, and such application shall set forth: (1) The proposed name of the irrigation district designated as “_____ Irrigation District No. _____” (indicating in blank space number of district in consecutive order as incorporated and established); (2) a description of the territory proposed to be organized as a district, which description shall be deemed sufficient if generally accurate; (3) the names of the qualified owners of irrigable lands within the proposed district, together with addresses of such persons, if known; (4) the source from which the lands in the proposed district are expected to be irrigated, the character of the works, water rights, canals, ditches, and other property, proposed to be acquired or constructed for irrigation or drainage purposes in such district; (5) a statement of the need and purpose of organizing, incorporating and establishing such proposed district; and (6) a request that the chief engineer define the boundaries of the lands to be benefited within the proposed district, and for approval of maps, plans and specifications submitted and for a permit approving organization of proposed irrigation district. Such application for authority to incorporate shall be accompanied by application for acquisition of permit for use of water.

Sec. 78. K.S.A. 42-725 is hereby amended to read as follows: 42-725. The holders of title, representing one-half or more of lands which taken together constitute one tract of land located adjacent to the boundaries of an irrigation district or located within the same county as a part of an irrigation district, may file with the directors of such irrigation districts, a petition for the changing and extending the boundaries of such district to include such additional lands. The holders of title to lands located within the boundaries of an irrigation district may file with the directors of such irrigation district a petition for the changing of the boundaries of such district to exclude from the district lands which they own. The petition shall describe the boundaries of the proposed additional lands or lands to be excluded, and shall describe the boundaries of the several parcels respectively owned by each of the petitioners, but such description need not be more particular than is required by fractional portions of a quarter section of land. A certified copy of the petition and description of additional lands, proposed to be included in the district, or a description of the lands proposed to be excluded shall be filed with the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture. The board of directors of the irrigation district shall not take action upon such petition without the approval of said chief engineer. A signer upon such petition shall not be permitted to withdraw his name as a signer except for fraud, undue influence or mutual mistake of fact.

Sec. 79. K.S.A. 44-820 is hereby amended to read as follows: 44-820. (a) There is hereby created the agricultural labor relations board, which shall consist of three members and which shall be activated only when a complaint is filed with the secretary of the ~~state board~~ of agriculture alleging the existence of a controversy under this act. The secretary of the ~~state board~~ of agriculture shall:

(1) Forthwith request the secretary of human resources to submit to the governor, within 15 days, a list containing the names of at least three persons, representative of agricultural labor;

(2) forthwith request the secretary of administration to submit to the governor, within 15 days, a list containing the names of at least three persons, representative of the general public and not identified with either agricultural labor or employers; and

(3) submit to the governor, within 15 days, a list containing the names of at least three persons, representative of agricultural employers.

From each of such lists the governor, within 10 days after receiving the same, shall appoint one member to serve on the board. The member representing the public at large shall serve as the chairperson of the board. Not more than two members of the board shall belong to the same political party. Every member of the board shall serve until a successor is appointed and qualified. Any vacancy in the membership of the board occurring prior to the time the board is deactivated shall be filled by the appointment of a new member in the same manner as provided for original appointment of the member being replaced.

(b) Members of the agricultural labor relations board attending meetings of the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto. Members' compensation shall be paid by the department of human resources from funds appropriated thereto by the legislature. The secretary of human resources shall provide office space and such clerical and other staff assistance as necessary to enable the board to carry out the provisions of this act.

(c) In addition to other authority provided in this act the board shall:

(1) Establish procedures for the prevention of prohibited agricultural employer and employee organization practices as provided in K.S.A. 44-828 and amendments thereto, except that the board shall provide only for the entering of an order directing the agricultural employer or employee organization to meet and confer in good faith in the case of a claimed violation of subsection (b)(5) or (c)(5) of that section. The pendency of proceedings under this paragraph shall not be used as the basis to delay or interfere with determination of representation status pursuant to K.S.A. 44-823 and amendments thereto or with meeting and conferring.

(2) Hold such hearings and make such inquiries as it deems necessary to carry out properly its functions and powers. For the purpose of such hearings and inquiries, the board may administer oaths and affirmations, examine witnesses and documents, take testimony, receive evidence and compel attendance of witnesses and the production of documents by the issuance of subpoenas. Such subpoenas shall be regulated and enforced in the same manner as provided for the secretary of human resources under the provisions of K.S.A. 44-611 and amendments thereto.

(3) To exercise such other powers, as appropriate to carry out the purposes and provisions of this act.

(d) The board shall be deactivated when the secretary of ~~the state~~ board of agriculture determines there is no pending nor threatened controversy under this act.

Sec. 80. K.S.A. 2003 Supp. 47-816 is hereby amended to read as follows: 47-816. As used in the Kansas veterinary practice act:

(a) "Animal" means any mammalian animal other than human and any fowl, bird, amphibian, fish or reptile, wild or domestic, living or dead.

(b) "Board" means the state board of veterinary examiners.

(c) "Clock hour of continuing education" means 60 minutes of participation in a continuing education program or activity which meets the minimum standards for continuing education according to rules and regulations adopted by the board.

(d) "Direct supervision" means the supervising licensed veterinarian:

(1) Is on the veterinary premises or in the same general area in a field setting;

(2) is quickly and easily available;

(3) examines the animal prior to delegating any veterinary practice activity to the supervisee and performs any additional examination of the animal required by good veterinary practice; and

(4) delegates only those veterinary practice activities which are consistent with rules and regulations of the board regarding employee supervision.

(e) "Licensed veterinarian" means a veterinarian who is validly and currently licensed to practice veterinary medicine in this state.

(f) "Indirect supervision" means that the supervising licensed veterinarian:

(1) Is not on the veterinary premises or in the same general area in a field setting, but has examined the animal and provided either written or documented oral instructions or a written protocol for treatment of

the animal patient, except that in an emergency, the supervising licensed veterinarian may provide oral instructions prior to examining the animal and subsequently examine the animal and document the instruction in writing;

(2) delegates only those veterinary practice tasks which are consistent with the rules and regulations of the board regarding employee supervision; and

(3) the animal being treated is not anesthetized as defined in rules and regulations.

(g) “Practice of veterinary medicine” means any of the following:

(1) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury or other physical or mental condition; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique on any animal including but not limited to acupuncture, surgical or dental operations, animal psychology, animal chiropractic, theriogenology, surgery, including cosmetic surgery, any manual, mechanical, biological or chemical procedure for testing for pregnancy or for correcting sterility or infertility or to render service or recommendations with regard to any of the above and all other branches of veterinary medicine.

(2) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in paragraph (1).

(3) To use any title, words, abbreviation or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraph (1). Such use shall be prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine.

(4) To collect blood or other samples for the purpose of diagnosing disease or conditions. This shall not apply to unlicensed personnel employed by the United States department of agriculture, the Kansas animal health department or the ~~state board~~ *Kansas department* of agriculture who are engaged in such personnel’s official duties.

(5) To apply principles of environmental sanitation, food inspection, environmental pollution control, animal nutrition, zoonotic disease control and disaster medicine in the promotion and protection of public health in the performance of any veterinary service or procedure.

(h) “School of veterinary medicine” means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent, which conforms to the standards required for accreditation by the American veterinary medical association and which is recognized and approved by the board.

(i) “Veterinarian” means a person who has received a doctor of veterinary medicine degree or the equivalent from a school of veterinary medicine.

(j) “Veterinary medical specialist” means a person who has completed advanced training in such person’s specialty area and is a diplomate of such specialty.

(k) “Veterinary premises” means any premises or facility where the practice of veterinary medicine occurs, including but not limited to, a mobile clinic, outpatient clinic, satellite clinic or veterinary hospital or clinic, but shall not include the premises of a veterinary client, research facility, a federal military base, Kansas state university college of veterinary medicine or any premises wherein the practice of veterinary medicine occurs no more than three times per year as a public service outreach of a registered veterinary premises.

(l) “Graduate veterinary technician” means a person who has graduated from an American veterinary medical association accredited school approved by the board.

(m) “Registered veterinary technician” means a person who is a graduate veterinary technician, has passed the examinations required by the board for registration and is registered by the board.

(n) “Veterinary-client-patient relationship” means:

(1) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal or animals and the need for medical treatment, and the client, owner or other caretaker has agreed to follow the instruction of the veterinarian;

(2) there is sufficient knowledge of the animal or animals by the veterinarian to initiate at least a general or preliminary diagnosis of the med-

ical condition of the animal or animals. This means that the veterinarian has recently seen or is personally acquainted with the keeping and care of the animal or animals by virtue of an examination of the animal or animals, or by medically appropriate and timely visits to the premises where the animal or animals are kept, or both; and

(3) the practicing veterinarian is readily available for followup in case of adverse reactions or failure of the regimen of therapy.

(o) "ECFVG certificate" means a certificate issued by the American veterinary medical association education commission for foreign veterinary graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college of veterinary medicine.

(p) "Veterinary prescription drugs" means such prescription items as defined by subsection (f) of 21 U.S.C. Sec. 353, as in effect on July 1, 2001.

(q) "Veterinary corporation" means a professional corporation of licensed veterinarians incorporated under the professional corporation act of Kansas, cited at K.S.A. 17-2706 *et seq.*, and amendments thereto.

(r) "Veterinary partnership" means a partnership pursuant to the Kansas uniform partnership act, cited at K.S.A. 2003 Supp. 56a-101 *et seq.*, and amendments thereto, formed by licensed veterinarians engaged in the practice of veterinary medicine.

(s) "Person" means any individual, corporation, partnership, association or other entity.

Sec. 81. K.S.A. 47-1902 is hereby amended to read as follows: 47-1902. (a) The Kansas ~~state board~~ *department* of agriculture shall be the official lead agency to coordinate aquaculture activities in the state and shall be responsible for the implementation of a state aquaculture plan.

(b) The ~~state board~~ *secretary* of agriculture shall, in regard to the aquaculture industry, have the following duties, authorities and powers to:

(1) Work with the respective regulatory and resource agencies to delineate individual agency responsibilities and activities in aquaculture research, regulation, service, and development;

(2) serve as an advocate for the industry and assist in promoting and marketing aquaculture products. The ~~board~~ *secretary* shall provide market development assistance in conjunction with the industry and shall facilitate improved communication and interaction among aquaculture producers, governmental agencies, both federal and state, and with national organizations representing aquaculture interests;

(3) coordinate the development of aquaculture literature for the general public and fish growers, and act as a central clearing house for the transfer of information;

(4) provide guidance for aquaculture research and development;

(5) assist in the development and conducting of educational seminars, workshops, short courses, and other programs on aquaculture;

(6) accept grants and donations;

(7) provide assistance to the aquaculture advisory council; and

(8) promulgate and adopt rules and regulations for the administration of this act.

(c) In implementing the provisions of this section, aquaculture and aquaculture products shall be deemed to be agricultural products as that term is used in K.S.A. 74-530, and amendments thereto. In addition, the ~~state board~~ *secretary* of agriculture may use any power and authority granted under K.S.A. 74-530, and amendments thereto, in the implementation of this act.

Sec. 82. K.S.A. 47-1903 is hereby amended to read as follows: 47-1903. (a) There is hereby created the aquaculture advisory council consisting of 12 members as follows:

(1) A member of the house of representatives and a member of the senate appointed by the legislative coordinating council, and such members shall be from different political parties;

(2) the dean of the college of agriculture at Kansas state university or the dean's designee;

(3) the secretary of ~~the state board of~~ agriculture, or the secretary's designee;

(4) the secretary of commerce, or the secretary's designee;

(5) the secretary of wildlife and parks, or the secretary's designee;

(6) six citizens of Kansas, representing aquaculture producers and a

variety of processing interests and including at least one person having recognized expertise in the marketing of aquaculture products, who shall be appointed by the secretary of ~~the state board of~~ agriculture.

(b) The members of the advisory council appointed under subsection (a)(1) shall be appointed for a term ending on the day preceding the commencement of the regular session of the legislature in the first odd-numbered year following appointment. The members of the advisory council appointed by the secretary under subsection (a)(6) shall be appointed for terms as follows: (1) Three members shall be appointed for terms ending on June 30, 1993, and (2) three members shall be appointed for terms ending on June 30, 1994. After the expiration of the initial terms of such members appointed by the secretary, members shall be appointed by the secretary for terms of two years. All vacancies in the office of appointed members shall be filled by appointment by the officer or council making the original appointment for the remainder of the unexpired term of the member creating the vacancy.

(c) The advisory council shall organize annually by the election from its membership of a chairperson and a vice-chairperson. The advisory council shall adopt such rules of procedure as it deems necessary for conducting its business.

(d) The members of the advisory council shall be paid subsistence allowance, mileage and other expenses for attendance at meetings of the leadership council, or subcommittee meetings thereof authorized by the council, as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 83. K.S.A. 47-1904 is hereby amended to read as follows: 47-1904. The aquaculture advisory council shall have the following duties, authorities and powers to:

(a) Advise the ~~state board~~ *Kansas department* of agriculture and other state agencies on the aquaculture industry problems and needs;

(b) determine and recommend specific research priorities;

(c) publish an annual report on the status of the aquaculture industry in the state;

(d) assist the ~~state board~~ *secretary* of agriculture in updating and modifying the state aquaculture plan; and

(e) advise the ~~state board~~ *secretary* of agriculture in support of aquaculture.

Sec. 84. K.S.A. 47-1905 is hereby amended to read as follows: 47-1905. (a) There is hereby created in the state treasury the aquaculture fund. Such fund shall be used to receive and expend donations and grants to fund research in aquaculture and to promote and market aquaculture and aquaculture products in the state of Kansas.

(b) All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~the state board of~~ agriculture or by a person or persons designated by the secretary.

Sec. 85. K.S.A. 47-2001 is hereby amended to read as follows: 47-2001. As used in this act:

(a) "Council" means the Kansas sheep council.

(b) "Purchaser" means any person, public or private corporation, association or partnership who buys sheep or wool from the seller or acts as an agent for the sale or slaughter transaction.

(c) "Producer" means a person who is actively engaged within this state in the business of producing or marketing sheep or wool and who receives income from the production of sheep or wool.

(d) "Sale" or "sold" means a transaction in which the property in or to sheep or wool is transferred from the seller to a purchaser for full or partial consideration.

(e) "Secretary" means the secretary of ~~the state board of~~ agriculture.

(f) "Sheep" means an animal of the ovine species, produced, fed, slaughtered or marketed in this state.

(g) "Wool" means the natural fiber produced by sheep.

(h) "Seller" means any private entity or corporation that sells sheep or wool.

Sec. 86. K.S.A. 47-2301 is hereby amended to read as follows: 47-2301. As used in this act:

(a) "Commission" means the Kansas dairy commission.

(b) "Purchaser" means any person, public or private corporation, association or partnership who buys fluid milk from the seller or acts as an agent for the sale transaction.

(c) “Producer” means a person who is actively engaged within this state in the business of producing fluid milk and who receives income from the production of fluid milk.

(d) “Sale” or “sold” means a transaction in which fluid milk is transferred from the seller to a purchaser for full or partial consideration.

(e) “Secretary” means the secretary of ~~the state board of~~ agriculture.

(f) “Seller” means any private entity or corporation that sells fluid milk.

Sec. 87. K.S.A. 50-905 is hereby amended to read as follows: 50-905.

(a) ~~The state board of agriculture and the secretary of the state board of~~ agriculture shall provide, in conjunction with and in addition to the inspection program established under K.S.A. 65-6a30 and amendments thereto, for inspection of places of business of sellers who are subject to this act.

(b) Personnel of ~~the state board~~ *Kansas department* of agriculture designated by the secretary of ~~the state board of~~ agriculture shall have access to those places of business during regular business hours for the purpose of inspecting carcasses or parts of carcasses sold by the seller and observing the sales practices of the seller to determine whether there is compliance with the provisions of this act.

(c) The secretary of ~~the state board of~~ agriculture, or personnel designated by the secretary, shall report any suspected violations of this act to the county or district attorney of the county where the alleged violation occurred and to the attorney general.

Sec. 88. K.S.A. 55-153 is hereby amended to read as follows: 55-153.

There is hereby established the advisory committee on regulation of oil and gas activities to be composed of ten members. One member shall be appointed by each of the following associations: Kansas petroleum council, Kansas independent oil and gas association and eastern Kansas oil and gas association. One member shall be appointed by the governor from the general public. One member shall represent groundwater management districts and shall be appointed jointly by the presidents of each groundwater management district. All such appointees shall serve at the pleasure of the appointing authority. The following state agencies shall designate a person as a member of such committee: The commission, the department of health and environment, the Kansas geological survey, the Kansas water office and the division of water resources of ~~the state board~~ *Kansas department* of agriculture. The designated person of the commission shall be the chairperson of the advisory committee. The committee shall meet at least once each quarter calendar year and upon the call of the chairperson. The committee shall review and make recommendations on oil and gas activities, including but not limited to current drilling methods, geologic formation standards, plugging techniques, casing and cementing standards and materials and all matters pertaining to the protection of waters of the state from pollution relating to oil and gas activities.

Sec. 89. K.S.A. 2003 Supp. 65-6a18 is hereby amended to read as follows: 65-6a18. As used in this act:

(a) “Secretary” means the secretary of ~~the state board of~~ agriculture.

(b) “Person” means any individual, partnership, firm, corporation, association or other business unit or governmental entity.

(c) “Meat broker” means any person, firm or corporation engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products of livestock on commission, or otherwise negotiating purchases or sales of such articles other than for the person’s own account or as an employee of another person.

(d) “Poultry products broker” means any person engaged in the business of buying or selling poultry products on commission, or otherwise negotiating purchases or sales of such articles other than for the person’s own account or as an employee of another person.

(e) “Animal food manufacturer” means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of livestock, domestic rabbits or poultry.

(f) “Intrastate commerce” means commerce within the state of Kansas.

(g) “Meat food product” means any product capable of use as human food which is made wholly or in part from any meat or other portions of the carcasses of any livestock or domestic rabbits, excepting products

which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry and which are exempted from definition as a meat food product by the secretary under such conditions as the secretary may prescribe to assure that the meat or other portions of such carcasses contained in such product are not adulterated and that such products are not represented as meat food products.

(h) "Poultry" means any domesticated bird, whether live or dead.

(i) "Poultry product" means any poultry carcass, or part thereof or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry and which are exempted by the secretary from definition as a poultry product under such conditions as the secretary may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

(j) "Capable of use as human food" means any carcass, or part or product of a carcass, of any animal unless it is denatured or otherwise identified as required by regulations adopted by the state board of agriculture to deter its use as human food or it is naturally inedible by humans.

(k) "Prepared" means slaughtered, canned, salted, rendered, boned, cut up or otherwise manufactured or processed.

(l) "Adulterated" means any carcass, or part thereof, any meat or meat food product, or any poultry or poultry product under one or more of the following circumstances:

(1) If the product bears or contains any poisonous or deleterious substance which may render it injurious to health, except that if the substance is not an added substance, the product shall not be considered adulterated if the quantity of such substance on or in the product does not render it injurious to health;

(2) (A) if the product bears or contains, by reason of administration by feeding or by injection of any substance to the live animal or otherwise, any added poisonous or added deleterious substance, other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive, which, in the judgment of the secretary, may make the product unfit for human food;

(B) if the product is, in whole or in part, a raw agricultural commodity and bears or contains a pesticide chemical which is unsafe within the meaning of rules and regulations adopted by the ~~state board~~ secretary of agriculture;

(C) if the product bears or contains any food additive which is deemed unsafe in accordance with rules and regulations adopted by the ~~state board~~ secretary of agriculture;

(D) if the product bears or contains any color additive which is deemed unsafe in accordance with rules and regulations adopted by the ~~state board~~ secretary of agriculture; or

(E) any such product which is not adulterated under provisions (B), (C) or (D) shall nevertheless be deemed adulterated if the use of the pesticide chemical, the food additive or the color additive on or in such product is prohibited by rules and regulations of the ~~state board~~ secretary of agriculture in establishments at which inspection is maintained under this act;

(3) if the product consists, in whole or in part, of any filthy, putrid or decomposed substance or is for any other reason unsound, unhealthful, unwholesome or otherwise unfit for human food;

(4) if the product has been prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health;

(5) if the product is, in whole or in part, the product of an animal which has died otherwise than by slaughter;

(6) if the container for the product is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if the product has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to rules and regulations adopted by the ~~state board~~ secretary of agriculture;

(8) (A) if any valuable constituent on or in the product has been, in whole or in part, omitted or abstracted therefrom;

(B) if any substance has been extracted and substitution made therefor, in whole or in part, or if any damage to, or inferiority of, the product has been concealed in any manner; or

(C) if any substance has been added to such product, or if any substance has been mixed or packed therewith, so as (i) to increase the bulk or weight of the product (ii) to reduce the quality or strength of the product or (iii) to make the product appear better or of greater value than it is, except that this provision does not apply to any cured or smoked pork product by reason of its containing added water; or

(9) if the product is a margarine containing animal fat and if any of the raw material used therein consisted, in whole or in part, of any filthy, putrid or decomposed substance.

(m) "Misbranded" means any carcass, part thereof, meat or meat food product, or poultry or poultry product, under any one or more of the following circumstances:

(1) If the labeling on the product or product container is false or misleading in any particular;

(2) if the product is offered for sale under the name of another food;

(3) if the product is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter, the name of the food imitated;

(4) if the container on the product is so made, formed or filled as to be misleading;

(5) if the product is in a package or other container, unless it bears a label showing (A) the name and place of business of the manufacturer, packer or distributor and (B) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count; under clause (A) of this provision, reasonable variations may be permitted and exemptions as to small packages may be established by rules and regulations adopted by the ~~state board~~ *secretary* of agriculture;

(6) if any word, statement or other information, which is required by or under authority of this act to appear on the label or other labeling for the product, is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) if the product purports to be, or is represented to be, a food for which a definition and standard of identity or composition has been prescribed by rules and regulations of the ~~state board~~ *secretary* of agriculture, unless (A) it conforms to such definition and standard and (B) the label thereon bears the name of the food specified in the definition and standard, and insofar as may be required by such rules and regulations, the common names of optional ingredients (other than spices, flavoring and coloring) present in such food;

(8) if the product purports to be, or is represented to be, a food for which a standard of fill of container has been prescribed by rules and regulations of the ~~state board~~ *secretary* of agriculture and if such product falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such rules and regulations specify, a statement that it falls below such standard;

(9) if the product is not subject to provision (7), unless its label bears (A) the common or usual name of the food, if there is any, and (B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings and colorings, when authorized by the secretary, may be designated as spices, flavorings and colorings without naming each; to the extent that compliance with the requirements of clause (B) of this provision is impracticable or results in deception or unfair competition, exemptions shall be established by rules and regulations adopted by the ~~state board~~ *secretary* of agriculture;

(10) if the product purports to be, or is represented to be, for special dietary uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the secretary, after consultation with the secretary of agriculture of the United States, determines to be, and by rules and regulations adopted by the ~~state board~~ *secretary* of agriculture are prescribed to be, necessary in order to fully inform a purchaser as to its value for such uses;

(11) if the product bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless it bears labeling stating that fact; to the extent that compliance with the requirements of this provision is impracticable, exemptions shall be established by rules and regulations adopted by the ~~state board~~ *secretary* of agriculture; or

(12) if the product fails to bear directly thereon, or on the product container, as the ~~state board~~ *secretary* of agriculture may prescribe by rules and regulations, the inspection legend unrestricted by any of the foregoing and such other information as the ~~state board~~ *secretary* of agriculture may require in such rules and regulations to assure that the product will not have any false or misleading labeling and that the public will be informed of the manner of handling required to maintain the product in a wholesome condition.

(n) “Label” means a display of written, printed or graphic matter upon the immediate container (not including package liners) of any article.

(o) “Labeling” means all labels and other written, printed or graphic matter (1) upon any article or any of its containers or wrappers or (2) accompanying the article.

(p) “Federal meat inspection act” means the act so entitled, approved March 4, 1907, (21 U.S.C.A. 601 *et seq.*, 34 Stat. 1260) as amended by the federal wholesome meat act (8 Stat. 584).

(q) “Federal food, drug and cosmetic act” means the act so entitled, approved June 25, 1938, (21 U.S.C.A. 301 *et seq.*, 52 Stat. 1040) and acts amendatory thereof or supplementary thereto.

(r) “Federal poultry products inspection act” means the act so entitled, approved August 28, 1957, (21 U.S.C.A. 451 *et seq.*, 71 Stat. 441) as amended by the federal wholesome poultry products act (82 Stat. 791).

(s) “Pesticide chemical,” “food additive,” “color additive” and “raw agricultural commodity” have the meanings for purposes of this act as ascribed thereto under K.S.A. 65-656 and amendments thereto.

(t) “Official mark” means the official inspection legend or any other symbol prescribed by rules and regulations of the state board of agriculture to identify the status of any article or animal under this act.

(u) “Official inspection legend” means any symbol prescribed by rules and regulations of the ~~state board~~ *secretary* of agriculture showing that an article was inspected and passed in accordance with this act.

(v) “Official certificate” means any certificate prescribed by rules and regulations of the ~~state board~~ *secretary* of agriculture for issuance by an inspector or other person performing official functions under this act.

(w) “Official device” means any device prescribed or authorized by the ~~state board~~ *secretary* of agriculture for use in applying any official mark.

(x) “Slaughterhouse” means any plant which carries on the slaughter and dressing of animals but which does not engage in the further processing of meat into meat food products.

(y) “Packing plant” or “packing house” means any installation processing meat into meat food products.

(z) “Buffalo” means the American buffalo or bison (*Bos*, *Bison bison* or *Bison americanus*).

(aa) “Livestock” means cattle, buffaloes, sheep, swine, goats, domesticated deer, all creatures of the ratite family that are not indigenous to this state, including but not limited to ostriches, emus and rheas or horses, mules or other equines. Livestock shall not include buffalo or domesticated deer slaughtered for sport or recreational purpose.

(bb) “Slaughter facility” means a slaughterhouse or poultry dressing plant.

(cc) “Processing facility” means a packing house, sausage plant or poultry packing plant.

(dd) “Domesticated deer” means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for breeding stock; for any carcass, skin or part of such animal; for exhibition; or for companionship.

Sec. 90. K.S.A. 65-6a19 is hereby amended to read as follows: 65-6a19. The ~~state board~~ *secretary* of agriculture is hereby authorized to cooperate with the United States department of agriculture in the enforcement of this act and the federal meat and poultry inspection acts.

Sec. 91. K.S.A. 65-6a24 is hereby amended to read as follows: 65-6a24. (a) When any meat, meat food product, poultry or poultry product

prepared for intrastate commerce which has been inspected ~~as herein before provided~~ and marked "Kansas inspected and passed" shall be placed or packed in any can, pot, tin, canvas or other receptacle or covering in any establishment where inspection under the provisions of this act is maintained, the person preparing the product shall cause a label to be attached to a can, pot, tin, canvas or other receptacle or covering, under supervision of an inspector, which label shall state that the contents thereof have been "Kansas inspected and passed" under the provisions of this act, and no inspection or examination of meat, meat food products, poultry or poultry products deposited or inclosed in cans, tins, pots, canvas or other receptacle or covering in any establishment where inspection under the provisions of this act is maintained shall be deemed to be complete until such meat, meat food products, poultry or poultry products have been sealed or inclosed in the can, tin, pot, canvas or other receptacle or covering under the supervision of an inspector.

(b) All carcasses, parts of carcasses, meat and meat food products, poultry and poultry products, inspected at any establishment under the authority of this act and found to be not adulterated, shall at the time they leave the establishment bear, in distinctly legible form, directly thereon or on their containers, as the secretary may require, the information required under subsection (m) of K.S.A. 65-6a18 and amendments thereto.

(c) The secretary, whenever the secretary determines such action is necessary for the protection of the public, may prescribe: (1) The style and sizes of type to be used with respect to material required to be incorporated in labeling to avoid false or misleading labeling of any meat or meat products, poultry or poultry products; or (2) definitions and standards of identity or composition for articles subject to this act and standards of fill of container for such articles shall be adopted by the ~~state board~~ *secretary* of agriculture in the manner provided by law.

(d) No article subject to this act shall be sold or offered for sale by any person in intrastate commerce, under any name or other marking or labeling which is false or misleading, or in any container of a misleading form or size, but established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the secretary, are permitted.

(e) If the secretary has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any article subject to this act is false or misleading in any particular, the secretary may order that such use be withheld unless the marking, labeling or container is modified in such manner as the secretary prescribes so that it will not be false or misleading. If the person using or proposing to use the marking, labeling or container does not accept the determination of the secretary, such person may request a hearing, but the use of the marking, labeling or container shall, if the secretary so directs, be withheld pending hearing and final determination by the secretary. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(f) Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 92. K.S.A. 65-6a26 is hereby amended to read as follows: 65-6a26. The secretary shall cause an examination and inspection of all livestock, domestic rabbits and poultry, and the food products thereof, which are slaughtered and prepared in ~~the establishments hereinbefore described~~ for the purposes of intrastate commerce, to be made during the nighttime as well as during the daytime when such slaughtering or the preparation of such food products is conducted during the nighttime. The ~~state board~~ *secretary* of agriculture shall by rule and regulation establish a schedule of fees to be charged against establishments for inspections made other than during regularly scheduled inspection periods and for all costs incurred in paying overtime to inspectors required for the inspection of such establishments.

Sec. 93. K.S.A. 65-6a28 is hereby amended to read as follows: 65-6a28. (a) No brand manufacturer, printer or other person shall cast, print, lithograph or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the secretary.

- (b) No person shall: (1) forge any official device, mark or certificate;
- (2) without authorization from the secretary use any official device, mark, certificate or simulation thereof, or alter, detach, deface or destroy any official device, mark or certificate;
- (3) contrary to the regulations prescribed by the ~~board~~ *secretary* of agriculture, fail to use, or to detach, deface or destroy any official device, mark or certificate;
- (4) knowingly possess, without promptly notifying the secretary or his representative, any official device or any counterfeit, simulated, forged or improperly altered official certificate or any device or label or any carcass of any animal, or part or product thereof, bearing any counterfeit, simulated, forged or improperly altered official mark;
- (5) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the ~~board~~ *secretary* of agriculture; or
- (6) knowingly represent that any article has been inspected and passed or exempted, under this act when, in fact, it has, respectively not been so inspected and passed, or exempted.

Sec. 94. K.S.A. 65-6a29 is hereby amended to read as follows: 65-6a29. No person shall sell, transport, offer for sale or transportation or receive for transportation in intrastate commerce any carcasses of horses, mules or other equines, domestic rabbits or parts of such carcasses or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by rules and regulations adopted by the ~~state board~~ *secretary* of agriculture to show the kinds of animals from which they were derived. When required by the secretary with respect to establishments at which inspection is maintained under this act, such animals and their carcasses, parts thereof, meat and meat food products shall be prepared in establishments separate from those in which cattle, buffaloes, sheep, swine or goats are slaughtered or their carcasses, parts thereof, meat or meat food products are prepared.

Sec. 95. K.S.A. 65-6a30 is hereby amended to read as follows: 65-6a30. (a) There shall be established by the ~~state board~~ *secretary* of agriculture a meat and poultry inspection program to enforce the provisions of the Kansas meat and poultry inspection act. The program shall be under the supervision of the ~~state board~~ *secretary* of agriculture and the secretary shall appoint such personnel as may be necessary for the proper administration of the Kansas meat and poultry inspection act.

(b) The ~~state board~~ *secretary* of agriculture shall make provision for the examination and inspection of all livestock, domestic rabbits and poultry, as provided for under the Kansas meat and poultry inspection act, and of all carcasses and parts thereof, of all meats and meat food products thereof, of all poultry and poultry products thereof and of the sanitary conditions of all establishments in which such carcasses, parts of carcasses and products are prepared. Authorized representatives of the secretary shall refuse to stamp, mark, tag or label any carcass or any part thereof or any meat food product therefrom which is prepared in any establishment until the carcass or part thereof or meat food product has actually been inspected and found to be not adulterated.

(c) The authorized representatives of the secretary shall perform such other duties as are provided by this act and by the rules and regulations adopted by the ~~state board~~ *secretary* of agriculture. The ~~state board~~ *secretary* of agriculture shall adopt and amend from time to time such rules and regulations as are necessary for the efficient execution of the provisions of this act. All inspections and examinations made under this act shall be made in the manner described in the rules and regulations adopted by the ~~state board~~ *secretary* of agriculture and shall not be inconsistent with the provisions of this act.

Sec. 96 K.S.A. 65-6a31 is hereby amended to read as follows: 65-6a31. (a) The provisions of this act shall not apply:

(1) To the slaughtering by any person of animals of such person's own raising or to the preparing by the slaughterer or to the transporting in intrastate commerce of the carcasses, parts thereof, meat food products or poultry products of such animals exclusively for use or consumption by such person, members of such person's household, former members of such household or such person's nonpaying guests and employees;

(2) to any person operating a retail store or similar retail type business who prepares only inspected and passed carcasses, parts thereof, meat food products or poultry products for sale to consumers at retail in normal

retail quantities; or prepares inspected carcasses, parts thereof, meat food products or poultry products, owned by the consumer and prepared for such consumer's consumption or the consumption of such consumer's household members, nonpaying guests and employees; or

(3) to any person operating a restaurant who prepares only inspected and passed carcasses, parts thereof, meat food products or poultry products for human consumption.

(b) (1) Only those provisions of this act relating to registration, sanitation and adulteration shall apply:

(A) to a person slaughtering livestock, domestic rabbits or poultry delivered by the owner thereof for such slaughter, including the preparation by such slaughterer and the transportation in intrastate commerce of the carcasses, parts thereof, meat food products or poultry products of such animals exclusively for use or consumption by the owner, the members of the owner's household or the owner's nonpaying guests and employees; or

(B) to the custom preparation by any person, firm or corporation of carcasses, parts thereof, meat or meat food products, derived from the slaughter by any person of livestock of such person's own raising, or from game animals which are delivered by the owner thereof for such custom preparation and transportation in intrastate commerce of such custom prepared articles, exclusively for use in the household of the owner by the owner and the members of the owner's household and the owner's nonpaying guests and employees.

(2) In cases where such person, firm or corporation engages in such custom operations at an establishment at which inspection under the Kansas meat and poultry inspection act is maintained, the secretary may exempt from such inspection at such establishment any animals slaughtered or any meat or meat food products otherwise prepared on such custom basis, except that custom operations at any establishment shall be exempt from inspection requirements as provided by this section only if the establishment complies with rules and regulations adopted by the ~~state board~~ *secretary* of agriculture to assure that any carcasses, parts thereof, meat or meat food products wherever handled on a custom basis, or any containers or packages containing such articles, are separated at all times from carcasses, parts thereof, meat or meat food products prepared for sale and that all such articles prepared on a custom basis, or any containers or packages containing such articles, are plainly marked "not for sale" immediately after being prepared and kept so identified until delivered to the owner and that the establishment conducting the custom operation is maintained and operated in a sanitary manner.

(c) Only those provisions of this act relating to sanitation and adulteration shall apply to a person operating a food locker plant who (1) prepares meat, meat food products, poultry or poultry products which have been inspected and passed and which are being prepared and sold in normal retail quantities, or (2) prepares such meat, meat products, poultry or poultry products for the owner thereof.

Sec. 97. K.S.A. 65-6a32 is hereby amended to read as follows: 65-6a32. The ~~state board~~ *secretary* of agriculture may prescribe by rules and regulations the conditions under which carcasses, parts of carcasses, meat and meat food products of livestock and poultry and poultry products, which are capable of use as human food, shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, distributing or transporting in or for intrastate commerce such articles whenever the ~~state board~~ *secretary* of agriculture deems such action necessary to assure that such articles will not be adulterated or misbranded when delivered to the consumer. Violation of any such rule and regulation is prohibited.

Sec. 98. K.S.A. 65-6a33 is hereby amended to read as follows: 65-6a33. Inspection shall not be provided under this act at any establishment for the slaughter of livestock or poultry, or the preparation of any carcasses or parts or products of such animals, which are not intended for use as human food, but such articles shall be denatured or otherwise identified as prescribed by rules and regulations of the ~~state board~~ *secretary* of agriculture prior to their offer for sale, distribution or transportation intrastate commerce, unless naturally inedible by humans, to deter their use for human food. No person shall buy, sell, transport, distribute or offer for sale, distribution or transportation, or receive for distribution or transportation in intrastate commerce, any carcasses, parts thereof,

meat or meat food products or poultry or poultry products of any such animals which are not intended for use as human food unless they are denatured or otherwise identified as required by the rules and regulations of the ~~state board~~ *secretary* of agriculture or are naturally inedible by humans.

Sec. 99. K.S.A. 65-6a35 is hereby amended to read as follows: 65-6a35. (a) The ~~board~~ *Kansas department* of agriculture is hereby designated as the state agency which shall be responsible for cooperating with the secretary of agriculture of the United States under the provisions of section 301 of the federal meat inspection act, and section 5 of the federal poultry inspection act.

(b) In such cooperative efforts, the ~~board~~ *secretary* of agriculture is authorized to accept from the secretary of agriculture of the United States advisory assistance in planning and otherwise developing the state program, technical and laboratory assistance and training (including necessary curricular and instructional materials and equipment), and financial and other aid for administration of such a program.

(c) The ~~board~~ *secretary* of agriculture is further authorized to recommend to the ~~said~~ secretary of agriculture of the United States such officials or employees of this state as the ~~board~~ *secretary* of agriculture shall designate, for appointment to the advisory committees provided for in section 301 of the federal meat inspection act; and the secretary of ~~the board~~ of agriculture or ~~his~~ *the secretary's* delegate shall serve as the representative of the governor for consultation with ~~said~~ *the* secretary of agriculture of the United States under paragraph (c) of section 301 of ~~said~~ *the* act.

Sec. 100. K.S.A. 65-6a44 is hereby amended to read as follows: 65-6a44. The ~~state board~~ *secretary* of agriculture is hereby authorized to prepare and adopt regulations for the proper enforcement of the act. The ~~state board~~ *secretary* of agriculture may adopt regulations for the exemption of the operations of any person from inspection or other requirements of this act if and to the extent such operations would be exempt from corresponding requirements of the federal meat inspection act or the federal poultry inspection act.

Sec. 101. K.S.A. 65-6a44a is hereby amended to read as follows: 65-6a44a. (a) The secretary of ~~the state board~~ of agriculture shall adopt rules and regulations establishing standards of identity for water added pork products within 60 days after the effective date of this act.

(b) The provisions of this section are a part of and supplemental to the Kansas meat and poultry inspection act.

Sec. 102. K.S.A. 65-6a45 is hereby amended to read as follows: 65-6a45. The secretary of ~~the state board~~ of agriculture shall remit all moneys received by or for the secretary under article 6a of chapter 65 of Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the meat and poultry inspection fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

Sec. 103. K.S.A. 65-6a56 is hereby amended to read as follows: 65-6a56. (a) Any person who violates any of the provisions of the Kansas meat and poultry inspection act, article 6a of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the ~~state board~~ *secretary* of agriculture in an amount not less than \$100 nor more than \$5,000 for each violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) A duly authorized agent of the secretary, upon finding that any person or agent or employee thereof has violated any provision of the Kansas meat and poultry inspection act or any rule and regulation promulgated thereunder, may impose a civil penalty as provided by this section upon such person.

(c) No civil penalty shall be imposed pursuant to this section except on written order of the duly authorized agent of the secretary to the

person who committed the violation or to the person whose agent or employee committed the violation. Such order shall state the violation, the penalty to be imposed and the right of such person to appeal to the secretary. Any such person, within 20 days after notification, may make written request to the secretary for a hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order and shall specify the reasons therefor.

(d) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

(e) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(f) This section shall be part of and supplemental to the Kansas meat and poultry inspection act, article 6a of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 104. K.S.A. 65-34,103 is hereby amended to read as follows: 65-34,103. Except as provided in K.S.A. 65-34,119 and amendments thereto, the Kansas storage tank act shall not apply to:

- (a) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
- (b) tanks used for storing heating oil for consumptive use on a single family residential premise where stored;
- (c) a pipeline facility, including gathering lines, regulated under:
 - (1) The natural gas pipeline safety act of 1968; and
 - (2) the hazardous liquid pipeline safety act of 1979; or
 - (3) state laws relating to intrastate pipelines comparable to the provisions of law referred to in subsections (c)(1) and (2);
- (d) surface impoundments, pits, ponds, septic tanks or lagoons;
- (e) storm water or waste water collection systems;
- (f) flow-through process tanks;
- (g) liquid traps, storage tanks or associated gathering lines directly related to oil or gas production and gathering operations;
- (h) aboveground storage tanks of agricultural materials regulated by the ~~state board~~ *Kansas department* of agriculture;
- (i) aboveground storage tanks located at a petroleum refining facility;
- (j) pipeline terminals;
- (k) aboveground tanks of less than 660 gallons capacity;
- (l) storage tanks associated with oil and natural gas production ; and
- (m) electrical equipment which has as part of its design a storage tank containing one or more regulated substances.

Sec. 105. K.S.A. 65-5703 is hereby amended to read as follows: 65-5703. (a) There is hereby created the state emergency response commission for the purpose of carrying out all requirements of the federal act and for the purpose of providing assistance in the coordination of state agency activities relating to: (1) Chemical emergency training, preparedness, and response; and (2) chemical release reporting and prevention, transportation, manufacture, storage, handling, and use.

(b) The commission shall consist of: (1) The following state officers or their appointed designees: The lieutenant governor, the secretary of wildlife and parks, the secretary of human resources, the secretary of ~~the state board of~~ agriculture, the secretary of health and environment, the adjutant general, the superintendent of the Kansas highway patrol, the state fire marshal, the secretary of transportation, the attorney general, the chairperson of the state corporation commission, and the governor; (2) three members appointed by the governor to represent the general public; and (3) two members appointed by the governor to represent owners and operators of facilities regulated pursuant to this act.

(c) Members of the commission appointed by the governor shall serve for terms of two years. Any vacancy in the office of an appointed member of the commission shall be filled for the unexpired term by appointment by the governor.

(d) A chairperson shall be elected annually by the members of the commission. A vice-chairperson shall be designated by the chairperson to serve in the absence of the chairperson.

(e) Members of the commission attending meetings of such board,

or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

(f) The commission shall perform such duties as are specified in the federal act to be performed by such commissions and, in addition thereto, such duties as are specified in the laws of this state or as are deemed necessary and appropriate by the commission to achieving its purposes. In accordance with the requirements of the federal act, the commission shall establish local planning districts, subject to approval by the secretary of health and environment and the adjutant general, and shall appoint a local planning committee for each such district. Local planning committees shall perform such duties as are specified in the federal act to be performed by such committees, and in addition thereto, such duties as are assigned by the commission or by any member of the commission acting on behalf of or at the direction of the commission, or as are deemed necessary and appropriate by each such committee to achieving its purposes. The duties of the commission and the local planning committees shall be performed in accordance with rules and regulations adopted pursuant to this act.

Sec. 106. K.S.A. 68-1414 is hereby amended to read as follows: 68-1414. Whenever it is necessary to replace, reconstruct, or repair any bridge over any navigable river on any county road, which road connects with a county road of another county within or outside this state, or to protect any such bridge by changing the channel of the river or by the erection of structures, such as levees, jetties or other structures necessary to protect the new channel or such bridge, and which bridge shall have been destroyed or rendered impassable by flood, high water, fire or other casualty, then the board of county commissioners is hereby authorized and empowered to expend not to exceed the sum of ~~one hundred sixty thousand dollars (\$160,000)~~ \$160,000 to pay the entire cost or the county's share of the cost of such replacement, reconstruction or repair of such bridge or such change of channel or erection of the structures hereinbefore described. No such change of channel shall be made without first securing the approval of the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture. Such expenditure may be made from any unallocated and available funds in the county road and bridge fund or from revenue derived from the issuance of bonds, or from the separate fund for the construction of roads and bridges on the county secondary system or from two or more of such sources, and such county is hereby authorized to issue bonds for such purpose. Such bonds shall be issued, registered, sold, delivered and retired in accordance with the provisions of the general bond law and may be issued without submitting the question of their issuance to a vote of the electors.

The board of county commissioners may receive and expend any federal, state, or other funds made available for such improvement which expenditure may be in addition to the amount ~~hereinbefore~~ authorized to be expended by the county. The provisions of K.S.A. 19-214, 19-215 and 19-216, *and amendments thereto*, shall be applicable to any improvement made under the authority conferred by this section. This act shall be construed as a separate and additional method for the replacement, reconstruction and repair of bridges and no other law of this state except as herein expressly provided shall apply. ~~Provided, That~~ The total amount expended by any county under the authority conferred by this section plus the amount expended by such county under the authority conferred by K.S.A. 68-1413, *as amended and amendments thereto*, shall not exceed the sum of ~~one hundred sixty thousand dollars (\$160,000)~~ \$160,000.

Sec. 107. K.S.A. 68-1702 is hereby amended to read as follows: 68-1702. The mileage of said system in the state shall not exceed ~~twenty-five thousand (25,000)~~ 25,000 miles of which ~~ninety-two percent (92%)~~ 92% of ~~said such~~ mileage shall be apportioned among the counties in the following manner: One-fourth in the ratio which the area of each county bears to the total area of the state; one-fourth in the ratio which the number of farms in each county bears to the total number of farms in the state as shown by the biennial report of the ~~Kansas state board~~ *department* of agriculture for the years 1935-1936; one-fourth in the ratio which the value of rural land taxable in each county bears to the total value of rural land taxable in the state as shown by said biennial report; and one-fourth in the ratio which the annual daily average vehicle miles

of rural highway travel (exclusive of the travel on the state highway system) in each county bears to the total annual daily average vehicle miles of rural travel (exclusive of the travel on the state highway system) in the state, as shown by the records of the state highway commission for the year 1936. The remaining ~~eight percent (8%)~~ 8% of ~~said~~ such mileage shall be used to provide road connections in any county found necessary to complete said system.

Sec. 108. K.S.A. 68-2203 is hereby amended to read as follows: 68-2203. (a) The term "junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(b) "Automobile graveyard" shall mean any establishment which is maintained, used, or operated, for storing, keeping, buying, or selling ~~ten~~ ~~(10)~~ 10 or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles, but such term shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture.

(c) "Junkyard" shall mean an establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps.

(d) "Interstate system" means that portion of the national system of interstate and defense highways, including city connecting links and portions of the Kansas turnpikes, located within this state, as officially designated, or as may hereafter be so designated, by the secretary, and approved by the proper federal authority as provided by law.

(e) "Primary system" means that portion of connected main highways, including city connecting links, as officially designated, or as may hereafter be so designated, by the secretary, and approved by the proper federal authority as provided by law.

(f) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company or corporation, including municipal corporation.

(g) "Commission" means the secretary of transportation.

(h) "Board" means the secretary of transportation.

Sec. 109. K.S.A. 74-504 is hereby amended to read as follows: 74-504. The ~~state board~~ *secretary* of agriculture shall publish an annual report, embracing a general view of the condition of agriculture throughout the state, accompanied by such essays, statements, statistics, diagrams, illustrations and recommendations as may be interesting and useful. Each legislator shall receive a copy of the annual report. In addition the ~~state board~~ *secretary* of agriculture may gather and prepare in the form of reports, pamphlets or press notices, such other information as may be of value in promoting the agricultural industry of the state or calculated to encourage immigration. The material may be printed and bound by the state in such editions as, in the judgment of the secretary of ~~the state board~~ *of* agriculture, may be necessary, if sufficient funds are available to the ~~state board~~ *secretary* of agriculture for that purpose. There shall be close cooperation between the ~~state board~~ *Kansas department* of agriculture and Kansas state university, and the staff of Kansas state university and experiment stations, on approval of the president of Kansas state university, shall render such services as they may be called upon to render in promoting the work of the ~~state board~~ *Kansas department* of agriculture.

Sec. 110. K.S.A. 74-504a is hereby amended to read as follows: 74-504a. To meet the needs and increasing demands for factual data in agricultural and marketing research and for sound practices and wise land use in the growth and development of the state's agricultural industry, the ~~state board~~ *secretary* of agriculture is hereby authorized to enlarge and improve its statistical service to provide more adequate and complete information than present facilities make possible.

Sec. 111. K.S.A. 74-504b is hereby amended to read as follows: 74-504b. For the attainment of these objectives, the ~~state board~~ *secretary* of agriculture is authorized:

(a) To provide means of more effective assistance to county clerks and deputy assessors in securing a complete and accurate annual agri-

cultural enumeration;

(b) to secure statistics relating to summer fallow and continuous crop acreage, depth of soil moisture, winter wheat abandonment and utilization of abandoned wheat acreage;

(c) to secure information relative to acreage of wheat by varieties;

(d) to secure monthly information on prices received by farmers for agricultural commodities sold by grades and classes;

(e) to gather monthly information relating to livestock slaughtered, market receipts by class, average weight and price;

(f) to gather information on monthly receipts and sales of milk for fluid consumption and prices received by producers and paid by consumers for milk;

(g) to determine farm and commercial grain storage capacity and secure information concerning soybean and flaxseed processing and alfalfa dehydrating plants in Kansas;

(h) to secure such other data as may be of service in the upbuilding and prosperity of the state's agriculture;

(i) to prepare and disseminate the information thus gathered in a suitable manner on a county, area and state basis;

(j) to make agreements with any other agency or educational institution of this state or its subdivisions or with any agency or educational institution of any other state or with the United States government or any of its agencies or any not-for-profit corporation or organization for data collection, processing of data, research studies, or any other purpose related to performing the duties of the statistical service of the ~~state board~~ *Kansas department* of agriculture;

(k) to conduct statistical surveys and studies for any other agency or educational institution of this state or its subdivisions or with any agency or educational institution of any other state or with the United States government or any of its agencies or any not-for-profit corporation or organization for a purpose related to performing the duties of the statistical service of the ~~state board~~ *Kansas department* of agriculture, and to make a reasonable service charge for conducting such studies; and

(l) to receive and accept funds from the United States government, or any of its agencies, or from any agency or educational institution of the state of Kansas or from any not-for-profit corporation or organization for performing statistical studies, data collection or for any other purposes related to the performance of any duties of the statistical service of the ~~state board~~ *Kansas department* of agriculture.

Sec. 112. K.S.A. 74-504e is hereby amended to read as follows: 74-504e. The ~~state board~~ *secretary* of agriculture shall remit all moneys received under K.S.A. 74-504b, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the agricultural statistics fund which is hereby created. All expenditures from such fund shall be made for any purpose consistent with K.S.A. 74-504b, and amendments thereto, and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the ~~state board~~ *of agriculture* or a person designated by the secretary.

Sec. 113. K.S.A. 74-505 is hereby amended to read as follows: 74-505. The ~~office of the state board~~ *Kansas department* of agriculture shall be in the city of Topeka.

Sec. 114. K.S.A. 74-505c is hereby amended to read as follows: 74-505c. The secretary of the ~~state board~~ *of agriculture* is hereby authorized to accept, in lieu of affidavits and verified reports required to be filed pursuant to K.S.A. 2-1004, 2-1205 and 2-2507, *and amendments thereto*, a report which otherwise complies with the requirements of the appropriate section, and is signed by an authorized person or official. The provisions of this act are supplemental to the statutes specified in this section.

Sec. 115. K.S.A. 74-506a is hereby amended to read as follows: 74-506a. For the purpose of consolidating the Kansas water commission and the division of irrigation there is hereby created a division of water resources within the ~~state board~~ *Kansas department* of agriculture.

Sec. 116. K.S.A. 74-506b is hereby amended to read as follows: 74-506b. All of the authority, powers and duties now conferred and imposed by law upon the Kansas water commission and the state irrigation com-

missioner are hereby conferred upon the division of water resources created by this act, under the control, administration and supervision of the ~~state board~~ *secretary* of agriculture.

Sec. 117. K.S.A. 74-506d is hereby amended to read as follows: 74-506d. The ~~state board~~ *secretary* of agriculture is hereby authorized to employ a chief engineer of the division of water resources and such expert assistants, clerical and other help as may be necessary to properly carry out the provisions of this act, and to fix their compensation, all of whom shall be under the classified service of the Kansas civil service act.

Sec. 118. K.S.A. 74-509 is hereby amended to read as follows: 74-509. It shall be the duty of such irrigation commissioner:

(1) To gather data, information and statistics from the existing irrigation plants in the state concerning the water supply and methods of securing the same and the methods employed in applying water to crops, and he shall tabulate and preserve in available form such information and shall publish and distribute the same from time to time;

(2) to visit the site of any proposed irrigation plant in the state upon the request of any citizen of the state and advise as to the feasibility of installing such plant and furnish plans and specifications therefor upon request, such visits to be made only when his actual expenses therefor are guaranteed by the person requesting such visit;

(3) to operate by lease under competitive bids all existing irrigation plants now owned by the state of Kansas, and installed by the board of irrigation, survey, experiment and demonstration, or the state irrigation commissioner, until such time as he shall have determined the feasibility of irrigation under conditions existing at each of such plants, and all proceeds from the operation of any such plants shall be paid into and become a part of the funds herein provided, for the payment of the expenses of conducting such department;

(4) to immediately take charge of all property of every kind and nature now belonging to the state of Kansas and heretofore purchased or otherwise acquired by the board of irrigation, survey, experiment and demonstration, and the state irrigation commissioner and shall have authority to sell and dispose of any such property not including real estate and not necessary for carrying out the work of such department;

(5) to make quarterly reports to the ~~state board~~ *secretary* of agriculture, including itemized accounts of all receipts and expenditures of such department.

Sec. 119. K.S.A. 74-510a is hereby amended to read as follows: 74-510a. The chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture is hereby authorized to delegate to ~~staff members of his or her staff~~ any duty or function prescribed for the chief engineer by law. The chief engineer may designate any ~~staff member of his or her staff~~ to represent ~~him or her~~ *the chief engineer* officially for any specifically designated purpose.

Sec. 120. K.S.A. 74-511 is hereby amended to read as follows: 74-511. A state entomological commission shall be established by the state of Kansas, ~~that its~~ *The purpose of the commission* is to suppress and eradicate San Jose scale and other dangerous insect pests and plant diseases throughout the state of Kansas, and making ~~said~~ *the* commission an auxiliary of the ~~state board~~ *Kansas department* of agriculture and placing the same under the supervision of ~~said board~~ *the department*.

Sec. 121. K.S.A. 74-515a is hereby amended to read as follows: 74-515a. All the powers, duties, authority, and jurisdiction now vested in and imposed upon the state entomological commission and its secretary by articles 4, 7, 21, and 24, chapter 2 of the Kansas Statutes Annotated and ~~any acts amendatory thereof or supplemental~~ *amendments* thereto are hereby transferred to and conferred upon the ~~state board~~ *Kansas department* of agriculture and its secretary, and ~~state board of agriculture and its~~ *the secretary of agriculture* is hereby empowered and directed to do all things necessary and convenient for the proper exercise of all such powers, duties, authority and jurisdiction. The state entomological commission is hereby abolished.

Sec. 122. K.S.A. 74-515b is hereby amended to read as follows: 74-515b. Employees of the state entomological commission in the classified service under the Kansas civil service act on the effective date of this act, shall be employed in the same or comparable positions in the ~~board~~ *Kansas department* of agriculture, and shall retain, rights and status acquired

under said civil service act. The secretary of the ~~state board~~ *Kansas department* of agriculture shall have the power and authority to appoint, in accordance with the provisions of the Kansas civil service act, such entomologists, and other assistants as may be necessary to administer articles 4, 7, 21, and 24 of chapter 2 of the Kansas Statutes Annotated and ~~any acts amendatory thereof or supplemental amendments~~ thereto.

Sec. 123. K.S.A. 74-542 is hereby amended to read as follows: 74-542. The secretary of the ~~state board~~ of agriculture is hereby authorized and directed to coordinate a program with the Kansas bankers association and other such nonprofit organizations and associations in which persons who have an agricultural lending background and experience are encouraged to volunteer to assist the federal farmers home administration in the processing of farm loan applications and counseling borrowers on financial and technical matters related thereto. Within the limits of appropriations therefor and subject to the provisions of appropriations acts relating thereto, the secretary of the ~~state board~~ of agriculture may provide reimbursement of necessary mileage and may pay subsistence expenses to persons participating in such programs of providing voluntary assistance to the federal farmers home administration in the processing of farm loan applications. The amount of payment for mileage and subsistence expenses provided to any person under this section shall not exceed the amounts authorized to be paid for mileage and subsistence expenses under K.S.A. 75-3223 and amendments thereto. The secretary may enter into contracts to carry out the purposes of this act. These contracts shall not be subject to the competitive bidding requirements of K.S.A. 75-3739 and amendments thereto.

Sec. 124. K.S.A. 74-550 is hereby amended to read as follows: 74-550. For the purposes of the powers, duties and functions of the ~~state board~~ *Kansas department* of agriculture and the divisions and offices thereunder, the secretary of the ~~board~~ *agriculture* may apply for, receive and administer federal funds and may enter into contracts therefor with the federal government and its agencies and with other state agencies.

Sec. 125. K.S.A. 74-554 is hereby amended to read as follows: 74-554. There is hereby created a laboratory equipment fund in the state treasury. All moneys credited to the laboratory equipment fund shall be expended for the acquisition and replacement of equipment used by the ~~state board~~ *Kansas department* of agriculture laboratory. All expenditures from the laboratory equipment fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the ~~state board~~ of agriculture or by a person or persons designated by the secretary.

Sec. 126. K.S.A. 74-555 is hereby amended to read as follows: 74-555. (a) There is hereby created the dairy marketing advisory board. The board shall be within the ~~state board~~ *Kansas department* of agriculture.

(b) The members of the dairy marketing advisory board shall be appointed by the governor. The board shall consist of five members, of such, two members shall be dairy farmers; one member shall represent the milk handlers of the state; one member shall be a consumer of milk; and one member shall be the acting secretary of the ~~state board~~ of agriculture or the secretary's designee. The Kansas dairy association may make nominations to the governor for consideration as appointments to the dairy marketing advisory board.

(c) Except as provided by this subsection, members of the board shall serve for three year terms and until successors are appointed and qualified. Of the first five members appointed, two shall serve for one year, two shall serve for two years, and one shall serve for three years. The terms of members who are serving on the board on the effective date of this act shall expire on March 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Three members shall constitute a quorum. Vacancies on the board shall be filled in the same manner as original appointments are made. The board may remove any of the board members for cause after hearing. Not more than three members of the board shall be of the same political party.

(d) Members of the board shall receive no compensation for such members' services, but may be reimbursed for actual and necessary expenses incurred by such members in the performance of such members' duties.

(e) The dairy marketing advisory board shall:

- (1) Study and evaluate the need for establishing a statewide milk marketing order;
- (2) make recommendations as to the implementation of milk marketing orders; and
- (3) prepare and submit to the standing agriculture committees of the legislature a report of its findings and recommendations on or before February 1 each year.

Sec. 127. K.S.A. 74-2610 is hereby amended to read as follows: 74-2610. The division of water resources of the ~~state board~~ *Kansas department* of agriculture and the chief engineer thereof, the state geological survey of the university of Kansas, the director of the agricultural experiment stations of Kansas state university, the chief engineer of the department of health and environment, and all other state and local agencies shall cooperate with and shall make available to the water resources board all facts, records, information and data requested by said board and shall in all ways cooperate with said board in carrying out its duties imposed by this act.

Sec. 128. K.S.A. 2003 Supp. 74-2622 is hereby amended to read as follows: 74-2622. (a) There is hereby established within and as a part of the Kansas water office the Kansas water authority. The authority shall be composed of 23 members of whom 13 shall be appointed as follows: (1) One member shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, such person shall not exercise any power, duty or function as a member or chairperson of the water authority until confirmed by the senate. Such member shall serve at the pleasure of the governor and shall be the chairperson of the authority; (2) except as provided by subsection (b), 10 members shall be appointed by the governor for terms of four years. Of the members appointed under this provision one shall be a representative of large municipal water users, one shall be representative of small municipal water users, one shall be a board member of a western Kansas groundwater management district, one shall be a board member of a central Kansas groundwater management district, one shall be a member of the Kansas association of conservation districts, one shall be representative of industrial water users, one shall be a member of the state association of watershed districts, one shall have a demonstrated background and interest in water use conservation and environmental issues, and two shall be representative of the general public. The member who is representative of large municipal water users shall be appointed from three nominations submitted by the league of Kansas municipalities. The member who is representative of small municipal water users shall be appointed from three nominations submitted by the Kansas rural water district's association. The member who is representative of a western Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 1, 3 and 4. The member who is representative of a central Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 2 and 5. The member who is representative of industrial water users shall be appointed from three nominations submitted by the Kansas association of commerce and industry. The member who is representative of the state association of watershed districts shall be appointed from three nominations submitted by the state association of watershed districts. The member who is representative of the Kansas association of conservation districts shall be appointed from three nominations submitted by the state association of conservation districts. If the governor cannot make an appointment from the original nominations, the nominating authority shall be so advised and, within 30 days thereafter, shall submit three new nominations. Members appointed by the governor shall be selected with special reference to training and experience with respect to the functions of the Kansas water authority, and no more than six of such members shall belong to the same political party; (3) one member shall be appointed by the president of the senate for a term of two years; and (4) one member shall be appointed by the speaker of the house of representatives for a term of two years. The state geologist, the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture, the director of the division of environment of the department of health and environment, the chairperson of the state

corporation commission, the secretary of commerce, the director of the Kansas water office, the secretary of wildlife and parks, the administrative officer of the state conservation commission, the secretary of the state board of agriculture and the director of the agricultural experiment stations of Kansas state university of agriculture and applied science shall be nonvoting members ex officio of the authority. The director of the Kansas water office shall serve as the secretary of the authority.

(b) A member appointed pursuant to subsection (a)(2) shall be appointed for a term expiring on January 15 of the fourth calendar year following appointment and until a successor is appointed and qualified.

(c) In the case of a vacancy in the appointed membership of the Kansas water authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Appointed members of the authority attending regular or special meetings thereof shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(d) The Kansas water authority shall:

(1) Consult with and be advisory to the governor, the legislature and the director of the Kansas water office.

(2) Review plans for the development, management and use of the water resources of the state by any state or local agency.

(3) Make a study of the laws of this state, other states and the federal government relating to conservation and development of water resources, appropriation of water for beneficial use, flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream and stream pollution for the purpose of determining the necessity or advisability of the enactment of new or amendatory legislation in this state on such subjects.

(4) Make recommendations to other state agencies and political subdivisions of the state for the coordination of their activities relating to flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream, stream pollution and groundwater studies.

(5) Make recommendations to each regular session of the legislature and to the governor at such times as the authority considers advisable concerning necessary or advisable legislation relating to any of the matters or subjects which it is required by this act to study for the purpose of making recommendations to the legislature. All such recommendations to the legislature shall be in drafted bill form together with such explanatory information and data as the authority considers advisable.

(6) Approve, prior to submission to the legislature by the Kansas water office or its director, (A) any contract entered into pursuant to the state water plan storage act, (B) any amendments to the state water plan or the state water planning act and (C) any other legislation concerning water resources of the state.

(7) Approve, before they become effective, any policy changes proposed by the Kansas water office concerning the pricing of water for sale pursuant to the state water plan storage act.

(8) Approve, before it becomes effective, any agreement entered into with the federal government by the Kansas water office.

(9) Request any agency of the state, which shall have the duty upon that request, to submit its budget estimate pertaining to the state's water resources and any plans or programs related thereto and, upon the authority's receipt of such budget estimate, review and evaluate it and furnish recommendations relating thereto to the governor and the legislature.

(10) Approve, prior to adoption by the director of the Kansas water office, rules and regulations authorized by law to be adopted.

(11) Approve, prior to adoption by the director of the Kansas water office, guidelines for conservation plans and practices developed pursuant to subsection (c) of K.S.A. 74-2608, and amendments thereto.

(e) The Kansas water authority may appoint citizens' advisory committees to study and advise on any subjects upon which the authority is required or authorized by this act to study or make recommendations.

(f) The provisions of the Kansas governmental operations accountability law apply to the Kansas water authority, and the authority is subject to audit, review and evaluation under such law.

Sec. 129. K.S.A. 74-5048 is hereby amended to read as follows: 74-

5048. The division of trade development is hereby authorized and empowered to:

- (a) promote the export of Kansas products outside the state and the United States;
- (b) develop and conduct trade development and market research missions to foreign markets and host foreign buying teams visiting Kansas;
- (c) prepare and distribute an export directory and other specialized product information to foreign buyers;
- (d) identify and develop foreign trade leads;
- (e) coordinate with and disseminate information regarding the international grains program and international trade institute conducted at Kansas state university; and
- (f) coordinate with and disseminate information regarding any international trade activities of the division of markets of the ~~state board~~ *Kansas department of agriculture*.

Sec. 130. K.S.A. 2003 Supp. 74-8101 is hereby amended to read as follows: 74-8101. (a) There is hereby created a body politic and corporate to be known as the Kansas technology enterprise corporation. The Kansas technology enterprise corporation is hereby constituted a public instrumentality and the exercise of the authority and powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

(b) The corporation shall be governed by a board of 20 directors who shall be residents of this state. The board shall consist of (1) the governor or, at the discretion of the governor, the secretary of the department of commerce, (2) the secretary of ~~the state board of~~ agriculture, (3) four directors who are members of the legislature appointed as provided in subsection (d)(1), (4) four directors who are appointed by legislative officers as provided in subsection (d)(2), and (5) ten directors appointed by the governor subject to senate confirmation as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person whose appointment is subject to confirmation by the senate, shall exercise any power, duty or function as a member of the board until confirmed by the senate.

(c) (1) All 10 of the directors appointed by the governor shall be persons recognized for outstanding knowledge and leadership in their fields. Six of the directors shall be persons from the private sector and four shall be persons from the public sector. The four appointees from the public sector shall consist of one or more of the following: Senior administrators at Kansas educational institutions governed by the board of regents or engineers or scientists who have extensive experience in managing basic or applied scientific and technological research. Of the six directors appointed from the private sector:

(A) Four directors shall be persons who represent industries of the Kansas economy including small enterprises which include, but are not limited to:

- (i) Resource-based industries of agriculture, oil and gas;
- (ii) advanced technology industries of aviation, manufacturing, information and design; and
- (iii) emerging industries of telecommunications, computer software, information services and research services; and

(B) two directors shall be persons who represent the private financial sector of whom one shall have experience in the area of high-risk venture investments, and the other shall have commercial banking experience in an industry of special technological importance to the Kansas economy.

(2) In making appointments to the board, the governor shall give consideration to the qualifications of the persons who served as commissioners of the Kansas advanced technology commission and shall give consideration to appropriate geographical representation.

(3) Of the members first appointed to the board, two directors shall be appointed for a term of one year, two directors shall be appointed for terms of two years, three directors shall be appointed for terms of three years and three directors shall be appointed for terms of four years. Except as provided by paragraph (4), successors to such directors shall be appointed for terms of four years. Each director shall hold office for the term of appointment and until the successor has been appointed and confirmed. In the event of a vacancy, the vacancy shall be filled by the governor in the manner provided for original appointments for the remainder of the unexpired portion of the term.

(4) The terms of directors appointed pursuant to this subsection who are serving on the board on the effective date of this act shall expire on January 15, of the year in which such member's term would have expired under the provisions of this section prior to amendment by this act. Thereafter, directors shall be appointed for terms of four years and until their successors are appointed and confirmed.

(d) (1) Four directors shall be members of the legislature as follows: The speaker of the house, the house minority leader, the president of the senate, and the senate minority leader, or legislators who are appointed to represent them and who will provide continuity by virtue of their membership on the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives or the joint committee on economic development. Legislative officers designated in this subsection shall serve by virtue of office. Legislators appointed under this subsection shall serve from the dates of their appointment until the first day of the regular legislative session in odd-numbered years and are eligible for reappointment.

(2) (A) Four directors shall be appointed by legislative officers as follows: (1) One shall be appointed by the speaker of the house, (2) one shall be appointed by the house minority leader, (3) one shall be appointed by the president of the senate, and (4) one shall be appointed by the senate minority leader. The members so appointed shall be persons who are recognized for outstanding knowledge and leadership in their fields, who are from the private sector and who represent industries of the Kansas economy including small enterprises which include, but are not limited to:

- (i) Resource-based industries of agriculture, oil and gas;
- (ii) advanced technology industries of aviation, manufacturing, information and design; and
- (iii) emerging industries of telecommunications, computer software, information services and research services.

(B) Of the directors first appointed by legislative officers under this subsection (d)(2), the directors appointed by the speaker of the house and the president of the senate shall be appointed to a term of four years and the directors appointed by the house minority leader and the senate minority leader shall be appointed to a term of two years. Successors to such directors shall be appointed for terms of four years. Each director shall hold office for the term of appointment and until the successor has been appointed. In the event of a vacancy, the vacancy shall be filled by the legislative officer who appointed the director who created the vacancy in the manner provided for the original appointment for the remainder of the unexpired portion of the term.

(e) Members of the board of directors, in their dealings with enterprises that may receive financing through the corporation, shall declare any potential conflict of interest and abstain from voting prior to taking any actions relating to that transaction.

(f) The board of directors shall conduct a national search and select a corporate president who meets a national standard of experience, ability and initiative for similar positions. The corporate president shall not be a member of the board.

(g) The board of directors shall hold all board meetings within the state of Kansas.

(h) Members of the board of directors are entitled to compensation and expenses as provided in K.S.A. 75-3223, and amendments thereto.

(i) The board shall annually elect from the private sector membership one member as chairperson and one member as vice-chairperson.

(j) The board of directors shall meet at least once during each calendar quarter, and at such other times as may be provided in the rules of the corporation, upon call by the president, the chairperson or upon written request of a majority of the directors.

(k) A majority of the board of directors shall be necessary to transact corporation business, and all actions of the directors shall be by a majority vote of the full number of corporate directors.

(l) The directors shall establish an executive committee composed of the chairperson, vice-chairperson and three additional members chosen by the chairperson from among the remaining directors. The executive committee, in intervals between board meetings, may transact any board business that has been delegated to the executive committee. A majority of the executive committee shall be necessary to transact business and all

actions of the executive committee shall be by a majority vote of the committee.

(m) No member of the board of directors is eligible to serve more than two terms of office.

(n) A member appointed to the board of directors by the governor may be removed by the governor for cause, stated in writing, after a hearing thereon.

Sec. 131. K.S.A. 75-3149 is hereby amended to read as follows: 75-3149. The secretary of ~~the state board of~~ agriculture shall be within the unclassified service of the Kansas civil service act. The secretary's compensation shall be determined by the ~~state board of agriculture subject to the approval of the~~ governor.

Sec. 132. K.S.A. 75-3150 is hereby amended to read as follows: 75-3150. The secretary of ~~the state board of~~ agriculture is hereby authorized to appoint, in accordance with the provisions of the civil service law and within appropriations available, an assistant secretary and such other assistants and clerical employees as may be necessary to properly discharge the duties of office.

Sec. 133. K.S.A. 76-478 is hereby amended to read as follows: 76-478. (a) There is hereby established the international meat and livestock program. Such program shall be administered by the head of the animal science and industry department of Kansas state university. The primary purpose of such program shall be to assist producers of Kansas livestock, meat products and commodities in the foreign marketing thereof, and to provide research and technical assistance to foreign buyers. In order to accomplish such purpose, it shall be the policy of such programs to develop strategies relating to education and technology in animal agriculture including genetics, health, nutrition, marketing, reproduction, management and animal food products.

(b) In order to assist in the implementation of the international meat and livestock program there is hereby established an advisory committee to be composed of 11 members as follows:

(1) One member from the Kansas sheep association appointed by the Kansas sheep association;

(2) one member from the Kansas pork producers council appointed by the Kansas pork producers council;

(3) one representative of the Kansas dairy industry appointed by the interbreed dairy council;

(4) one member from the cow-calf division of the Kansas livestock association appointed by the Kansas livestock association;

(5) one member from the feedlot division of the Kansas livestock association appointed by the Kansas livestock association;

(6) one member from the Kansas meat processing association appointed by the Kansas meat processing association;

(7) one member from the national meat packers association appointed by the national meat packers association;

(8) the chairpersons of the standing agriculture committees of the Kansas legislature;

(9) the director of the international meat and livestock program; and

(10) the secretary of ~~the state board of~~ agriculture, who shall serve as chairperson of the committee.

Sec. 134. K.S.A. 2003 Supp. 79-3425c is hereby amended to read as follows: 79-3425c. (a) On July 15, 2003, October 15, 2003, February 15, 2004, and May 15, 2004, and on each January 15, April 15, July 15 and October 15 of each year thereafter, the director of accounts and reports shall transfer \$625,000 to the county equalization and adjustment fund from the special city and county highway fund and on such dates the state treasurer shall apportion and pay to the several counties of the state 57% of the moneys in the special city and county highway fund, created by K.S.A. 79-3425, and amendments thereto, and shall apportion and pay to the several cities of the state the remaining 43% of such moneys.

(b) The allocation and payment to each county under the provisions of this section shall be made in the following manner:

First, Each county of the state shall receive a payment of \$5,000;

Second, Of the balance remaining, 44.06% thereof shall be apportioned and paid to each county on February 15, 2004, and May 15, 2004, and on each January 15 and April 15 of each year thereafter in the proportion that the total amount of money collected in such county from motor vehicle registration fees for the second preceding calendar year bears to

the total amount of money collected in all counties from motor vehicle registration fees for the second preceding calendar year, and on July 15 and October 15 of each year in the proportion that the total amount of money collected in such county from motor vehicle registration fees for the preceding calendar year bears to the total amount of money collected in all counties from motor vehicle registration fees for the preceding calendar year;

Third, 44.06% of such balance shall be apportioned and paid to each county on February 15, 2004, and May 15, 2004, and on each January 15 and April 15 of each year thereafter in the proportion that the average daily vehicle miles traveled in such county for the second preceding calendar year bears to the average daily vehicle miles traveled in all counties of the state for the second preceding calendar year, and on July 15 and October 15 of each year in the proportion that the average daily vehicle miles traveled in such county for the preceding calendar year bears to the average daily vehicle miles traveled in all counties of the state for the preceding calendar year; and

Fourth, the remaining 11.88% of such balance shall be apportioned and paid to each county on February 15, 2004, and May 15, 2004, and on each January 15 and April 15 of each year thereafter in the proportion that the total road miles in such county for the second preceding calendar year bears to the total road miles in all counties of the state for the second preceding calendar year; and on July 15 and October 15 of each year in the proportion that the total road miles in such county for the preceding calendar year bears to the total road miles in all counties of the state for the preceding calendar year.

If the total amount of money received by any county pursuant to the foregoing distribution formula during the period from July 15 of any year to April 15 of the next succeeding year is less than the total amount received by such county from the special city and county highway fund and the county equalization and adjustment fund for fiscal year 1999, the state treasurer shall apportion and pay to each such county from the county equalization and adjustment fund an amount which together with the amount received pursuant to the foregoing distribution formula will equal the total amount received from the two aforementioned funds during such period of time. In the event that there is insufficient funds in the county equalization and adjustment fund to pay each county the amount to which it is entitled, each county shall receive a payment in the proportion that the amount to which such county is entitled bears to the amount to which all such counties are entitled. If there is money remaining in such fund after such distribution, the state treasurer shall distribute the balance to the several counties in the manner provided in the second and third clauses of the foregoing formula for distributing moneys to counties from the special city and county highway fund.

All payments shall be made to the county treasurers of the respective counties, and upon receipt of the same:

(1) The county treasurers of Sedgwick and Shawnee counties shall credit 50% of the moneys received to the road and bridge fund of such counties and apportion and pay the remainder of such moneys to the several cities located in such counties;

(2) the county treasurer of Wyandotte county shall credit 10% of the moneys received to the road and bridge fund of such county and apportion and pay the remainder of such moneys to the several cities located in such county;

(3) the county treasurers of Lyon, Cowley, Crawford, Montgomery, Butler, Saline, Leavenworth, Riley, Reno and Douglas counties shall credit 90% of the moneys so received to the road and bridge fund of such counties and apportion and pay the remainder of such moneys to the several cities located in such counties except that no persons residing within the Fort Riley military reservation shall be included or considered in determining the population of any city located within Geary or Riley county; and

(4) the county treasurers of Johnson county and all other counties not listed in paragraphs (1), (2) or (3) shall credit all of the moneys received to the road and bridge fund of such counties.

Not less than 25% of the amount received by each county and credited to the county road and bridge fund under the provisions of this section shall be expended by the county on mail and school bus routes on county roads as defined in K.S.A. 68-101, and amendments thereto. Payments

to the cities under the provisions of this subsection shall be in the proportion that the population of each city bears to the total population of all cities located in the same county as such city.

In counties which have not adopted the county-unit road system, the amount of money retained by such counties after distribution to the cities within such county pursuant to this subsection shall be distributed to each township within such county in not less than the proportion that the amount of money received by each township from the county and township road fund during the period from July 1, 1969, to June 30, 1970, bears to the total amount of money received by such county from the county and township road fund, the county road and city street funds, the special motor carrier fee county road fund and the special city and county highway fund during the period from July 1, 1969, to June 30, 1970, plus the amount such county would have received on July 15, 1970, from the special city and county highway fund based on the formula for distributing such fund in effect on June 30, 1970. All payments to townships hereunder shall be made to the treasurers thereof, and all moneys so received shall be deposited in the general road fund of such township.

(c) The allocation and payment of moneys to the several cities of the state from the special city and county highway fund shall be in the proportion that the population of each city bears to the total population of all cities in the state except that the population of any military reservation which has been annexed to a city after the date of December 31, 1981, shall not be included in the population of such city for the purpose of this allocation. All such payments shall be to the city treasurers of the respective cities. Upon receipt of same unless a consolidated street and highway fund is established pursuant to K.S.A. 12-1,119, and amendments thereto, the city treasurer of each city shall credit the same to a separate fund to be used for the construction, reconstruction, alteration, repair and maintenance of the streets and highways of such city and for the payment of bonds, and interest thereon, issued pursuant to K.S.A. 79-3425g, and amendments thereto.

(d) For the purposes of this section, the average daily vehicle miles traveled in each county shall be determined by the secretary of transportation, but it shall not include miles traveled on interstate highways, and the population of each city shall be reported in the annual enumeration by the ~~state board~~ secretary of agriculture for the preceding calendar year.

(e) In order to reduce vehicular traffic and congestion on its streets and highways, the board of county commissioners of any county, the governing body of any city or the township board of any township may use for the purpose of constructing, repairing and maintaining footpaths and bicycle paths not to exceed 10% of the moneys such government receives under K.S.A. 79-3425c, and amendments thereto, except that such limitation shall not apply to moneys received by a county that the county is required to distribute to a city or a township. Such moneys shall not be expended on any recreational trail, as defined in subsection (b) of K.S.A. 2003 Supp. 58-3211, and amendments thereto.

Sec. 135. K.S.A. 82a-301a is hereby amended to read as follows: 82a-301a. It is the intent of the legislature by this act to provide for the exclusive regulation of construction, operation and maintenance of all dams or other water obstructions by the state to the extent required for the protection of public safety. All dams or other water obstructions are declared to be under the jurisdiction of the division of water resources of the ~~state board~~ Kansas department of agriculture and the chief engineer thereof. The chief engineer or his or her authorized representative shall supervise the construction, modification, operation and maintenance of dams or other water obstructions for the protection of life and property.

Sec. 136. K.S.A. 82a-303a is hereby amended to read as follows: 82a-303a. The chief engineer of the division of water resources of the ~~state board~~ Kansas department of agriculture shall adopt and may from time to time amend rules and regulations in order to establish standards for the construction, modification, operation and maintenance of dams and other water obstructions and to administer and enforce the provisions of this act.

Sec. 137. K.S.A. 82a-307a is hereby amended to read as follows: 82a-307a. Before doing the work provided for in K.S.A. 82a-307 the board of county commissioners shall, by resolution, duly passed, adopt this act, and shall cause a survey to be made showing definitely the bank lines to which said stream is to be cleaned and maintained, obstructions to be removed

and the mileage of the banks of such streams in that county, and shall submit to the division of water resources, ~~state board~~ *Kansas department of agriculture*, a map showing the bank lines so established to which it is proposed to clean and maintain the stream and showing obstructions which it is proposed to remove. Such plan shall have had the approval of the chief engineer of the division of water resources before the board is authorized to proceed with the work.

Sec. 138. K.S.A. 82a-405 is hereby amended to read as follows: 82a-405. Any landowner owning land in the state of Kansas, not within the corporate limits in any city in this state, who shall lawfully by the construction of a dam across a dry watercourse or any stream or watercourse draining an area not exceeding ~~ten (10)~~ 10 square miles, form upon ~~his or her~~ *such landowner's* own land one or more reservoirs, having along the axis of the dam at the lowest point in the natural bed of a stream or watercourse a depth of not less than ~~ten (10)~~ 10 feet and a storage capacity at spillway level, including the volume of any excavation in the reservoir area below such level, of not less than five (5) acre feet, for the collection and storage of surface water or flood detention storage, and who shall maintain such dam or dams in a condition satisfactory to the chief engineer of the division of water resources in the ~~state board~~ *Kansas department of agriculture*, shall be entitled to an exemption from taxes levied upon such land in the amount prescribed by K.S.A. 79-201g, *and amendments thereto*.

Sec. 139. K.S.A. 82a-603 is hereby amended to read as follows: 82a-603. Whenever a petition as provided in the preceding section is filed with the county clerk, ~~he or she~~ *the county clerk* shall thereupon give notice to the county commissioners of the filing and pendency of ~~said~~ *such* petition and the county commissioners shall forthwith fix a time within ~~thirty~~ 30 days from date of filing of the petition, for a hearing of the same and the county clerk shall at least seven days before date fixed for ~~said~~ *such* hearing, give or send by mail, written notice thereof to each of the petitioners, and shall transmit to the chief engineer of the division of water resources, ~~state board~~ *Kansas department of agriculture*, one copy of the petition and notice of the date set for its consideration.

Sec. 140. K.S.A. 82a-612 is hereby amended to read as follows: 82a-612. As used in this act, unless the context clearly requires otherwise:

- (a) "District" means a rural water district organized pursuant to this act;
- (b) "board" means the governing body of a district;
- (c) the terms "board of county commissioners" and "county clerk" shall mean, respectively, the board of county commissioners and county clerk of the county in which the greatest portion of the territory of any existing or proposed rural water district is located;
- (d) "participating member" means an individual, firm, partnership, association or corporation which owns land located within a district and which has subscribed to one or more benefit units of such district;
- (e) "chief engineer" means the chief engineer of the division of water resources, ~~state board~~ *Kansas department of agriculture*.

Sec. 141. K.S.A. 82a-701 is hereby amended to read as follows: 82a-701. When used in this act, unless the context indicates otherwise, the following words shall have the following meanings:

- (a) "Person" shall mean and include a natural person, a partnership, an organization, a corporation, a municipality and any agency of the state or federal government.
- (b) "Chief engineer" means the chief engineer of the division of water resources of the Kansas ~~state board~~ *department of agriculture*.
- (c) "Domestic uses" means the use of water by any person or by a family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, and for the irrigation of lands not exceeding a total of two (2) acres in area for the growing of gardens, orchards and lawns.
- (d) "Vested right" means the right of a person under a common law or statutory claim to continue the use of water having actually been applied to any beneficial use, including domestic use, on or before June 28, 1945, to the extent of the maximum quantity and rate of diversion for the beneficial use made thereof, and shall include the right to take and use water for beneficial purposes where a person is engaged in the construction of works for the actual application of water to a beneficial use on June 28, 1945, provided such works shall be completed and water is ac-

tually applied for such use within a reasonable time thereafter by such person, ~~his~~ *such person's* heirs, successors or assigns. Such a right does not include, however, those common law claims under which a person has not applied water to any beneficial use within the periods of time set out in this subsection.

(e) "Appropriator" means and includes a person who has an appropriation right that has been perfected in conformity with article 7 of chapter 82a of the Kansas Statutes Annotated and ~~acts amendatory thereof and supplemental~~ *amendments* thereto.

(f) "Appropriation right" is a right, acquired under the provisions of article 7 of chapter 82a of the Kansas Statutes Annotated and ~~acts amendatory thereof and supplemental~~ *amendments* thereto, to divert from a definite water supply a specific quantity of water at a specific rate of diversion, provided such water is available in excess of the requirements of all vested rights that relate to such supply and all appropriation rights of earlier date that relate to such supply, and to apply such water to a specific beneficial use or uses in preference to all appropriations right of later date.

(g) "Water right" means any vested right or appropriation right under which a person may lawfully divert and use water. It is a real property right appurtenant to and severable from the land on or in connection with which the water is used and such water right passes as an appurtenance with a conveyance of the land by deed, lease, mortgage, will, or other voluntary disposal, or by inheritance.

Sec. 142. K.S.A. 82a-706e is hereby amended to read as follows: 82a-706e. The chief engineer, subject to the approval of the ~~state board~~ *secretary* of agriculture, may establish field offices within this state to secure the best protection to all claimants of water therein and the most economical supervision thereof. Subject to the approval of the ~~state board~~ *secretary* of agriculture, the chief engineer may appoint a water commissioner for each field office so established, in accordance with the Kansas civil service laws, who shall be ~~his or her~~ *the agent of the chief engineer* in supervising the distribution of waters within the area served by such field office, according to the rights and priorities of all parties concerned, and who shall perform such other duties as the chief engineer may direct.

Sec. 143. K.S.A. 2003 Supp. 82a-731 is hereby amended to read as follows: 82a-731. There is hereby created in the state treasury the water appropriation certification fund. The chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture shall remit all moneys received under K.S.A. 82a-708a, 82a-708b and 82a-727, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the water appropriation certification fund. All expenditures from the water appropriation certification fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the ~~state board~~ *department* of agriculture or by a person designated by the secretary.

Sec. 144. K.S.A. 82a-732 is hereby amended to read as follows: 82a-732. (a) The owner of a water right or permit to appropriate water for beneficial use, except for domestic use, shall file an annual water use report on a form prescribed by the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture on or before March 1 following the end of the previous calendar year. The report shall completely and accurately set forth such water use information as requested by the chief engineer.

(b) Any person failing to file a water use report or other documents required under the provisions of subsection (a) shall be subject to a civil penalty in an amount not to exceed \$250. The chief engineer upon a finding that the owner of a water right or permit to appropriate water for beneficial use has failed to file such a report may impose a civil penalty as provided in this section. Any person filing a document knowing it to contain any false information as to a material matter shall be guilty of a class C misdemeanor. All fines collected by the chief engineer pursuant to this subsection shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

Sec. 145. K.S.A. 82a-734 is hereby amended to read as follows: 82a-734. (a) An operator will notify the chief engineer of the division of water

resources of the ~~state board~~ *Kansas department* of agriculture of the location and area extent of any existing or proposed sand and gravel pit to be excavated, expanded or operated by the operator.

(b) Unless the chief engineer determines that it has a substantially adverse impact on the area groundwater supply, the evaporation of water exposed as the result of the opening or operation of sand and gravel pits shall not be construed to be a beneficial use or diversion of water for the purposes of the Kansas water appropriation act, K.S.A. 82a-701 *et seq.*, and amendments thereto.

(c) Evaporation from sand and gravel pits, as calculated by the chief engineer, will be reported as an industrial use to the director of taxation for the purpose of assessing the water protection fee pursuant to K.S.A. ~~92a-954~~ *82a-954*, and amendments thereto.

Sec. 146. K.S.A. 82a-903 is hereby amended to read as follows: 82a-903. In accordance with the policies and long-range goals and objectives established by the legislature, the office shall formulate on a continuing basis a comprehensive state water plan for the management, conservation and development of the water resources of the state. Such state water plan shall include sections corresponding with water planning areas as determined by the office. The Kansas water office and the Kansas water authority shall seek advice from the general public and from committees consisting of individuals with knowledge of and interest in water issues in the water planning areas. The plan shall set forth the recommendations of the office for the management, conservation and development of the water resources of the state, including the general location, character, and extent of such existing and proposed projects, programs, and facilities as are necessary or desirable in the judgment of the office to accomplish such policies, goals and objectives. The plan shall specify standards for operation and management of such projects, programs, and facilities as are necessary or desirable. The plan shall be formulated and used for the general purpose of accomplishing the coordinated management, conservation and development of the water resources of the state. The division of water resources of the ~~state board~~ *Kansas department* of agriculture, state geological survey, the division of environment of the department of health and environment, department of wildlife and parks, state conservation commission and all other interested state agencies shall cooperate with the office in formulation of such plan.

Sec. 147. K.S.A. 2003 Supp. 82a-954 is hereby amended to read as follows: 82a-954. (a) On and after July 1, 1989, there is hereby imposed a water protection fee at the rate of:

(1) Three cents per 1,000 gallons of water sold at retail by a public water supply system and delivered through mains, lines or pipes;

(2) subject to the provisions of subsection (c), three cents per 1,000 gallons of water appropriated for industrial use pursuant to a permit granted in accordance with the Kansas water appropriation act; and

(3) three cents per 1,000 gallons of water appropriated for stockwatering pursuant to a permit granted in accordance with the Kansas water appropriation act.

(b) As used in this section, "industrial use" and "stockwatering" have the meanings provided by rules and regulations of the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture and the determination of gallons used shall be based upon figures supplied to the secretary of revenue by the division of water resources.

(c) The fees imposed by subsections (a)(2) and (3) shall be based on the actual amount used for industrial use or stockwatering during the preceding calendar year as reported to the chief engineer of the division of water resources of the ~~state board~~ *Kansas department* of agriculture in accordance with the provisions of K.S.A. 82a-732, and amendments thereto, except that: (1) The amount of surface water used for flow through cooling purposes for electric power generating plants shall be based on an average consumptive factor as determined by the division of water resources; and (2) no such fee shall be imposed on the amount of water used for commercial fish farming. If no water use report is filed for such year, the fee shall be based on the amount authorized for industrial use or stockwatering in such year.

(d) The fee imposed by subsection (a)(1) shall be paid quarterly by the public water supplier and shall be transmitted to the department of revenue not later than 45 days following the end of each quarter. The

public water supplier may collect the fee directly from each consumer to which water is sold at retail or may pay the amount owed to the department from moneys in its operating or other fund available for that purpose. The fees imposed by subsections (a)(2) and (3) shall be paid by the owner of the permit. If any retailer or permit owner fails to pay the fee required to be collected and paid under this section, there shall be added, to the unpaid balance of the fee, penalty and interest as prescribed under K.S.A. 79-3615, and amendments thereto, for the late payment of sales tax.

(e) The director of taxation shall administer, enforce and collect the fees imposed by this section. All laws and rules and regulations of the secretary relating to the administration, enforcement and collection of the retailers' sales tax shall apply to such fee insofar as they can be made applicable, and the secretary shall adopt such additional rules and regulations as necessary for the efficient and effective administration, enforcement and collection thereof.

(f) The director of taxation shall remit all moneys collected from fees imposed pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state water plan fund created by K.S.A. 82a-951, and amendments thereto.

(g) An owner of an industrial use permit who has a contract with the state for withdrawal and use of water pursuant to K.S.A. 82a-1301 *et seq.*, and amendments thereto, shall be exempt from the fee imposed by subsection (a)(2) on any water for which the permit owner is required to pay charges under such contract.

Sec. 148. K.S.A. 82a-1021 is hereby amended to read as follows: 82a-1021. The following terms when used in this act shall have the limitations and meanings respectively ascribed to them in this section:

(a) "Aquifer" means any geological formation capable of yielding water in sufficient quantities that it can be extracted for beneficial purposes.

(b) "Board" means the board of directors constituting the governing body of a groundwater management district.

(c) "Chief engineer" means the chief engineer of the division of water resources of the Kansas state board department of agriculture.

(d) "District" means a contiguous area which overlies one or more aquifers, together with any area in between, which is organized for groundwater management purposes under this act and acts amendatory thereof or supplemental thereto.

(e) "Eligible voter" means any person who is a landowner or a water user as defined in this act except as hereafter qualified. Every natural person of the age of ~~eighteen (18)~~ 18 years or upward shall be an eligible voter of a district under this act if (1) ~~he or she~~ *the person* is a landowner who owns, of record, any land, or any interest in land, comprising ~~forty (40)~~ 40 or more contiguous acres located within the boundaries of the district and not within the corporate limits of any municipality, or (2) ~~he or she~~ *the person* withdraws or uses groundwater from within the boundaries of the district in an amount of one acre-foot or more per year.

Except as is hereafter qualified, every public or private corporation shall be an eligible voter of a district under this act either (1) if it is a landowner who owns of record any land, or any interest in land, comprised of ~~forty (40)~~ 40 or more contiguous acres located within the boundaries of the district and not within the corporate limits of any municipality, or (2) if it is a corporation that withdraws groundwater from within the district in an amount of one acre-foot or more per year.

Each tract of land of ~~forty (40)~~ 40 or more contiguous acres and each quantity of water withdrawn or used in an amount of one acre-foot or more per year shall be represented by but a single eligible voter. If the land is held by lease, under an estate for years, under contract, or otherwise, the fee owner shall be the one entitled to vote, unless the parties in interest agree otherwise. If the land is held jointly or in common, the majority in interest shall determine which natural person or corporation shall be entitled to vote. Each qualified voter shall be entitled to cast only one vote. A person duly authorized to act in a representative capacity for estates, trusts, municipalities, public corporations or private corporations may also cast one vote for each estate, trust, municipality, or public or private corporations so represented. Nothing herein shall be construed to authorize proxy voting.

Any landowner who is not a water user may have ~~his or her~~ *such landowner's* land excluded from any district assessments and thereby abandon ~~his or her~~ *the* right to vote on district matters by serving a written notice of election of exclusion with the steering committee or the board. Such a landowner may again become an eligible voter by becoming a water user or by serving a written notice of inclusion on the board stating that ~~he or she~~ *the landowner* has elected to be reinstated as a voting member of the district and will be subject to district assessments.

Any eligible voter who is a landowner or water user as defined in this act, and also is the owner of a tract or tracts of land comprising not less than ~~six hundred forty (640)~~ 640 acres in area, located within the boundaries of the district, on which no water is being used or from which no water is being withdrawn, may have such tract or tracts of land on or from which no water is used or withdrawn, excluded from district assessment in the manner described above.

All notices of inclusion or exclusion of land shall be submitted to the board not later than January 1 of the effective year.

(f) "Land" means real property as that term is defined by the laws of the state of Kansas.

(g) "Landowner" means the person who is the record owner of any real estate within the boundaries of the district or who has an interest therein as contract purchaser of ~~forty (40)~~ 40 or more contiguous acres in the district not within the corporate limits of any municipality. Owners of oil leases, gas leases, mineral rights, easements, or mortgages shall not be considered landowners by reason of such ownership.

(h) "Management program" means a written report describing the characteristics of the district and the nature and methods of dealing with groundwater supply problems within the district. It shall include information as to the groundwater management program to be undertaken by the district and such maps, geological information, and other data as may be necessary for the formulation of such a program.

(i) "Person" means any natural person, private corporation, or municipality, or other public corporation.

(j) "Water right" shall have the meaning ascribed to that term in K.S.A. 82a-701, and ~~any acts amendatory thereof or supplemental~~ *amendments* thereto.

(k) "Water user" means any person who is withdrawing or using groundwater from within the boundaries of the district in an amount not less than one acre-foot per year. If a municipality is a water user within the district, it shall represent all persons within its corporate limits who are not water users as defined above.

Sec. 149. K.S.A. 82a-1023 is hereby amended to read as follows: 82a-1023. (a) Within ~~twelve (12)~~ 12 months after certification of the description of the lands to be included within the proposed district, and before any groundwater management district shall be organized, a petition shall be circulated by the steering committee and filed with the secretary of state after being signed by not less than ~~fifty (50)~~ 50 eligible voters or ~~fifty percent (50%)~~ 50% of the eligible voters of the district, whichever is the smaller.

(b) The petition shall set forth:

(1) The proposed name of the district, which name shall end with the words "groundwater management district No. _____." It shall be the duty of the secretary of state to assign a number to each such district in the order in which petitions for organizations are received in his or her office.

(2) A description of the lands to be included within the proposed district identified by township, range, and section numbers and fractions thereof, and other areas as appropriate and a map showing the contiguous lands to be included in the district.

(3) A statement of the purposes for which the district is to be organized.

(4) A statement of the number of persons that will constitute the elected board of directors of the district, which shall be an uneven number of not less than three (~~3~~) or more than ~~fifteen (15)~~ 15.

(5) The names and addresses of the persons who constitute the steering committee.

(6) A prayer for the organization and incorporation of the district.

(7) Any other matter deemed essential by the steering committee.

(c) The petition shall be in substantially the following form:

"Before the secretary of state of the state of Kansas in the matter of the proposed _____

groundwater management district No. _____, in _____ county, (counties), Kansas.

PETITION

"Come now the undersigned persons and state that (1) they are eligible voters of the aforementioned groundwater management district, hereinafter more fully described; (2) each signer's post-office address is set forth beside ~~his or her~~ the signer's name; (3) the purposes for which this district is organized are: (statement of purposes); (4) a seven-member steering committee for the organization of the district has been established; (5) the names of persons who serve on the steering committee, of which the first named shall be chairman, and their respective addresses are as follows: (list of names and addresses); and (6) the governing body of the district shall be an elected board of directors composed of _____ eligible voters.

"Attached hereto, marked exhibit A and made a part hereof, is a description of the lands proposed to be included in the district.

"Attached hereto, marked exhibit B and made a part hereof, is a map showing the lands proposed to be included in the district.

"Wherefore, the undersigned individually and collectively pray that a groundwater management district be organized in the manner provided by law for the purposes set forth herein, and that the secretary of state and the chief engineer of the division of water resources of the Kansas ~~state board~~ department of agriculture proceed diligently in the performance of their duties so that the organization and incorporation of this proposed district may be completed and approved at the earliest possible time.

"Submitted to the secretary of state this _____ day of _____, ~~19~~_____."

Sec. 150. K.S.A. 82a-1301 is hereby amended to read as follows: 82a-1301. As used in this act, unless the context otherwise requires:

(a) "Director" means the director of the Kansas water office.

(b) "Chief engineer" means the chief engineer of the division of water resources of the ~~state board~~ Kansas department of agriculture.

(c) "Authority" means the Kansas water authority.

(d) "Person" means and includes a natural person, partnership, organization, association, private corporation, public corporation, any taxing district or political subdivision of the state, and any department or agency of the state government.

(e) "Public corporation" means a body that has for its object the government of a political subdivision of this state and includes any county, township, city, district, authority, or other municipal corporation or political subdivision of this state.

(f) "Federal government" means the United States of America or any department or agency thereof.

(g) "Point of diversion for a reservoir" means the point where the longitudinal axis of the dam of a reservoir crosses the center of the streambed.

(h) "Point of redirection" means the point where released water is taken for beneficial use from the watercourse by which it is transported.

(i) "Point of withdrawal from the reservoir" means the point at which water is taken from the reservoir by pump, siphon, canal or any other device or released through a dam by gates, conduits or any other means.

(j) "Capital cost" means all costs, including the principal and interest thereon, incurred by the state in the construction or acquisition of conservation storage water supply capacity in the reservoir system from which water may be contracted for sale.

(k) "Surplus waters" means waters within the conservation storage water supply capacity committed to the state, but not required to meet contractual requirements made pursuant to K.S.A. 82a-1305, and amendments thereto.

Sec. 151. K.S.A. 82a-1335 is hereby amended to read as follows: 82a-1335. (a) Before any water assurance district is organized, a petition shall be filed in the office of the secretary of state, signed by the eligible water right holders of water rights totaling more than 20% of the combined quantities of all eligible water rights within the proposed district as shown by a verified enumeration of the eligible water right holders and the total combined quantities of all eligible water rights taken by the chief engineer. A verified copy of the enumeration shall be attached to and filed with the petition in the office of the secretary of state.

(b) Every petition filed pursuant to subsection (a) shall state:

(1) The name of the proposed district, which name shall end with the words "water assurance district number _____." It shall be the duty of the secretary of state to assign a number to each such district in the order in which petitions for their organization are received by the secretary's office;

(2) a list of the water rights, by file number as recorded in the office of the chief engineer, to be included within the proposed district;

(3) a statement of the purposes for which the district is to be organized;

(4) a statement of the number of persons that will constitute the

board of directors of the district, which shall be an uneven number of not less than three nor more than nine, together with the names and addresses of the persons who will constitute the original steering committee;

(5) any other matter deemed essential; and

(6) a prayer for the organization of the district as a nonprofit corporation.

The petition shall be in substantially the following form:

BEFORE THE SECRETARY OF STATE
OF THE STATE OF KANSAS

In the Matter of _____ Water Assurance District Number _____,
and _____ counties, Kansas.

PETITION

Come now the undersigned persons, or authorized representatives, and state that they are eligible water right holders within the proposed boundaries of the aforementioned water assurance district, hereinafter more fully described, and that each signer states that the signer's respective post office address is set forth beside the signer's name. That the purposes for which this district is organized are (state purposes). That a steering committee for the organization of the district is hereby fixed and constituted with five members; that the names of persons who will serve on the original steering committee, of which the first named shall be acting chairperson, and their respective addresses are as follows:

(List names and addresses.)

The governing body of the district shall be constituted in a board of directors composed of (number) qualified members.

Wherefore, the undersigned, individually and collectively, pray that a water assurance district be organized in the manner provided by law, for the purposes set forth herein, and that the secretary of state and the chief engineer of the division of water resources of the Kansas ~~state board~~ department of agriculture proceed diligently in the performance of their duties so that the organization of this proposed district may be completed and approved at the earliest possible time.

Submitted to the secretary of state this _____ day of _____, ~~19~~_____.

Sec. 152. K.S.A. 82a-1501 is hereby amended to read as follows: 82a-1501. As used in the water transfer act:

(a) (1) "Water transfer" means the diversion and transportation of water in a quantity of 2,000 acre feet or more per year for beneficial use at a point of use outside a 35-mile radius from the point of diversion of such water. In determining the amount of water transferred in the case of a water transfer supplying water to multiple public water supply systems or other water users, the amount of water transferred shall be considered to be the aggregate amount of water which will be supplied by the transfer to all public water supply systems and other water users whose points of use are located outside a 35-mile radius from the point of diversion of such water.

(2) Water transfer does not include a release of water from a reservoir to the water's natural watercourse for use within the natural watercourse or watershed, made under the authority of the state water plan storage act (K.S.A. 82a-1301 et seq. and amendments thereto) or the water assurance program act (K.S.A. 82a-1330 et seq. and amendments thereto).

(b) "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;

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

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

(4) the geographical center of the points of diversion in the case of multiple diversion points.

(c) "Point of use" means the geographical center of each water user's proposed or authorized place of use where any water authorized by the proposed transfer will be used.

(d) "Chief engineer" means the chief engineer of the division of water resources of the ~~state board~~ Kansas department of agriculture.

(e) "Secretary" means the secretary of the department of health and environment, or the director of the division of environment of the department of health and environment if designated by the secretary.

(f) "Director" means the director of the Kansas water office.

(g) "Panel" means the water transfer hearing panel.

(h) "Party" means: (1) The applicant; or (2) any person who successfully intervenes pursuant to K.S.A. 82a-1503 and amendments thereto and actively participates in the hearing. "Party" does not mean a person who makes a limited appearance for the purpose of presenting a statement for or against the water transfer.

(i) "Commenting agencies" means groundwater management districts and state natural resource and environmental agencies, including but not limited to the Kansas department of health and environment, the

Kansas water office, the Kansas water authority, the Kansas department of wildlife and parks and the division of water resources of the Kansas ~~state board~~ department of agriculture.

(j) “Public water supply system” means any water supply system, whether publicly or privately owned, for which a permit is required pursuant to K.S.A. 65-163 and amendments thereto.

Sec. 153. K.S.A. 2003 Supp. 82a-1603 is hereby amended to read as follows: 82a-1603. When used in this act:

(a) “Chief engineer” means the chief engineer of the division of water resources of the ~~state board~~ department of agriculture.

(b) “Class I funded project” means a proposed new project or renovation of an existing project located within the boundaries of an organized watershed district which is receiving or is eligible to receive financial participation from the state conservation commission for the flood control storage portion of the project.

(c) “Class II funded project” means a proposed new project or renovation of an existing project which is receiving or is eligible to receive financial participation from the federal government.

(d) “Class III funded project” means a proposed new project or renovation of an existing project located outside the boundaries of an organized watershed district which is not receiving or is not eligible to receive financial participation from the state conservation commission or the federal government except as provided in K.S.A. 82a-1606, and amendments thereto.

(e) “Flood control storage” means storage space in reservoirs to hold flood waters.

(f) “Future use public water supply storage” means storage space which the Kansas water office determines will be needed within the next 20 years for use by public water supply users in an area but for which there is no current sponsor.

(g) “General plan” means a preliminary engineering report describing the characteristics of the project area, the nature and methods of dealing with the soil and water problems within the project area, and the projects proposed to be undertaken by the sponsor within the project area. Such plan shall include maps, descriptions and other data as may be necessary for the location, identification and establishment of the character of the work to be undertaken; a cost-benefit analysis of alternatives to the project, including but not limited to, nonstructural flood control options and water conservation and reuse to reduce need for new water supply storage; and any other data and information as the chief engineer may require.

(h) “Land right” means real property as that term is defined by the laws of the state of Kansas and all rights thereto and interest therein and shall include any road, highway, bridge, street, easement or other right-of-way thereon.

(i) “Multipurpose small lake project” means a dam and lake containing (1) flood control storage and (2) either public water supply storage or recreation features or both.

(j) “Public water supply” means a water supply for municipal, industrial or domestic use.

(k) “Public water supply storage” means storage of water for municipal, industrial or domestic use.

(l) “Recreation feature” means water storage and related facilities for activities such as swimming, fishing, boating, camping or other related activities.

(m) “Renovation” means repair or restoration of an existing lake which contains water storage space for use as a public water supply and which has either recreational purposes or flood control purposes, or both.

(n) “Sponsor” means: (1) Any political subdivision of the state which has the power of taxation and the right of eminent domain; (2) any public wholesale water supply district; or (3) any rural water district.

(o) “Water user” means any city, rural water district, wholesale water district or any other political subdivision of the state which is in the business of furnishing municipal or industrial water to the public.

Sec. 154. K.S.A. 83-403 is hereby amended to read as follows: 83-403. (a) The ~~state board~~ secretary of agriculture with the recommendation of the state sealer may adopt, amend and revoke reasonable rules and regulations concerning:

(1) Standards of workmanship for testing services;

(2) requirements for contractual responsibilities and fulfillment of agreements by testing services;

(3) furnishing of reports and information necessary for the state sealer to carry out the provisions of K.S.A. 83-401 to 83-410, inclusive, *and amendments thereto*; and

(4) other matters necessary for the administration of the provisions of K.S.A. 83-401 to 83-410, inclusive, *and amendments thereto*.

(b) For purposes of inspection, the state sealer or authorized representatives of the state sealer may enter upon private premises with consent of the occupant.

Sec. 155. K.S.A. 2-1008 is hereby amended to read as follows: 2-1008. (a) The secretary and the duly authorized representatives thereof shall have free access to all places of business, mills, buildings and vessels, of whatsoever kind, used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuffs and may open any parcel containing, or supposed to contain, any commercial feeding stuffs and may take therefrom, in the manner prescribed in K.S.A. 2-1009 and amendments thereto, samples for analysis and shall pay the retail price of the sample or samples procured. Before entering the premises, the representatives of the *Kansas* department of agriculture shall make application to party or parties in charge of any manufacturer, importer, jobber, firm, association, corporation or person who sells, offers, or exposes for sale or distributes in this state any commercial feeding stuffs.

(b) The secretary or a duly authorized representative thereof, acting as the enforcing officer, may issue and enforce a written or printed stop sale order to the owner or custodian of any quantity of commercial feeding stuffs which the secretary or the duly authorized representative of the secretary determines to be misbranded or adulterated or contains or may contain any substance injurious to public health or the health of livestock, poultry or pets or which are sold, offered or exposed for sale in violation of any of the statutes contained in article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto or any rules and regulations adopted thereunder. The stop sale order shall prohibit further sale and movement of such commercial feeding stuffs, except on approval of the enforcing officer, until the enforcing officer has evidence that the law and rules and regulations have been complied with and issues a release from the stop sale order. Any stop sale order issued pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of the statutes contained in article 10 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

Sec. 156. K.S.A. 2-1012 is hereby amended to read as follows: 2-1012. The secretary shall remit all moneys received by or for the secretary under article 10 of chapter 2 of Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the feeding stuffs fee fund. ~~On and after July 1, 2000, through June 30, 2002, an amount not to exceed \$35,000 per year may be used to fund plant pest activities.~~ All expenditures from the feeding stuffs fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the *Kansas* department of agriculture or by a person or persons designated by the secretary.

Sec. 157. K.S.A. 2-1421a is hereby amended to read as follows: 2-1421a. (a) (1) Each wholesaler shall register with the secretary and shall pay a registration fee not to exceed \$300. The current wholesale registration fee is hereby set at \$175 and shall remain at that amount until changed by rules and regulations of the secretary.

(2) Each retailer shall register with the secretary and shall pay a registration fee not to exceed \$30. The current retailer registration fee is hereby set at \$10 and shall remain at that amount until changed by rules and regulations of the secretary.

(3) Registration shall be required for each place of business at which agricultural seed is sold, offered or exposed for sale by the wholesaler or retailer.

(4) An individual who conducts a wholesaler and retailer business at the same location shall be required to register as both a wholesaler and

retailer.

(b) Application for registration shall be made on a form provided by the secretary. Each registration for a wholesaler or retailer shall expire on August 31 following the date of issuance unless such registration is renewed annually.

(c) Each seed conditioner shall register with the secretary. Such seed conditioner registration shall require no registration fee and shall be a biennial registration. Any seed conditioner who is ceasing to do business as a seed conditioner shall notify the *Kansas* department of agriculture within 30 days of ceasing to do business.

(d) As used in this section, "agricultural seed" shall include grain when sold as such, or when sold according to grain standards and the seller knows, or has reason to know, that the grain is to be used for seeding or planting purposes.

(e) The secretary shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the agricultural seed fee fund which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or a person or persons designated by the secretary.

(f) All moneys credited to the agricultural seed fee fund shall be expended for any purpose consistent with the Kansas seed law.

(g) The secretary may adopt rules and regulations necessary to administer the provisions of this act.

(h) This section shall be part of and supplemental to the Kansas seed law, K.S.A. 2-1415 *et seq.*, and amendments thereto.

Sec. 158. K.S.A. 2-2911 is hereby amended to read as follows: 2-2911. The secretary shall remit all moneys received by or for the secretary under this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the agricultural liming materials fee fund, which fund is hereby created. ~~On and after July 1, 2000, through June 30, 2002, an amount not to exceed \$5,000 per year may be used to fund plant pest activities.~~ All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the *Kansas* department of agriculture or by a person or persons designated by the secretary.

Sec. 159. K.S.A. 2-3002a is hereby amended to read as follows: 2-3002a. (a) Except for funds necessary to pay payroll expenses incurred through June 30, 2000, and payable in July, 2000, on and after July 1, 2000, the balance of all funds and all liabilities associated with the grain commodities pursuant to K.S.A. 2-2601 *et seq.* as in effect prior to July 1, 2000, and K.S.A. 2-3001 *et seq.*, and amendments thereto, shall be paid and liabilities be transferred to each respective commission created by this act. Any remaining funds of the money retained for payroll expenses shall be paid to the respective commission created by this act.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the *Kansas* department of agriculture with regard to the corn, grain sorghum and soybean commission and the Kansas wheat commission are hereby transferred to and conferred and imposed upon the respective corn, grain sorghum, soybean and wheat commissions established by the act.

(c) Except as otherwise provided by this act, the corn, grain sorghum, soybean and wheat commissions established by this act shall be the successor in every way to the powers, duties and functions of the *Kansas* department of agriculture with regard to the corn, grain sorghum and soybean commissions and the Kansas wheat commission in which the same were vested prior to July 1, 2000. Every act performed in the exercise of such powers, duties and functions by or under the authority of the *Kansas* department of agriculture with regard to the corn, grain sorghum and soybean commissions and the Kansas wheat commission established by this act shall be deemed to have the same force and effect as if performed by the respective corn, grain sorghum, soybean and wheat commission, respectively in which such powers, duties and functions were

vested prior to July 1, 2000.

(d) Except as otherwise provided by this act, whenever the *Kansas* department of agriculture with regard to the corn, grain sorghum and soybean commissions and the Kansas wheat commission, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the respective corn, grain sorghum, soybean and wheat commission established by this act.

(e) On the effective date of this act, all property of the Kansas wheat commission prior to July 1, 2000, shall become the property of the wheat commission established by this act.

Sec. 160. K.S.A. 2-3601 is hereby amended to read as follows: 2-3601. As used in this act:

(a) "Council" means the Kansas agricultural seed council.

(b) "Seedsman" or "seedsmen" means a person, private entity or corporation registered with the *Kansas* department of agriculture to sell seed in Kansas.

(c) "Agricultural seed," "retailer" and "wholesaler" have the meanings provided by K.S.A. 2-1415, and amendments thereto.

Sec. 161. K.S.A. 2003 Supp. 2-3602 is hereby amended to read as follows: 2-3602. (a) There is hereby created the Kansas agricultural seed council.

(b) The council shall consist of seven members who will be elected at the annual meeting of the Kansas seed industry association. The board of directors of the Kansas seed industry association shall act as interim council members until council members can be elected and qualified. Vacancies which may occur shall be filled for unexpired terms by the board of directors of the Kansas seed industry association from among the seedsmen or representatives of seed product development, distribution and production of the state. Each council member appointed on and after the effective date of this act, other than a council member appointed to fill a vacancy for an unexpired term, shall be elected for a term of four years except that three of the council members first elected on and after the effective date of this act shall be elected for a term of two years. No member may serve more than two consecutive terms. Upon the expiration of a term of a member of the council, such member shall continue to serve as a member of the council until a successor to such member is elected and qualified.

(c) Members of the council shall be residents of this state and currently be active seedsmen. Members of the council shall include representatives of seed product development, distribution and production. At least three members shall be elected from the list of wholesalers registered with the *Kansas* department of agriculture and the remaining members shall be active seedsmen or representatives of seed product development, distribution and production elected at large. The elections will be held at an open session to all seedsmen and representatives of seed product development, distribution and production at the annual meeting of the Kansas seed industry association.

(d) The director of the agricultural experiment stations of Kansas state university of agriculture and applied science or the director's representative and the director of the agricultural products development division of the department of commerce or the director's representative shall serve as ex officio nonvoting members of the council.

(e) The council shall elect annually a chairperson from its membership.

(f) A member of the council may cease to hold such member's position on the council for any of the following reasons, at the discretion of a majority of the council, upon resolution duly adopted by the council dismissing such member: (1) Failure to attend two or more regular meetings of the council, if unexcused; or (2) ceasing to be an active seedsmen.

(g) Members of the Kansas agricultural seed council attending meetings of such council, or attending a subcommittee meeting authorized by such council, may be paid compensation and other expenses.

(h) The council shall meet at least once every calendar quarter regularly and hold an annual meeting which shall be open to the public. The day, time and place of each meeting shall be determined by the council. The chairperson or any three members of the council may call special meetings of the council upon such notice as may be prescribed by the duly adopted procedures of the council.

Sec. 162. K.S.A. 34-101c is hereby amended to read as follows: 34-101c. Any contracts entered into pursuant to K.S.A. 34-101b, and amendments thereto, may provide for reimbursement to the *Kansas* department of agriculture by the commodity credit corporation for such services so performed and furnished, and any money received pursuant to the terms of such contracts shall be deposited in the warehouse fee fund.

Sec. 163. K.S.A. 34-125 is hereby amended to read as follows: 34-125. (a) The secretary, prior to June 1 each year, shall determine a schedule of maximum and minimum charges to be made by public grain warehouses, licensed under the laws of the state of Kansas, for the storage of grain and for such other and extraordinary services performed or to be performed by such licensed public grain warehousemen during the ensuing license year. Such charges made by such warehouse shall be filed with the *Kansas* department of agriculture and such warehouse shall not be required to refile such charges unless such warehouse is changing such charges that are posted or until such time that the charges are changed by the secretary.

(b) If any of such charges be changed from those previously in effect the secretary shall notify all currently licensed public warehousemen of such schedule of maximum and minimum charges.

Sec. 164. K.S.A. 34-132 is hereby amended to read as follows: 34-132. On and after September 1, 1997:

(a) When any conflict arises as to the disposition of any power, function or duty or the unexpended balance of any appropriation as a result of any abolition, transfer, attachment or change made by or under authority of this act, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The *Kansas* department of agriculture shall succeed to all property and records concerning public warehouses which were used for or pertain to the performance of the powers, duties and functions transferred to the *Kansas* department of agriculture. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the transfer or attachment of any state agency, or all or part of the powers, duties and functions thereof, shall be determined by the governor, whose decision shall be final.

Sec. 165. K.S.A. 34-133 is hereby amended to read as follows: 34-133. On and after September 1, 1997:

(a) The *Kansas* department of agriculture shall have the legal custody of all records, memoranda, writings, entries, prints, representations or combinations thereof of any act, transaction, occurrence or event of the Kansas state grain inspection department concerning public warehouses and any agency or office transferred thereto under this act.

(b) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency mentioned in this act, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(c) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

Sec. 166. K.S.A. 34-134 is hereby amended to read as follows: 34-134. On and after September 1, 1997:

(a) The balance of all funds appropriated and reappropriated to the Kansas state grain inspection department concerning public warehouses is hereby transferred to the *Kansas* department of agriculture and shall be used only for the purpose for which the appropriation was originally made.

(b) The liability for all accrued compensation or salaries of officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of the Kansas state grain inspection department concerning public warehouses, or who become a part of the *Kansas* department of agriculture, or the powers, duties and functions of which are transferred to the *Kansas* department of agriculture, shall be assumed and paid by the *Kansas* department of agriculture.

Sec. 167. K.S.A. 2003 Supp. 55-443 is hereby amended to read as follows: 55-443. (a) It is a violation for any person to:

(1) Act as or represent such person's self to be a technical representative without having a valid license issued by the *Kansas* department of agriculture;

(2) hinder or obstruct in any way the secretary or any of the secretary's authorized agents in the performance of the secretary's official duties under the petroleum products inspection law;

(3) failure to follow the applicable version of NIST Handbook as referenced in chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder when installing, repairing, calibrating or testing a device;

(4) failure to complete the testing or placing-in-service report in its entirety and to report the accurate description of the parts replaced, adjusted, reconditioned or work performed;

(5) filing a false or fraudulent application or report to the secretary;

(6) failure to pay all fees and penalties as prescribed by the petroleum products inspection law and the rules and regulations adopted and promulgated pursuant to the petroleum products inspection law;

(7) refuse to keep and make available for examination by the *Kansas* department of agriculture all books, papers, and other information necessary for the enforcement of the petroleum products inspection law or chapter 83 of the Kansas Statutes Annotated, and amendments thereto;

(8) failure to have any commercial dispensing device tested as required by the petroleum products inspection law or chapter 83 of the Kansas Statutes Annotated, and amendments thereto;

(9) sell, offer or expose for sale any petroleum product which does not comply with the provisions of the petroleum products inspection law;

(10) sell, use, remove, otherwise dispose of or fail to remove from the premises specified, any dispensing device, package or commodity contrary to the terms of any order issued by the secretary;

(11) represent that diesel fuel is or contains biodiesel fuel blend or otherwise to represent that diesel fuel is made from renewable resources, unless not less than 2% of the diesel fuel mixture is mono-alkyl esters derived from vegetable oil, recycled cooking oil or animal fat. Biodiesel fuel used in biodiesel fuel blends shall conform with specification D6751-02, issued March 2002, by the American society of testing and materials or a later version as adopted by rules and regulations of the secretary. If a retail petroleum marketer is alleged to have violated the provisions of this subsection, it shall be a defense, that the retail petroleum marketer relied in good faith upon the bill of lading; and

(12) violate any order issued by the secretary pursuant to chapter 83 of the Kansas Statutes Annotated, and amendments thereto.

(b) Any person who violates any provision of the petroleum products inspection law or any applicable provisions of chapter 83 of the Kansas Statutes Annotated, or amendments thereto, or any rules and regulations adopted thereunder, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (c) in an amount, fixed by rules and regulations of the secretary, of not less than \$100 nor more than \$5,000 for each such violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(c) In determining the amount of the civil penalty, the following shall be taken into consideration: (1) The extent of harm caused by the violation; (2) the nature and persistence of the violation; (3) the length of time over which the violation occurs; (4) any corrective actions taken; and (5) any and all relevant circumstances.

(d) All civil penalties assessed shall be due and payable within 10 days after written notice of assessment is served on the person, unless a longer period of time is granted by the secretary. If a civil penalty is not paid within the applicable time period, the secretary may file a certified copy of the notice of assessment with the clerk of the district court in the county where the weighing and measuring device or dispensing device is located. The notice of assessment shall be enforced in the same manner as a judgment of the district court.

(e) No civil penalty shall be imposed pursuant to this section except upon the written order of the duly authorized agent of the secretary to the person who committed the violation or to the person whose agent or employee committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the person to appeal to the secretary. Any such person, within 20 days after notification, may make

written request to the secretary for a hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order and shall specify the reasons therefor.

(f) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

(g) An appeal to the district court or to an appellate court shall not stay the payment of the civil penalty.

(h) Any civil penalty recovered pursuant to the provisions of this section or any penalty recovered under the consumer protection act for violations of this section, and amendments thereto, or any rules and regulations adopted thereunder, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the weights and measures fee fund.

(i) This section shall be part of and supplemental to the petroleum products inspection act, article 4 of chapter 55 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 168. K.S.A. 2003 Supp. 55-447 is hereby amended to read as follows: 55-447. Except as provided in K.S.A. 83-401 through 83-410, and amendments thereto, nothing in article 4 of chapter 55 of the Kansas Statutes Annotated, and amendments thereto, shall prohibit the owner of a dispensing device or the owner's employee or agent, from servicing or repairing such device. However, if such device is found out of tolerance and is rejected by the ~~state~~ *Kansas* department of agriculture, the owner is responsible for repairing the device within the time specified on the rejection tag and notifying the department when the device is repaired and in operation. The owner shall pay a fee commensurate with the expense incurred by the secretary in performing the follow-up inspection or test.

Sec. 169. K.S.A. 65-1,177 is hereby amended to read as follows: 65-1,177. (a) There is hereby created the Kansas special commission on surface water quality standards. Within the limits of appropriations therefor, the commission shall undertake the following activities:

(1) Investigate and evaluate the technical and scientific basis of the 1994 surface water quality standards, including: (A) Stream designations use attainability analysis as required when compiling the 1996 *Kansas Water Quality Assessment* 305(b) report pursuant to 33 U.S.C. 1315(b)(1)(D) or 33 U.S.C. 1313(c)(2)(A); (B) low, high and yearly average flow impact criteria; and (C) scientific appropriateness of the criteria guidance of the United States Environmental Protection Agency and the department;

(2) evaluate whether the 1994 surface water quality standards, including the use designations, surface water chemical and microbial criteria and the "Kansas Surface Water Register," as published by the department on June 20, 1994, are based on sound scientific and technical data and information, whether such standards are more stringent than are required by federal law and those of other midwestern and plains states, whether generally accepted criteria exist for evaluating the appropriateness and cost-effectiveness of the standard and whether the department should be directed to make any changes in the standards;

(3) develop and recommend cost-benefit or risk assessment models for the evaluation of the impact of surface water quality standards on the various elements of the environment, health and economy of Kansas, including but not limited to human health, animal and plant species actually found or likely to be reintroduced in Kansas waters, industry, agriculture and wastewater treatment;

(4) assess the probability that designated uses contained in the surface water quality standards can be attained in a cost-effective and reasonable manner when requirements are met;

(5) evaluate whether the 1994 surface water quality standards were adopted in full compliance with the requirements of Kansas law in effect at the time of adoption of the standards and whether the estimates of economic impact completed at the time accurately predicted the fiscal impact of the standards on communities facing compliance with the standards in 1997 and 1998;

(6) advise the governor, legislature and secretary of any revisions to

the 1994 surface water quality standards that are justified based on additional scientific and technical information and data;

(7) advise the governor, legislature and secretary whether the department's process of revising the 1994 surface water quality standards is in full compliance with federal and state law;

(8) advise the governor, legislature and secretary regarding the extent of the department's compliance with the provisions of 1996 House Resolution No. 6013, concerning consultation with community officials on the impacts of the 1994 surface water quality standards on the communities of the state; and

(9) recommend the adoption of any procedures that the commission deems advisable to ensure the collection and evaluation of scientific and technical information necessary for the revision of the 1994 surface water quality standards in future years.

(b) In completing its study, the commission shall evaluate and advise the governor, legislature and secretary whether:

(1) There is reliable scientific documentation of the actual existence of the species that are designed to be protected by the special aquatic use designation contained in the 1994 surface water quality standards; and

(2) the special aquatic use designation and reduced mixing zone requirements contained in the 1994 surface water quality standards are based on any recognized scientific data and models and whether there is an established and clear relationship between the presence of the regulated pollutants and the protection or restoration of the targeted aquatic species.

(c) The commission shall consist of seven members appointed by the governor. All members shall serve at the pleasure of the governor. The term of office of such members shall commence at the time of appointment until July 1, 1998, or unless the commission or the appointment is terminated by action of the governor on an earlier date. The chairperson of the commission shall be appointed by the governor from among the members of the commission. The staff of the department of health and environment, the *Kansas* department of agriculture, the Kansas biological survey and the department of wildlife and parks shall cooperate with and assist the deliberations of the commission.

(d) Members of the commission shall have experience in one or more of the following areas and disciplines: Environmental sciences; civil engineering; business and industry; public finance; municipal wastewater treatment; agriculture or agribusiness; environmental law; public health sciences; aquatic biology; risk assessment; and cost benefit analysis. At least one member shall represent the general public. Except for faculty members of universities under the supervision of the Kansas board of regents, no state officer or employee shall serve on the commission.

(e) Before assuming office as a member of the commission, each person appointed as a member shall complete and file with the office of the secretary of state:

(1) A statement containing the information required in a statement of substantial interests pursuant to K.S.A. 46-247 and amendments thereto; and

(2) a list of citations of any publications written by the person.

(f) Within the limits of appropriations provided therefor, the commission may retain such consultants and temporary staff as the commission deems necessary to complete the commission's investigations and final report. The secretary of administration shall provide appropriate space for the meetings of the commission. Each member of the commission shall receive compensation, subsistence, mileage and expenses as provided by K.S.A. 75-3223 and amendments thereto.

(g) On or before January 1, 1998, the commission shall submit a preliminary report to the governor and the legislature. The commission shall submit a final report to the governor and the legislature on or before June 30, 1998. The department shall hold public hearings and accept public comment on the commission's final report. After completion of the hearings and receipt of the comments, the department shall develop and publish proposed rules and regulations on or before December 31, 1998, and shall adopt rules and regulations in accordance with the rules and regulations filing act. On and after July 1, 1999, all stream designations and criteria contained in the 1994 surface water quality standards shall be in full force and effect unless otherwise revised by rules and regulations

adopted by the secretary.

Sec. 170. K.S.A. 65-688 is hereby amended to read as follows: 65-688. (a) As used in this section and K.S.A. 65-689, and amendments thereto:

(1) "Retail food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include roadside markets that offer only fresh fruits and vegetables for sale, food service establishments or food and beverage vending machines, or any plant which is registered by the *Kansas* department of agriculture under article 7 of chapter 65 of the Kansas Statutes Annotated or which is licensed by the *Kansas* department of agriculture under article 6a of chapter 65 of the Kansas Statutes Annotated.

(2) "Food processing plant" means a commercial operation that manufactures, packages, labels or stores food for human consumption and does not provide food directly to the consumer. "Food processing plant" shall not include any operation or individual beekeeper that produces or stores honey who does not process or offer the honey for sale at retail, or any plant which is registered by the *Kansas* department of agriculture under article 7 of chapter 65 of the Kansas Statutes Annotated or which is licensed by the *Kansas* department of agriculture under article 6a of chapter 65 of the Kansas Statutes Annotated.

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

(b) In order to reimburse the state of Kansas for inspections by the secretary of health and environment of retail food stores and food processing plants, the secretary of health and environment shall adopt rules and regulations establishing a graduated inspection fee schedule to cover all of the cost of inspection of retail food stores and food processing plants which shall not exceed \$200 per calendar year for each retail food store and food processing plant location. Whenever the secretary determines that the total amount of revenue derived from the fees collected pursuant to this section are insufficient to carry out the purposes for which the fees are collected, the secretary may amend such rules and regulations to increase the amount of the fee or fees, except that the amount of any fee shall not exceed the maximum amount authorized by this subsection. Whenever the amount of fees collected pursuant to this subsection provides revenue in excess of the amount necessary to carry out the purposes for which such fees are collected, it shall be the duty of the secretary to decrease the amount of the fees prescribed for retail food stores or food processing plants by amending the rules and regulations which fix the fees, as the case may be.

(c) All moneys received as fees under this section shall be remitted to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the food inspection fee fund.

(d) The secretary of health and environment shall adopt rules and regulations necessary to carry out the provisions of this section.

Sec. 171. K.S.A. 65-771 is hereby amended to read as follows: 65-771. As used in this act:

(a) "Adulterated" has the same meaning as provided in K.S.A. 65-664, and amendments thereto.

(b) "Dairy manufacturing plants" means any place where dairy products, grade A milk or milk products are manufactured or prepared for sale or distribution, either at wholesale or retail. This term shall not include a licensed food service establishment which is licensed to manufacture homemade ice cream pursuant to this act.

(c) "Dairy products" means products which may be made from milk or cream for manufacturing purposes and which are not required to meet grade A standards, including butter, cheese, dry whole milk, nonfat dry milk, dry buttermilk, dry whey, evaporated milk, whole or skim, condensed whole milk, condensed skim milk, sweetened or plain, frozen dairy dessert, and frozen dairy dessert mixes and such other products as may be otherwise designated by rules and regulations.

(d) "Frozen dairy dessert" means and includes products containing milk or cream and other ingredients which are frozen or semi-frozen prior to consumption, such as ice cream, ice milk or sherbet, including frozen dairy desserts for special dietary purposes.

(e) "Frozen dairy dessert mix" means the pasteurized unfrozen com-

bination of all ingredients with or without fruits, fruit juices, candy, nut meats, flavor or harmless color which makes a frozen dairy dessert.

(f) "Goat milk" means the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy goats. Goat milk sold in retail packages shall contain not less than 2.5 % milkfat and not less than 7.5 % milk solids not fat. Goat milk shall be produced according to the sanitary standards of this act.

(g) "Grade A pasteurized milk" means pasteurized milk which has at least a 90% survey rating, as determined by a survey of the source conducted by the secretary pursuant to the survey rating methods for conducting surveys of the status of milk sanitation. The milk shall meet the requirements for grade A under the rules and regulations adopted pursuant to this act. The secretary may authorize the use of the grade A designation for a temporary time period on grade A pasteurized milk within the statewide system of milk inspection and regulatory services, although such grade A pasteurized milk does not have at least a 90% survey rating.

(h) "Grade A pasteurized milk products" means all pasteurized milk products which have at least a 90% survey rating, as determined by a survey of the source conducted by the secretary pursuant to the survey rating methods for conducting surveys of the status of milk sanitation. The pasteurized milk products shall meet the requirements for grade A under rules and regulations adopted pursuant to this act. The secretary may authorize the use of the grade A designation for a temporary time period on grade A pasteurized milk products within the statewide system of milk inspection and regulatory services, although such grade A pasteurized milk products do not have at least a 90% survey rating.

(i) "Grade A raw milk for pasteurization" means milk having at least 90% survey rating, as determined by a survey of the source conducted by the secretary pursuant to the survey rating methods for conducting surveys of the status of milk sanitation, the raw milk meeting the requirements for grade A under the rules and regulations adopted pursuant to this act. The secretary may authorize the use of the grade A designation for a temporary time period on grade A raw milk for pasteurization within the statewide system of milk inspection and regulatory services, although such milk does not have at least a 90% survey rating.

(j) "Imminent health hazard" means any condition which involves milk, milk products, or dairy products, or any practice or procedure in the handling, transportation, storage, processing or manufacturing of a milk, milk product or dairy product which poses a significant threat of danger to the public health which should be corrected immediately to prevent injury or sickness and which should not be permitted to continue while a hearing or other proceeding is being conducted. An imminent health hazard may be declared at any point in a chain of events which ultimately may result in harm or danger to the public health. The occurrence of the final anticipated injury or other disease related condition shall not be a prerequisite for the establishment of the existence of an imminent health hazard.

(k) "In package form" means any commodity put up or packaged in any manner in advance of sale so as to constitute a unit quantity of the commodity for either wholesale or retail sale, exclusive of any auxiliary container enclosing such packages which individually conform to the requirements of this act.

(l) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. Milk that is in final package form for beverage use shall have been pasteurized or ultrapasteurized, and shall contain not less than 8.25% milk solids not fat and not less than 3.25% milkfat. Milk may have been adjusted by separating part of the milkfat therefrom, or by adding thereto cream, concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat dry milk. Milk may be homogenized. Milk shall be interpreted to include goat milk.

(m) "Milk distributor" means any person who first sells or offers for sale in Kansas any packaged grade A pasteurized milk, milk product, or dairy product.

(n) "Milk hauler/sampler" means any person who collects official samples and may transport raw milk from a farm or raw milk products to or from a milk plant or both, receiving station or transfer station and has in their possession a permit from any state to sample such products.

(o) “Milk inspection and regulatory services” means the inspection, sampling, laboratory testing and the administrative procedures relating thereto, necessary to determine that the production, processing, distribution and sale of grade A milk, milk products, and dairy products comply with the requirements of this act and any rules and regulations adopted hereunder.

(p) “Milk or cream for manufacturing purposes” means raw milk or raw cream which is not subject to grade A standards and which is produced for processing and manufacturing into dairy products for human consumption. Milk for manufacturing purposes may contain less than 3.25% of butterfat and shall be delivered pure, sweet and clean.

(q) “Milk or cream receiving station” means any place where milk or cream may be received, collected, handled, processed, stored or collected and prepared for further transporting.

(r) “Milk or cream transfer station” means any place where milk or cream are transferred directly from one milk tank truck to another.

(s) “Milk processor” means any person who operates any place, premises or establishment where grade A raw milk for pasteurization or milk or cream for manufacturing purposes is processed, pasteurized, bottled or prepared for distribution.

(t) “Milk producer” means any person who owns or operates a dairy farm and who provides, sells or offers for sale grade A raw milk for pasteurization or milk or cream for manufacturing purposes to a milk plant, receiving station or transfer station.

(u) “Milk products” means light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured sour half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, nonfat skim milk, reduced fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured reduced fat or lowfat milk, cultured nonfat skim milk, yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat or lowfat milk, acidified nonfat skim milk, low-sodium milk, low-sodium reduced fat or lowfat milk, low-sodium nonfat skim milk, lactose-reduced milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat skim milk, aseptically processed and packaged milk and milk products, milk, reduced fat or lowfat milk or nonfat skim milk with added safe and suitable microbial organisms and any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin or mineral fortification of milk products defined herein. Milk products also include those dairy foods made by modifying the federally standardized products listed in this section in accordance with 21 C.F.R. 130.10, requirements for foods named by use of a nutrient content claim and a standardized term. Milk and milk products which have been retort processed after packaging or which have been concentrated, condensed or dried are included in this definition only if they are used as an ingredient to produce any milk or milk product defined herein or if they are labeled as Grade A as adopted and described by rules and regulations promulgated under this act. Except as otherwise provided, the term milk shall not include dietary products, infant formula, ice cream or other desserts, butter or cheese.

(v) “Misbranded” has the same meaning as ascribed to it in K.S.A. 65-665, and amendments thereto.

(w) “On-farm retail sales of milk or milk products” means the sale of milk or milk products on the farm by the producer from the production of the dairy herd to the final consumer, so long as the person making such sales does not promote the sale of milk or milk products to the public in any manner other than by the erection of a sign upon the premises of the dairy farm. The advertisement upon any such sign shall state that such milk or milk products are raw and shall be in letters of a uniform size. Each container in which any unpasteurized milk is sold or offered for sale shall be clearly labeled as ungraded raw milk.

(x) “Pasteurized” has the same meaning as ascribed to it in 21 C.F.R. 131.3 and 135.3.

(y) “Person” means any individual, plant operator, partnership, corporation, company, firm, trustee, association or institution.

(z) “Plant fabricating single service articles” means any place which manufactures single service articles which are expected to come in contact

with grade A milk or grade A milk products.

(aa) "Secretary" means the secretary of the ~~state~~ *Kansas* department of agriculture, or the secretary's designee.

(bb) "Single service article or container" means any container having a milk or milk product-contact surface and used in the packaging, handling, storage or servicing of grade A milk and is intended for one usage only.

Sec. 172. K.S.A. 65-772 is hereby amended to read as follows: 65-772. (a) The secretary shall adopt such rules and regulations as are necessary to implement the provisions of this act, and shall be charged with the enforcement of this act and of any rules and regulations adopted hereunder.

(b) All rules and regulations of the *Kansas* department of agriculture or the secretary of the *Kansas* department of agriculture concerning milk, cream and dairy products in existence on the effective date of this act shall continue to be effective until revised, amended, revoked or nullified pursuant to law.

Sec. 173. K.S.A. 66-1,160 is hereby amended to read as follows: 66-1,160. The commission shall publish notice of the time, place and subject matter of such hearing in newspapers having general circulation in the counties in which is located any portion of the land which has been or is proposed to be acquired in connection with the construction, operation and maintenance of the proposed nuclear generation facility or addition to a nuclear generation facility once each week for three consecutive weeks, the last publication to be not less than five days before such hearing date. Written notice of such hearing and a copy of the application also shall be served not less than 20 days prior to the hearing date upon all landowners, as shown by the files, records and indexes of the register of deeds of the county in which such land is located, and the chief administrative officer, or any person designated by such officer to receive such service, of the department of commerce, *Kansas* department of agriculture, Kansas water office, department of health and environment, department of transportation, state geological survey and division of the budget of the department of administration. In addition to the information contained in the published notice, such written notice shall state that the electric utility has filed the application and supporting documents as required by K.S.A. 66-1,159 and amendments thereto, and that such application and supporting documents are available in the office of the commission for examination and copying by the person or board or agency desiring copies thereof.

Sec. 174. K.S.A. 68-506b is hereby amended to read as follows: 68-506b. Where any city of the state, a part of whose boundary is formed by a state line between this and any other state, has heretofore begun proceedings by resolution, ordinance or otherwise, whereby the board of county commissioners of the county in which ~~said~~ *such* city is located has undertaken, under the provisions of K.S.A. 68-506, *and amendments thereto*, and ~~said~~ *such* resolution has been adopted by the board of county commissioners, whereby ~~said~~ *such* city has been declared a benefit district, and ~~said~~ *such* road through ~~said~~ *such* city has been declared a public utility, ~~said~~ *such* proceedings shall not by reason of the passage of this act be invalidated or set aside, ~~but said~~. *Such* action and the proceedings taken thereunder shall be, and they are hereby ratified, confirmed and ~~made valid, and validated~~. It is hereby ~~made~~ the duty of the board of county commissioners in conjunction with the governing body of ~~said~~ *such* city, subject to the approval of the secretary of transportation, to proceed with the work, or to advertise for and let contracts in the manner provided for by law in other cases for the construction of other highways, so as to connect the roads so constructed to the city limits on either side of ~~said~~ *such* city.

Where it has become ~~or shall hereafter become~~ necessary to leave the route heretofore or hereafter proposed to be used as a portion of the road or street connecting ~~said~~ *such* highways at the city limits, in order to eliminate steam or electric grade crossings, or any other dangerous places on ~~said~~ *such* highways, or to conform to the requirements of the *Kansas* department of agriculture or the United States bureau of public roads to obtain federal aid upon ~~said~~ *such* road, or any part thereof, the county engineer and board of county commissioners, in conjunction with the governing body of ~~said~~ *such* city, shall change the route so as to eliminate such dangerous crossings, or other dangerous places, ~~and~~. The governing

body of ~~said~~ such city shall proceed to designate or acquire by purchase or donation a right-of-way for ~~said~~ such street along the route over which ~~said~~ such road may be relocated, ~~and~~. Where the right-of-way for ~~said~~ such purpose cannot be obtained by donation or purchase the city council is hereby authorized to condemn a right-of-way for ~~said~~ such purpose in the manner provided for by article 2, chapter 26 of the Kansas Statutes Annotated, relating to the opening, widening or extending any street, insofar as the same is applicable.

Sec. 175. K.S.A. 74-553 is hereby amended to read as follows: 74-553. The grape and wine industry advisory council shall have the following duties, authorities and powers:

- (a) Advise the *Kansas* department of agriculture and other state agencies on the grape and wine industry initiatives, problems and needs;
- (b) determine and recommend specific research programs and priorities at Kansas state university;
- (c) facilitate improved communication and interaction among grape and wine producers, wine and liquor wholesalers and retailers, governmental agencies, both federal and state, and state tourism interests;
- (d) determine and recommend specific marketing program priorities to assist in promoting and marketing the state's grape and wine industry;
- (e) develop and recommend a long-term plan for financing continued programs for promotion, marketing, research and extension in support of the Kansas grape and wine industry; and
- (f) report to the *Kansas* department of agriculture and the standing committees on agriculture of the senate and house of representatives on the status of the Kansas grape and wine industry.

Sec. 176. K.S.A. 74-562 is hereby amended to read as follows: 74-562. (a) On the effective date of this act, there is hereby created within and as part of the *Kansas* department of agriculture a state board of agriculture.

(b) The board shall be composed of nine members who shall be appointed by the governor. One member shall be appointed from each congressional district with the remaining members appointed at large, however, no two members shall reside in the same county at the time of their appointment. At no time shall more than five members of the board of agriculture be members of the same political party.

(c) Subsequent redistricting shall not disqualify any member of the board from service for the remainder of such member's term.

(d) The regular term of office of members of the board of agriculture shall be four years. Regular terms shall commence on the second Monday in January following appointment of the board member.

(e) Of the members of the board appointed in the year 1995: (1) Four members shall have terms ending on the second Monday in January 2001 and no more than two such members shall be members of the same political party; and (2) five members shall have terms ending on the second Monday in January 1999 and no more than three such members shall be members of the same political party.

(f) Any member appointed subsequent to 1995 shall be appointed for a four-year term, unless such appointment is to fill the unexpired term where a vacancy has occurred on the board, in which case the member shall be appointed for the remainder of the unexpired term.

(g) No officer or employee of the *Kansas* department of agriculture shall be a member of the state board of agriculture.

Sec. 177. K.S.A. 2003 Supp. 74-567 is hereby amended to read as follows: 74-567. (a) The state board of agriculture shall have such powers, duties and functions as prescribed by this section. The board shall serve in an advisory capacity to the governor and the secretary to review and make recommendations on department legislative initiatives and proposed rules and regulations or proposed revised rules and regulations prior to the submission of such rules and regulations to the secretary of administration pursuant to K.S.A. 77-420, and amendments thereto, other than rules and regulations pertaining to personnel matters of the department and rules and regulations of the division of water resources. The board shall not have any powers, duties or functions concerning the day-to-day operations of the *Kansas* department of agriculture.

(b) The board shall serve in an advisory capacity to the agriculture products development division of the department of commerce. The board shall advise the division on issues and concerns relating to agriculture products development and marketing.

(c) The agriculture products development division of the department of commerce shall report to the board, at not less than two meetings of such board each year, on the activities and functions of the division.

Sec. 178. K.S.A. 74-578 is hereby amended to read as follows: 74-578. On and after July 1, 2000, there is hereby created in the state treasury the grain commodities commission services fund. All moneys received by the *Kansas* department of agriculture for services performed by the department for the grain commodities commission created pursuant to the provisions of K.S.A. 2-3001 *et seq.* and K.S.A. 2003 Supp. 2-3002a, and amendments thereto, shall be remitted to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the grain commodities commission services fund. All costs and expenses incurred by the department in providing services to the grain commodities commissions shall be paid from the grain commodities commission services fund. All expenditures from the grain commodities commission services fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

Sec. 179. K.S.A. 2003 Supp. 74-50,159 is hereby amended to read as follows: 74-50,159. (a) On the effective date of this act, officers and employees who, immediately prior to such date, were engaged in the performance of any powers and duties of the *Kansas* department of agriculture listed in K.S.A. 74-50,156, and amendments thereto, which are transferred to the department of commerce, and who, in the opinion of the secretary of commerce, are necessary to perform the powers and duties of the department of commerce, shall be transferred to, and shall become officers and employees of such department.

(b) On the effective date of this act, officers and employees who, immediately prior to such date, were engaged in the performance of any powers and duties of the agricultural value added center which is abolished by this act and who, in the opinion of the secretary of commerce, are necessary to perform the powers and duties of the department of commerce, agriculture products development division, shall be transferred to and become officers and employees of such department.

Sec. 180. K.S.A. 2003 Supp. 74-50,162 is hereby amended to read as follows: 74-50,162. (a) On the effective date of this act, the balances of all funds appropriated or reappropriated to the *Kansas* department of agriculture, the agricultural value added center at the Kansas technology enterprise corporation for any of the powers and duties transferred to the department of commerce pursuant to K.S.A. 74-50,156, and amendments thereto, are hereby transferred to the department of commerce and shall be used only for the purpose for which the appropriation was originally made.

(b) On the effective date of this act, the liability for all accrued compensation, wages or salaries of officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of the *Kansas* department of agriculture, the agricultural value added center at the Kansas technology enterprise corporation which are transferred to the department of commerce pursuant to K.S.A. 74-50,156, and amendments thereto, shall be assumed and paid by the department of commerce.

Sec. 181. K.S.A. 82a-1803 is hereby amended to read as follows: 82a-1803. (a) There is hereby established in the state treasury the water conservation projects fund, to be administered by the director of the Kansas water office.

(b) Revenue from the following sources shall be credited to the water conservation projects fund:

- (1) Amounts provided for by K.S.A. 82a-1801; and
- (2) moneys received from any source by the state in the form of gifts, grants, reimbursements or appropriations for use for the purposes of the fund.

(c) Moneys credited to the water conservation projects fund may be expended only for the purpose of paying all or a portion of the costs of the following water management, conservation, administration and delivery projects, and similar types of projects, in those areas of the state lying in the upper Arkansas river basin and directly impacted by the provisions of the Arkansas river compact between this state and the state of Colorado:

- (1) Efficiency improvements to canals or laterals owned by a ditch

company or projects to improve the operational efficiency or management of such canals or laterals;

(2) water use efficiency devices, tailwater systems or irrigation system efficiency upgrades;

(3) water measurement flumes, meters, gauges, data collection platforms or related monitoring equipment;

(4) artificial recharge or purchase of water rights for stream recovery or aquifer restoration;

(5) maintenance of the Arkansas river channel; or

(6) monitoring and enforcement of Colorado's compliance with the Arkansas river compact.

Moneys credited to the fund may be expended to reimburse costs of projects described by this subsection that were required by the division of water resources and commenced on or after July 1, 1994.

(d) Any person or entity may apply to the director of the Kansas water office for the expenditure of moneys in the water conservation projects fund for the purposes provided by this section. The director of the Kansas water office and the chief engineer of the division of water resources of the *Kansas* department of agriculture shall review and approve each proposed project for which moneys in the fund will be expended. In reviewing and approving proposed projects, the director and the chief engineer shall give priority to: (1) Projects that achieve the greatest water conservation efficiency for the general good; and (2) projects that have been required by the division of water resources. Upon such review and approval, the director of the Kansas water office shall request the legislature to appropriate, as a line item, moneys from the fund to pay all or a portion of the costs of the specific project, except that any project for which an aggregate of less than \$10,000 will be expended from the fund shall not require a line-item appropriation.

(e) Interest attributable to moneys in the water conservation projects fund shall be credited to the state general fund as provided by K.S.A. 75-4210a and amendments thereto.

(f) All expenditures from the water conservation projects fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office or a person designated by the director of the Kansas water office.

Sec. 182. K.S.A. 2003 Supp. 82a-1903 is hereby amended to read as follows: 82a-1903. (a) (1) On or before November 15, 1999, the chief engineer of the division of water resources of the *Kansas* department of agriculture, in accordance with K.S.A. 77-420 and amendments thereto, shall submit to the secretary of administration and the attorney general proposed rules and regulations containing all current standards, statements of policy and general orders that: (A) Have been issued or adopted by the chief engineer; (B) are of general application and have the effect of law; and (C) are not contained in current rules and regulations adopted by the chief engineer.

(2) If any standard, statement of policy or general order described in subsection (a) (1) is not submitted as required by subsection (a), such standard, statement of policy or general order shall be void and of no effect after November 15, 1999, until adopted by rules and regulations.

(b) (1) On or before March 1, 2000, each groundwater management district shall submit to the chief engineer of the division of water resources of the *Kansas* department of agriculture recommended rules and regulations containing all current standards, statements of policy and general orders that: (A) Have been issued or adopted by such district; (B) are of general application within the district and have the effect of law; and (C) are not contained in current rules and regulations adopted by the chief engineer.

(2) If any standard, statement of policy or general order described in subsection (b)(1) is not submitted as required by that subsection, such standard, statement of policy or general order shall be void and of no effect after March 1, 2000, until adopted by rules and regulations.

(c) Any standard, policy or order of a groundwater management district which is within the authority of the chief engineer, other than an administrative standard or policy relating to management of the district, shall be void and of no effect after January 1, 2003, unless adopted by rules and regulations of the chief engineer as provided by subsection (o) of K.S.A. 82a-1028, and amendments thereto. Any standard, policy or

order of a groundwater management district which is within the authority of another state agency, other than an administrative standard or policy relating to management of the district, shall be void and of no effect after January 1, 2004, unless adopted by rules and regulations of such agency as provided by subsection (p) of K.S.A. 82a-1028, and amendments thereto.

Sec. 183. K.S.A. 2003 Supp. 82a-1904 is hereby amended to read as follows: 82a-1904. The chief engineer of the division of water resources of the *Kansas* department of agriculture, for good cause shown, may grant an exemption from or waiver of a rule and regulation adopted by the chief engineer if the chief engineer determines that the exemption or waiver will not prejudicially or unreasonably affect the public interest and will not impair any existing water right. The exemption or waiver shall be in writing and shall include the reason for the exemption or waiver.

Sec. 184. K.S.A. 83-205 is hereby amended to read as follows: 83-205. (a) There is hereby established in the *Kansas* department of agriculture a weights and measures inspection program to enforce the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder. The program shall be under the supervision of the secretary, and the secretary shall employ an administrator of the program and appoint such personnel as may be necessary for the proper administration of chapter 83 of the Kansas Statutes Annotated, and amendments thereto. The administrator shall be in the unclassified service of the Kansas civil service act.

(b) The weights and measures inspection program shall perform the following functions:

(1) Assure that weights and measures in commercial service within the state are suitable for their intended use, properly installed, accurate and are so maintained by their owner or user;

(2) prevent unfair or deceptive dealing by weight or measure in any commodity or service advertised, packaged, sold or purchased within this state;

(3) make available to all users of physical standards or weighing and measuring equipment the precision calibration and related metrological certification capabilities of the weights and measures facilities of the *Kansas* department of agriculture;

(4) promote uniformity, to the extent such conformance is practicable and desirable, between weights and measures requirements of this state and those of other states and federal agencies;

(5) encourage desirable economic growth while protecting the consumer through the adoption by rule and regulation of weights and measures requirements as necessary to assure equity among buyers and sellers; and

(6) such other functions as may be specified by law or deemed necessary by the secretary to carry out the duties and functions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder.

Sec. 185. K.S.A. 2003 Supp. 83-219 is hereby amended to read as follows: 83-219. (a) It shall be unlawful for any person:

(1) To offer or expose for sale, or to sell or otherwise dispose of any weight, measure or weighing or measuring device that does not meet the tolerances and specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or which has been rejected without first obtaining the written authorization of the secretary;

(2) to use or possess a weight, measure or weighing or measuring device that is used for or intended to be used for commercial purposes which does not meet the tolerance and specifications required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or that does not conform to the standard authorized by the secretary for determining the quantity of any commodity or article of merchandise, for the purpose of:

(A) Buying or selling any commodity or article of merchandise;

(B) computation of any charge for services rendered on the basis of weight or measure;

(C) determining weight or measure, either when a charge is made for such determination or where no charge is made for use of such weight, measure, weighing or measuring device;

(3) except as allowed in K.S.A. 83-225, and amendments thereto, to break or remove any tag, mark or seal placed on any weighing or meas-

uring device by the secretary or a county or city inspector of weights and measures, without specific written authorization from the proper authority or to use a weighing or measuring device after the lapse of the authorized period following the placing of a rejection tag thereon by the secretary, unless further extension of time for any repair purposes is first obtained from the secretary;

(4) to sell, offer or expose for sale, less than the represented quantity of any commodity, thing or service;

(5) to take or attempt to take more of the represented quantity of any commodity, thing or service when the buyer furnishes the weight, measure or weighing or measuring device by which the amount of any commodity, thing or service is determined;

(6) to keep for the purpose of sale, or to offer or expose for sale, or to sell any commodity in a manner contrary to the law or contrary to any rule and regulation;

(7) to use in retail trade, except in preparation of packages of merchandise put up in advance of sale, a weighing or measuring device that is not so positioned that its indications may be accurately read and the weighing or measuring operation observed from a reasonable customer position;

(8) to violate any of the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder, for which a specific penalty is not provided;

(9) to sell or offer for sale, or use or possess for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure;

(10) to dispose of any rejected weight or measure in a manner contrary to law or rules and regulations;

(11) to expose for sale, offer for sale or sell any commodity in package form, without it being so wrapped, or the container so made, formed or filled, that it will not mislead the purchaser as to the quantity of the contents of the package;

(12) to expose for sale, offer for sale or sell any commodity in any container where the contents of the container fall below such reasonable standard of fill as may have been prescribed for the commodity in question by the secretary;

(13) to misrepresent the price of any commodity or service sold, offered, exposed or advertised for sale by weight, measure or count, nor represent the price in any manner calculated or tending to mislead or in any way deceive any person;

(14) to misrepresent, or represent in a manner calculated or tending to mislead or deceive an actual or prospective purchaser, the price of an item offered, exposed or advertised for sale at retail;

(15) to compute or attempt to compute at the time of sale of an item, a value which is not a true extension of a price per unit which is then advertised, posted or quoted;

(16) to charge or attempt to charge, at the time of the sale of an item or commodity, a value which is more than the price which is advertised, posted or quoted;

(17) to alter a weight certificate, use or attempt to use any such certificate for any load or part of a load or for articles or things other than for which the certificate is given, or, after weighing and before the delivery of any articles or things so weighted, alter or diminish the quantity thereof;

(18) to hinder or obstruct in any way the secretary or any of the secretary's authorized agents in the performance of the secretary's official duties under chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder;

(19) to fail to follow the standards and requirements established in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;

(20) to fail to pay all fees and penalties as prescribed by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;

(21) to fail to keep or make available for examination or provide to the secretary all inspection reports, test reports and any other service reports or other information on any device owned or operated by the owner or any agent or employee of the owner and other information necessary for the enforcement of chapter 83 of the Kansas Statutes An-

notated, and amendments thereto or any rules and regulations adopted thereunder, and as required by the secretary;

(22) to fail to have any commercial weight, measure or weighing and measuring device tested as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder;

(23) to sell or offer or expose for sale liquefied petroleum gas in packages or containers which do not bear a statement as to tare and net weight as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder, or packages or containers which bear a false statement as to weights;

(24) to sell, use, remove, or otherwise dispose of, or fail to remove from the premises specified, any weighing or measuring device or package or commodity contrary to the terms of any order issued by the secretary;

(25) to violate any order issued by the secretary pursuant to chapter 83 of the Kansas Statutes Annotated, and amendments thereto; and

(26) to prohibit a buyer or seller from observing the weighing or operation of any transaction to which such buyer or seller is a party.

(b) It shall be unlawful for any service company or technical representative to:

(1) Act as or represent such person's self to be a technical representative without having a valid license issued by the *Kansas* department of agriculture;

(2) certify a device as correct unless the device meets the tolerances and specifications as required by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any rules and regulations adopted thereunder;

(3) hinder or obstruct in any way the secretary in the performance of the secretary's official duties under chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder;

(4) fail to follow the standards and requirements set forth in K.S.A. 83-202, and amendments thereto, or any rules and regulations adopted thereunder;

(5) fail to complete the testing or placing-in-service report in its entirety and to report the accurate description of the parts replaced, adjusted, reconditioned or work performed;

(6) file a false or fraudulent service company or technical representative application or reports to the secretary;

(7) fail to pay all fees and penalties as prescribed by chapter 83 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations adopted thereunder;

(8) fail to keep or make available for examination in an accessible and legible manner or provide to the secretary in a legible manner all inspection reports, test reports, and any other service or report work information on any device which the service company or an agent or employee performed work on and other information necessary for the enforcement of chapter 83 of the Kansas Statutes Annotated, and amendments thereto or any rules and regulations adopted thereunder; or

(9) sell, offer or expose for sale a weighing or measuring device intended to be used commercially, which is not traceable to a national type evaluation program certificate of conformance.

(c) For the purpose of paragraph (a)(4), the selling and delivery of a stated quantity of any commodity shall be prima facie evidence of representations on the part of the seller that the quantity sold and delivered was the quantity bought by the purchaser.

(d) Violation of this section shall be deemed a deceptive act and practice as defined by K.S.A. 50-626, and amendments thereto. Violations of the provisions of K.S.A. 83-219, and amendments thereto, may be enforced by the secretary under the administrative provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or by the attorney general or a county or district attorney under the Kansas consumer protection act.

Sec. 186. K.S.A. 2003 Supp. 83-302 is hereby amended to read as follows: 83-302. (a) Each person, other than an authorized representative of the secretary or an authorized representative of a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate and perform testing and other services as a company in Kansas shall apply to

the secretary for a service company license, on a form to be supplied by the secretary, and shall obtain such license from the secretary before operating and performing testing or other services as a service company. Each service company shall obtain a license for each place of business maintained in Kansas and shall pay a license application fee of \$50, or commencing July 1, 2002, and ending June 30, 2005, a fee of \$100 and thereafter an annual license renewal application fee of \$50, or commencing July 1, 2002, and ending June 30, 2005, a fee of \$100 for each place of business. Each service company license shall expire on June 30 following issuance, shall be void unless renewed prior to the expiration and shall not be transferable.

(b) If any service company maintains any out-of-state places of business which the company operates in serving Kansas patrons, the service company seeking to obtain or renew a license under this section shall list in the application such places of business and the firm names under which the company operates at each such place of business. If any out-of-state place of business is established by a service company after being licensed under this section, the licensee shall supply such information to the secretary before any work is performed in Kansas from such out-of-state location. Each nonresident service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any liabilities arising from operations thereunder. Each nonresident service company which maintains no established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and shall list on the application the firm name or names for each place of business from which the service company intends to operate.

(c) Each technical representative shall be licensed annually by the secretary. Each technical representative shall be required to attend continuing education seminars on an annual basis as required by rules and regulations adopted by the secretary and to pass a reasonable examination prescribed by the secretary each year prior to being licensed. The *Kansas* department of agriculture shall be authorized to charge a fee to the attendees of the continuing education seminars sponsored by the agency. The amount charged shall be no more than is necessary to cover the expenses incurred in providing the seminar. Each technical representative's license shall expire on June 30 following the issuance of the license and shall be void unless renewed prior to the expiration.

(d) No service company license may be issued or renewed under this section until the applicant's weights or measures, or both have been tested for accuracy and sealed by the secretary. The secretary is authorized to accept a certification of the accuracy of the applicant's weights or measures issued by the national institute of standards and technology or by a weights and measures laboratory certified by the national institute of standards and technology in lieu of a test by the secretary, if such certificate shows that the weights or measures have been tested within the last 365 days preceding the license application.

(e) The secretary shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the weights and measures fee fund.

Sec. 187. K.S.A. 2003 Supp. 83-402 is hereby amended to read as follows: 83-402. (a) Each person, other than an authorized representative of the secretary or an authorized representative of a city or county department of public inspection of weights and measures established pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate and perform testing and other services as a service company in Kansas shall apply to the secretary for a service company license, on a form to be supplied by the secretary, and shall obtain such license from the secretary before operating and performing testing or other services as a service company. Each service company shall obtain a license for each place of business maintained in Kansas and shall pay a license application fee of \$50, or commencing July 1, 2002, and ending June 30, 2005, a fee of \$100 and thereafter an annual license renewal application fee of \$50, or commencing July 1, 2002, and ending June 30, 2005, a fee of \$100 for each place of business. Each service company license shall expire on June 30 following issuance, shall be void unless renewed prior to the expiration

and shall not be transferable.

(b) If any service company maintains any out-of-state places of business which the service company operates in serving Kansas patrons, the applicant seeking to obtain or renew a license under this section shall list in the application such places of business and the firm names under which the service company operates at each such place of business. If any out-of-state place of business is established by a service company after being licensed under this section, the licensee shall supply such information to the secretary before any work is performed in Kansas from such out-of-state location. Each nonresident service company shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of chapter 83 of the Kansas Statutes Annotated, and amendments thereto, or any liabilities arising from operations thereunder. Each nonresident service company which maintains no established place of business in Kansas shall obtain a license under this section for each out-of-state place of business and shall list on the application the firm name or names for each place of business from which the service company intends to operate.

(c) Each technical representative shall be licensed annually by the secretary. Each technical representative shall be required to attend continuing education seminars on an annual basis as required by rules and regulations adopted by the secretary and to pass a reasonable examination prescribed by the secretary each year prior to being licensed. The ~~state~~ *Kansas* department of agriculture shall be authorized to charge a fee to the attendees of the seminar sponsored by the department. The amount charged shall be no more than is necessary to cover the expenses incurred in providing the seminar. All technical representatives who install, repair, adjust or calibrate a device and certify such devices shall be required to pass the state examination annually. Each technical representative license shall expire on June 30 following issuance of the license and shall be void unless renewed prior to the expiration.

(d) No service company license may be issued or renewed under this section until the applicant's weights and measures have been tested for accuracy and sealed by the secretary. The secretary is authorized to accept a certification of the accuracy of the applicant's weights or measures issued by the national institute of standards and technology, by a weights and measures laboratory certified by the national institute of standards and technology, or by the appropriate certifying agency of another state in lieu of a test by the secretary, if such certificate shows that the weights or measures have been tested within the 12 calendar months next preceding the license application.

(e) The secretary shall remit all moneys received under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the weights and measures fee fund.

Sec. 188. K.S.A. 2003 Supp. 2-1205 is hereby amended to read as follows: 2-1205. An inspection fee shall be collected upon all commercial fertilizers sold, offered or exposed for sale, or distributed in Kansas, which shall be at a rate per ton of 2,000 pounds fixed by rules and regulations adopted by the secretary of agriculture, except that such rate shall not exceed \$1.67 per ton of 2,000 pounds. The secretary of agriculture may adopt rules and regulations establishing the inspection fee rate under this section. Each person registering any commercial fertilizer shall pay the inspection fee on such commercial fertilizer sold, offered or exposed for sale, or distributed in Kansas. Each such person shall keep adequate records showing the tonnage of each commercial fertilizer shipped to or sold, offered or exposed for sale, or distributed in Kansas. The secretary, and duly authorized representatives of the secretary, shall have authority to examine such records and other pertinent records necessary to verify the statement of tonnage.

Each person registering any commercial fertilizer shall file an affidavit semiannually, with the secretary, within 30 days after each January 1 and each July 1, showing the tonnage of commercial fertilizer sold or distributed in Kansas for the preceding six-month period. Each such person shall pay to the secretary the inspection fee due for such six-month period, except that the registrant shall not be required to pay the inspection fee or report the tonnage of commercial fertilizers or fertilizer materials sold and shipped directly to fertilizer manufacturers or mixers. The fertilizer

manufacturers or mixers shall keep adequate records of the commercial fertilizers sold or distributed in this state, and report to the secretary the tonnage and pay the inspection fee due. If the affidavit is not filed and the inspection fee is not paid within the 30-day period, or if the report of tonnage is false, the secretary may revoke the registrations filed by such person. If the affidavit is not filed and the inspection fee is not paid within the 30-day period, or any extension thereof granted by the secretary, a penalty of \$5 per day, or commencing on July 1, 2002, and ending on June 30, 2005, a penalty of \$10 per day shall be assessed against the registrant and the inspection fee and penalty shall constitute a debt and become the basis for a judgment against such person. The secretary may grant a reasonable extension of time.

The secretary of ~~the department of~~ agriculture is hereby authorized and empowered to reduce the inspection fee by adopting rules and regulations under this section whenever the secretary determines that the inspection fee is yielding more than is necessary for the purpose of administering the provisions of this act as listed below and the plant pest act. The secretary is hereby authorized and empowered to increase the inspection fee by adopting rules and regulations under this section when it finds that such is necessary to produce sufficient revenues for the purposes of administering the provisions of this act, except that the inspection fee shall not be increased in excess of the maximum fee prescribed by this section. The secretary shall remit all moneys received by or for the secretary under article 12 of chapter 2 of Kansas Statutes Annotated, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such remittance as follows: (1) An amount equal to \$1.40 per ton shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto; (2) an amount equal to \$.04 per ton shall be credited to the fertilizer research fund; (3) commencing July 1, 2002, and ending on June 30, 2005, an amount equal to \$.05 per ton shall be credited to the fertilizer and pesticide compliance and administration fund; and (4) the remainder shall be credited to the fertilizer fee fund. All expenditures from the fertilizer fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~the department of~~ agriculture or by a person or persons designated by the secretary.

Sec. 189. K.S.A. 2-1314 is hereby amended to read as follows: 2-1314. It shall be the duty of persons, associations of persons, the secretary of transportation, the boards of county commissioners, the township boards, school boards, drainage boards, the governing body of incorporated cities, railroad companies and other transportation companies or corporations or their authorized agents and those supervising state-owned lands to control the spread of and to eradicate all weeds declared by legislative action to be noxious on all lands owned or supervised by them and to use such methods for that purpose and at such times as are approved and adopted by the *Kansas* department of agriculture. The term noxious weeds shall mean kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea repens*), hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), quackgrass (*Agropyron repens*), leafy spurge (*Euphorbia esula*), bur ragweed (*Ambrosia grayii*), pignut (*Hoffmannseggia densiflora*), musk (nodding) thistle (*Carduus nutans L.*), Johnson grass (*Sorghum halepense*) and sericea lespedeza (*Lespedeza cuneata*).

Sec. 190. K.S.A. 2-2501 is hereby amended to read as follows: 2-2501. (a) This act shall be known and may be cited as the Kansas egg law.

(b) For the purposes of this act:

(1) "Eggs" mean eggs in the shell that are the product of the domesticated chicken;

(2) "person" means all individuals, firms, associations, partnerships and corporations;

(3) "department" means the ~~state~~ *Kansas* department of agriculture;

(4) "secretary" means the secretary of agriculture;

(5) "consumer" means a person who buys eggs for personal consumption;

(6) "container" means any box, case, basket, carton, sack, bag or other receptacle; and

(7) “ambient temperature” means the air temperature maintained in an egg storage facility or transport vehicle.

Sec. 191. K.S.A. 2-3002 is hereby amended to read as follows: 2-3002.

(a) There are hereby created five separate and distinct commissions which shall be known as the Kansas corn commission, the Kansas grain sorghum commission, the Kansas soybean commission, the Kansas wheat commission and the Kansas sunflower commission. Each commission will have members elected through an election process as provided in subsection (b) to serve three-year terms, with the exception of transition commissioners, serving from the effective date of this act until elections occur in 2002, 2003 and 2004, to represent a district or districts identified in subsection (b) with the following requirements:

(1) Any person meeting the requirements of K.S.A. 2-3003, and amendments thereto, of that commodity may seek election as a commissioner to that commodity’s respective commission representing the district of such person’s official residence. Only a grower of each specific commodity shall be a member of that specific commission;

(2) no commission shall have less than seven commissioners representing the nine crop reporting districts identified in subsection (h). If a commission has less than nine elected commissioners representing crop reporting districts, any commissioner representing multiple crop reporting districts may only represent commission districts equal to whole and adjoining crop reporting districts that are within the same election cycle; and

(3) each commission may, by majority approval of the commissions, appoint two additional at-large commissioners for added representation for producers due to geographical, cropping pattern or other reasonable commodity-specific needs. At-large commissioners will serve a term determined by the commodity commission not to exceed three-year terms of appointment, be a Kansas resident and must meet the definition of a grower.

(b) (1) Prior to the first election as provided by this act, each commodity commission shall notify all growers of its respective commodity of the commission election and all appropriate election procedures.

(2) Any grower of corn, grain sorghum, soybeans, wheat or sunflowers who is a resident of this state, of legal voting age and has been actively engaged in growing corn, grain sorghum, soybeans, wheat or sunflowers within the preceding three years shall become an eligible voter upon registering to vote in a commission election. Registration shall be on a single form allowing registration to any or all commission elections. Forms shall be provided by the commissions and made available at all county extension offices, county conservation district offices and through the office of the secretary. Any grower also shall become registered by signing a petition for a candidate to be placed on the election ballot, upon the filing of such petition. Candidate petition forms shall be provided by the office of the secretary. Registration by internet or other means shall also be allowed upon the approval of the secretary. No grower shall cast more than one ballot for any commission election.

(3) Any person meeting the qualifications to serve as a commissioner may appear on the election ballot for their respective commission district by submitting a petition to be placed on the ballot on or before November 30 in the year immediately preceding the election. The petition shall contain the signatures of 20 eligible voters of that commodity commission election to be a valid petition. However, no more than five petition signatures shall be used to qualify any candidate from any one county.

(4) Commission election ballots shall be mailed to eligible voters by January 15 and shall be returned to the election officer, as provided through the common election procedure required in subsection (e), on or before March 1 in the year of any election. Successful candidates in any election will have received the highest number of the votes cast. Election results will be announced as soon as the election has been determined with successful candidates taking office with terms effective April 1 in the year of the election.

(5) On and after July 1, 2002, any interested person or entity in the agriculture industry, with emphasis on growers of sunflowers, may submit names to the governor for appointment to the Kansas sunflower commission. On or after September 1, 2002, the governor shall appoint nine members to the Kansas sunflower commission from among the names

submitted to the governor, if possible, to represent each of the crop reporting districts as provided in this section. The terms of the members appointed by the governor shall be the same as provided in subsection (d) and the same election provisions as provided in this section applicable to the other commissions shall apply to such appointed members, except that the members appointed to represent districts IV, V and VI shall not stand for election in 2002 but rather shall have their initial term of office to run until the election held for such districts in 2005. At such time the same election provisions of this section applicable to the other commissions shall apply to such members.

(c) Upon the effective date of this act, each commission created shall meet as soon as feasible to organize, elect officers and ratify the number of commissioners and representative districts that commission shall maintain. Commissioners currently serving these commissions immediately prior to the effective date of this act are appointed to transition terms as follows: (1) Commissioners whose terms expire in June, 2000, shall have their terms extended until April, 2002; (2) commissioners whose terms expire in June, 2001, shall have their terms extended until April, 2003; and (3) commissioners whose terms expire in June, 2003, shall have their terms extended until April, 2004.

(d) Annual elections for up to three commissioners representing districts shall begin in January and February of 2002. Commissioners elected shall take office April 1 of the year elected and serve a three-year term. Elections will occur as follows and continue on a three-year cycle thereafter: (1) In districts IV, V and VI, the initial election year shall be 2002; (2) in districts I, II and III, the initial election year shall be 2003; and (3) in districts VII, VIII and IX, the initial election year shall be 2004.

(e) The five grain commissions, as provided in this act shall maintain on file a common election procedure with the secretary of ~~the Kansas department of~~ agriculture, who will serve as the final arbitrator of any dispute regarding the election procedure.

(f) Any grower who appropriately registers to vote shall be able to do so in an election for any commissioner representing that commodity and district where the grower maintains such grower's official residence.

(g) Any challenge to election results for the position of commodity commissioner representing a district shall be initially reviewed by a panel of commissioners, not standing for election that year, and representing all four grain commissions. If the challenge is not resolved before the panel of commissioners, the secretary shall serve as the final arbitrator of the challenge to the election results.

(h) Vacancies which may occur shall be filled for unexpired terms by appointment by the remaining commissioners.

(i) The dean of the college of agriculture of Kansas state university and the secretary of the Kansas department of agriculture shall be ex officio members, without the right to vote, of each such commission. Districts are the same as crop reporting districts established for Kansas by the U.S. department of agriculture national agricultural statistic service and are as follows:

(j) District I shall consist of the following counties: Cheyenne, Decatur, Graham, Norton, Rawlins, Sheridan, Sherman and Thomas.

District II shall consist of the following counties: Gove, Greeley, Lane, Logan, Ness, Scott, Trego, Wallace and Wichita.

District III shall consist of the following counties: Clark, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Meade, Morton, Seward, Stanton and Stevens.

District IV shall consist of the following counties: Clay, Cloud, Jewell, Mitchell, Osborne, Ottawa, Phillips, Republic, Rooks, Smith and Washington.

District V shall consist of the following counties: Barton, Dickinson, Ellis, Ellsworth, Lincoln, McPherson, Marion, Rice, Rush, Russell and Saline.

District VI shall consist of the following counties: Barber, Comanche, Edwards, Harper, Harvey, Kingman, Kiowa, Pawnee, Pratt, Reno, Sedgwick, Stafford and Sumner.

District VII shall consist of the following counties: Atchison, Brown, Doniphan, Jackson, Jefferson, Leavenworth, Marshall, Nemaha, Pottawatomie, Riley and Wyandotte.

District VIII shall consist of the following counties: Anderson, Chase, Coffey, Douglas, Franklin, Geary, Johnson, Linn, Lyon, Miami, Morris,

Osage, Shawnee and Wabaunsee.

District IX shall consist of the following counties: Allen, Bourbon, Butler, Chautauqua, Cherokee, Cowley, Crawford, Elk, Greenwood, Labette, Montgomery, Neosho, Wilson and Woodson.

(k) Meetings and any records of any commission created by this act shall be open to the public to the same extent as is required by law of public boards and commissions pursuant to the open records act and the open meetings act. Records shall include contracts entered into by any commission.

Sec. 192 K.S.A. 2003 Supp. 34-101 is hereby amended to read as follows: 34-101. (a) The *Kansas* department of agriculture shall have supervision and regulation of all warehouses operated under the Kansas public warehouse laws relating to storage of grain.

(b) The *Kansas* department of agriculture shall have the authority to cooperate with any private entity or organization or local, state or national organization or agency, whether voluntary or created by the law of any state, or by national law, engaged in work or activities similar to the work and activities of the department, and to enter into contracts and agreements with such entities, organizations or agencies for carrying on a joint campaign of development, education and publicity.

(c) No provision of this section shall be construed to prohibit or prevent the secretary of agriculture or any authorized representatives from inspecting any weighing or measuring device or otherwise performing any of the secretary's duties pursuant to any provision of chapter 83 of Kansas Statutes Annotated, and amendments thereto.

(d) (1) There is hereby created the warehouse fee fund in the state treasury. The secretary shall remit all moneys received by or for the secretary from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the warehouse fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

(2) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the warehouse fee fund interest earnings based on:

(A) The average daily balance of moneys in the warehouse fee fund for the preceding month; and

(B) the net earnings rate of the pooled money investment portfolio for the preceding month.

Sec. 193. K.S.A. 34-223 is hereby amended to read as follows: 34-223. As used in chapter 34 of Kansas Statutes Annotated, and amendments thereto:

(a) "Action" includes counterclaim, setoff and suit in equity.

(b) "Delivery" means voluntary transfer of possessions from one person to another.

(c) "Fungible grain" means grain of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit.

(d) "Grain" means wheat, corn, oats, barley, rye, soybeans, grain sorghums and any grains upon which federal grain standards are established, also seeds generally stored by warehouses, if special permission is granted by the secretary.

(e) "Holder of a receipt" means a person who has both actual possession of such receipt and a right of property therein.

(f) "Order" means an order by endorsement of the receipt.

(g) "Owner" does not include mortgagee or pledgee.

(h) "Person" includes individuals, corporations, partnerships and all associations of two or more persons having a joint or common interest.

(i) "To purchase" includes to take as mortgagee or pledgee.

(j) "Receipt" means a warehouse receipt or receipts.

(k) "Value" means any consideration sufficient to support a simple contract and includes an antecedent or preexisting obligation, whether for money or not, where a receipt is taken either in satisfaction thereof or as security therefor.

(l) "Public warehouseman" means a person lawfully engaged in the business of storing grain for the public.

(m) "Public warehouse" or "public grain warehouse" means every

elevator or other building in which grain is received for storage or transfer for the public.

(n) "Secretary" means the secretary of agriculture.

(o) "Department" means the *Kansas* department of agriculture.

(p) "Grain bank grain" means any grain that has been received into any public warehouse to be held for the account of the depositor and returned to the depositor at a later date either as whole or processed grain.

(q) "Storage grain" or "stored grain" means grain that has been received in any public warehouse located in this state, and such grain is not purchased by the lessee, owner or manager of such warehouse.

Sec. 194. K.S.A. 65-1,182 is hereby amended to read as follows: 65-1,182. (a) The department of health and environment shall not issue or renew a permit for any swine facility that has an animal unit capacity of 1,000 or more and that applies manure or wastewater to land unless:

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

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

(b) (1) If the manure management plan prepared pursuant to K.S.A. 65-1,181 and amendments thereto provides for land application of manure or wastewater:

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

(B) the operator of an existing swine facility shall submit to the department of health and environment, within six months after the rules and regulations implementing this act are adopted, a nutrient utilization plan on a form prescribed by the secretary of agriculture, for approval by the secretary of agriculture, and shall comply with the plan by a date established by the secretary of agriculture.

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

(A) A site map of all land application areas, including section, township and range;

(B) crop rotations on the land application areas;

(C) annual records of soil tests, manure nutrient analyses, and calculations required by subsection (c);

(D) nutrient budgets for the land application areas;

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

(F) the amounts of nitrogen and phosphorus applied to the land application areas;

(G) precipitation records and the amounts of irrigation and other water applied;

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

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

(J) names of employees and contractors whom the operator of the swine facility has identified pursuant to subsection (f)(7) to supervise the process of transferring manure or wastewater to land application equipment and the process of land application;

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

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

(3) (A) A swine facility that is required to have a nutrient utilization plan shall amend such plan whenever warranted by changes in the facility, soil test results or other conditions affecting the facility.

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

(4) A swine facility that is required to have a nutrient utilization plan shall maintain such plan in accordance with K.S.A. 65-1,185 and amend-

ments 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 K.S.A. 65-1,181 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 is required to have a nutrient utilization plan and 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 *Kansas* department of agriculture may require a swine facility that is required to have a nutrient utilization plan 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 or 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 are contributing to the impairment of groundwater or surface water.

(f) (1) Each swine facility that is required to have a nutrient utilization plan shall include in such plan, and thereafter comply with, the requirements that manure or wastewater shall not be applied on bare ground by any process, other than incorporation into the soil during the same day, within 1,000 feet of any habitable structure, wildlife refuge or city, county, state or federal park, unless:

(A) The manure or wastewater has been subjected to physical, biological or biochemical treatment or other treatment method for odor reduction approved by the department of health and environment;

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

(C) the owner of the habitable structure has provided a written waiver to the facility.

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

(3) Swine facilities that are required to have a nutrient utilization plan shall not apply manure or wastewater:

(A) To lands classified as highly erodible according to the conservation compliance provisions of the federal food security act of 1985, as in effect on the effective date of this act, and classified as highly erodible

on the basis of erosion resulting from water runoff, except where soil conservation practices to control erosion and runoff in compliance with the requirements of this section are identified in the facility's nutrient utilization plan and are followed by the facility;

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

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

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

(4) Swine facilities that are required to have a nutrient utilization plan shall follow procedures and precautions in the land application of manure or wastewater to prevent discharge of manure or wastewater to surface water and groundwater due to excess infiltration, penetration of drainage tile lines, introduction into tile inlets or surface runoff, including appropriate soil conservation practices to protect surface water from runoff carrying eroded soil and manure particles.

(5) Swine facilities that are required to have a nutrient utilization plan and that conduct wastewater irrigation shall:

(A) Employ measures to irrigate under conditions that reasonably prevent surface runoff; and

(B) use reasonable procedures and precautions to avoid spray drift from the land to which it is applied.

(6) Each swine facility that is required to have a nutrient utilization plan and that land applies manure or wastewater shall ensure that any equipment used in the land application process is properly maintained and calibrated and monitor the use of the equipment so that any malfunction that develops during the land application process is detected and the process ceases until the malfunction is corrected.

(7) The operator of each swine facility that is required to have a nutrient utilization plan and that land applies manure or wastewater shall:

(A) Identify, train and keep current the training of each employee and contractor who supervises the transfer of manure or wastewater to land application equipment and the conducting of land application activities; and

(B) train, and keep current the training of, all employees and contractors who conduct land application activities.

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

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

Sec. 195. K.S.A. 65-6a20 is hereby amended to read as follows: 65-6a20. For the purpose of preventing the use in intrastate commerce, ~~as hereinafter provided,~~ of meat and meat food products and poultry and poultry products which are adulterated, the secretary shall ~~cause to be made, by inspectors appointed for that purpose,~~ *make an examination and inspection, by inspectors appointed for such purpose,* of all livestock, domestic rabbits and poultry before ~~they shall be such livestock, domestic rabbits and poultry are~~ allowed to enter into any slaughtering, packing, canning or similar establishment in this state in which slaughtering and preparation of meat or meat food products or poultry and poultry products of such animals are conducted for intrastate commerce. All livestock, domestic rabbits and poultry found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other livestock, domestic rabbits and poultry ~~and when so slaughtered.~~ *When slaughtered as provided in this section,* the carcasses of such livestock, domestic rabbits or poultry shall be subject to a careful examination and inspection as provided by the rules and regulations adopted by the ~~state board~~ *secretary* of agriculture.

Sec. 196. K.S.A. 74-552 is hereby amended to read as follows: 74-

552. (a) There is hereby established within the *Kansas* department of agriculture a grape and wine industry advisory council consisting of nine members who shall be appointed by the secretary of agriculture. The membership of such council shall include:

- (1) One member representing the college of agriculture at Kansas State University;
- (2) two members representing the commercial grape growing industry;
- (3) two members representing the licensed farm winery industry;
- (4) one member representing the licensed wine distributors industry;
- (5) one member representing the licensed retail liquor industry;
- (6) one member representing the tourism industry of Kansas; and
- (7) one member representing the public at large having experience in marketing.

(b) The members of the advisory council shall be appointed for terms as follows: (1) Four members shall be appointed for terms ending on June 30, 1995, and (2) five members shall be appointed for terms ending on June 30, 1996. After the expiration of the initial terms of such members all members shall be appointed for terms of two years. All vacancies shall be filled by appointment for the remainder of the unexpired term of the member creating the vacancy.

(c) The advisory council shall organize annually by the election from the council's membership a chairperson and a vice-chairperson. The advisory council shall adopt such rules of procedure as the council deems necessary for conducting the council's business.

Sec. 197. K.S.A. 74-561 is hereby amended to read as follows: 74-561. The secretary of agriculture may appoint an assistant secretary or secretaries of agriculture, who shall serve at the pleasure of the secretary of agriculture. Any such assistant secretary of agriculture shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of agriculture with the approval of the governor. The secretary of agriculture also may appoint such other staff assistants and employees as are necessary to enable the secretary to carry out the duties of the office. Except as otherwise provided in this act and in K.S.A. 75-2935, and amendments thereto, such staff assistants and employees shall be within the classified service under the Kansas civil service act. The assistant secretary or secretaries of agriculture and such other staff assistants and employees shall be within the *Kansas* department of agriculture and shall have such powers, duties and functions as are assigned to them by the secretary or are prescribed by law. Such assistant secretary or secretaries of agriculture, staff assistants and employees shall act for and exercise the powers of the secretary of agriculture to the extent authority to do so is delegated by the secretary of agriculture.

Sec. 198. K.S.A. 2-127, 2-128, 2-129, 2-129i, 2-131b, 2-131d, 2-131e, 2-132, 2-137, 2-144d, 2-158, 2-714, 2-716, 2-907, 2-1002, 2-1004, 2-1004a, 2-1008, 2-1010, 2-1012, 2-1013, 2-1014, 2-1201, 2-1209, 2-1220, 2-1226, 2-1227, 2-1228, 2-1314, 2-1316, 2-1317, 2-1318, 2-1319, 2-1322, 2-1327, 2-1331, 2-1421a, 2-1424a, 2-1425, 2-1427, 2-1437, 2-2003, 2-2005, 2-2009, 2-2202, 2-2210, 2-2212, 2-2438a, 2-2439, 2-2444a, 2-2461, 2-2464a, 2-2469, 2-2472, 2-2501, 2-2802, 2-2803, 2-2814, 2-2901, 2-2903, 2-2911, 2-3002a, 2-3309, 2-3315, 2-3601, 11-201, 12-636, 12-761, 12-766, 12-2713, 16-1503, 16-1505, 19-1561b, 19-2963, 24-407, 24-418, 24-656, 24-659, 24-1202, 24-1204, 27-328, 28-813, 34-101c, 34-125, 34-132, 34-133, 34-134, 34-223, 42-701, 42-725, 44-820, 47-1902, 47-1903, 47-1904, 47-1905, 47-2001, 47-2301, 50-905, 55-153, 65-1,177, 65-1,182, 65-688, 65-6a19, 65-6a20, 65-6a24, 65-6a26, 65-6a28, 65-6a29, 65-6a30, 65-6a31, 65-6a32, 65-6a33, 65-6a35, 65-6a44, 65-6a44a, 65-6a45, 65-6a56, 65-771, 65-772, 65-34,103, 65-5703, 66-1,160, 68-506b, 68-1414, 68-1702, 68-2203, 74-504, 74-504a, 74-504b, 74-504e, 74-505, 74-505c, 74-506a, 74-506b, 74-506d, 74-509, 74-510a, 74-511, 74-515a, 74-515b, 74-542, 74-550, 74-552, 74-553, 74-554, 74-555, 74-561, 74-562, 74-578, 74-2610, 74-5048, 75-3149, 75-3150, 76-478, 82a-301a, 82a-303a, 82a-307a, 82a-405, 82a-603, 82a-612, 82a-701, 82a-706e, 82a-732, 82a-734, 82a-903, 82a-1021, 82a-1023, 82a-1301, 82a-1335, 82a-1501, 82a-1803, 83-205 and 83-403 and K.S.A. 2003 Supp. 2-1205, 2-1333, 2-2906, 2-3002, 2-3602, 34-101, 47-816, 55-443, 55-447, 65-6a18, 74-567, 74-2622, 74-50,159, 74-50,162, 74-8101, 79-3425c, 82a-731, 82a-954, 82a-1603, 82a-1903, 82a-1904, 83-219, 83-302 and 83-402 are hereby repealed.

Sec. 199. This act shall take effect and be in force from and after its

publication in the statute book.

Approved April 16, 2004.
