

HOUSE BILL No. 2049

By Committee on Agriculture and Natural Resources

1-23

1 AN ACT concerning the Kansas department of agriculture; relating to
2 program fees; increasing certain fees; eliminating sunsets on various
3 program fees; exempting certain dairies from fees; amending K.S.A.
4 2012 Supp. 2-2440, 2-2440b, 2-2443a, 2-2445a, 2-3304, 2-3306, 65-
5 778, 65-781, 82a-708a, 82a-708b, 82a-708c, 82a-714, 82a-727, 83-302
6 and 83-402 and repealing the existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2012 Supp. 2-2440 is hereby amended to read as
10 follows: 2-2440. (a) Subject to the provisions of subsection (d), it is
11 unlawful for any pesticide business which has not been issued a pesticide
12 business license to:

13 (1) Advertise, offer for sale, sell or perform any service for the
14 control of a pest on the property of another or apply a pesticide to the
15 property of another within this state; or

16 (2) perform any service for the control of a pest or apply any
17 pesticide on or at the premises of another person under any commission,
18 division of receipts or subcontracting arrangement with a licensed
19 pesticide business.

20 Nothing in this subsection shall be construed to require the licensing of
21 any person applying restricted use pesticides to the property of another as
22 a certified private applicator or under the supervision of a certified private
23 applicator.

24 (b) Application for a pesticide business license or renewal shall be
25 made on a form obtained from the secretary and shall be accompanied by
26 an application fee per category in which the licensee applies, and an
27 additional fee for each uncertified individual employed by the applicant to
28 apply pesticides. The application fee per category shall be \$140 per
29 category in which the licensee applies, ~~except that on and after July 1,~~
30 ~~2015, the application fee per category shall be \$112 per category in which~~
31 ~~the licensee applies.~~ An additional fee of \$15 shall be paid for each
32 uncertified individual employed by the applicant to apply pesticides,
33 ~~except that on and after July 1, 2015, an additional fee of \$10 shall be paid~~
34 ~~for each uncertified individual employed by the applicant to apply~~
35 ~~pesticides.~~ The application fee per category and the additional fee for each
36 uncertified employee in effect on the day preceding the effective date of

1 this act shall continue in effect until the secretary adopts rules and
2 regulations fixing a different fee under this subsection. Any uncertified
3 individual employed for a period of more than 10 days in a 30-day period
4 or for five consecutive days by a licensee to apply pesticides subsequent to
5 such application shall be reported to the secretary within 30 days of such
6 employee's hiring and the fee shall be paid at that time. Each application
7 shall also include the following:

8 (1) The business name of the person applying for such license or
9 renewal;

10 (2) if the applicant is an individual, receiver, trustee, representative,
11 agent, firm, partnership, association, corporation or other organized group
12 of persons, whether or not incorporated, the full name of each owner of the
13 firm or partnership or the names of the officers of the association,
14 corporation or group;

15 (3) the principal business address of the applicant in the state and
16 elsewhere; and

17 (4) any other information the secretary, by rules and regulations,
18 deems necessary for the administration of this act.

19 (c) The secretary may issue a pesticide business license to apply
20 pesticides in categories for which an applicant has applied if the applicant
21 ~~files the bond, insurance, letter of credit or proof of an escrow account~~ *a*
22 *certificate of liability insurance* as required under K.S.A. 2-2448, and
23 amendments thereto, satisfies the requirements of subsection (b), and pays
24 the required fees. Such license shall expire at the end of the calendar year
25 for which it is issued unless it has been revoked or suspended prior thereto.
26 If a license is not issued as applied for, the secretary shall inform the
27 applicant in writing of the reasons therefor.

28 (d) The following persons shall be exempted from the licensing
29 requirements of this act:

30 (1) State or federal personnel using pesticides or pest control services
31 while engaged in pesticide use research;

32 (2) veterinarians or physicians using pesticides as a part of their
33 professional services; and

34 (3) any person or such person's employee who applies pesticides on
35 or at premises owned, leased or operated by such person.

36 (e) Subject to the provisions of subsection (d), it is unlawful for any
37 governmental agency which has not been issued a government agency
38 registration to apply pesticides within this state. Application for
39 government agency registration shall be made on a form obtained from the
40 secretary and shall be accompanied by a fee fixed by rules and regulations
41 adopted by the secretary, ~~except that such fee shall not exceed \$50, except~~
42 ~~that on and after July 1, 2015, such fee shall not exceed \$35.~~ The
43 governmental agency registration fee in effect on the day preceding the

1 effective date of this act shall continue in effect until the secretary adopts
2 rules and regulations fixing a different fee therefor under this subsection.
3 No fee shall be required of any township located within a county which
4 has previously applied for and received government agency registration.
5 Each application for registration shall contain information including, but
6 not limited to:

- 7 (1) The name of the government agency;
- 8 (2) the mailing address of the applicant;
- 9 (3) the name and mailing address of the person who heads such
10 agency and who is authorized to receive correspondence and legal papers.
11 Such person shall be: (A) The mayor or city manager for municipalities;
12 (B) the chairperson of the board of county commissioners for counties; (C)
13 the township trustee for townships; or (D) any person designated by any
14 other governmental agency; and
15 (4) any other information the secretary, by rules and regulations,
16 deems necessary for the administration of this act.

17 (f) If the secretary finds the application to be sufficient, the secretary
18 shall issue a government agency registration. The government agency is
19 not required to furnish a surety bond under this act. Such government
20 agency registration shall expire at the end of the calendar year for which it
21 is issued unless it has been revoked or suspended prior thereto. If a
22 registration is not issued as applied for, the secretary shall inform the
23 applicant in writing of the reasons therefor.

24 (g) A pesticide business license or government agency registration
25 may be renewed by meeting the same requirements as for a new license or
26 registration. Neither the pesticide business license nor the government
27 agency registration shall be transferable, except that, in the event of the
28 disability, incapacity or death of the owner, manager or legal agent of a
29 pesticide business licensee, a permit may be issued by the secretary to
30 permit the operation of such business until the expiration period of the
31 license in effect at the time of such disability, incapacity or death if the
32 applicant therefor can show that the policies and services of such business
33 will continue substantially as before, with due regard to protection of the
34 public and the environment.

35 (h) No pesticide business license may be issued to any person until
36 such person is or has in such person's employ one or more individuals who
37 are certified commercial applicators in each of the categories for which the
38 license application is made.

39 Sec. 2. K.S.A. 2012 Supp. 2-2440b is hereby amended to read as
40 follows: 2-2440b. (a) It shall be unlawful for any pesticide business
41 licensee to apply pesticides for the control of wood destroying pests,
42 structural pests, ornamental pests, turf pests or interior landscape pests
43 unless the applicator of the pesticide is a certified commercial applicator or

1 is a registered pest control technician, except that an uncertified
2 commercial applicator may apply pesticides when either a certified
3 applicator or registered pest control technician is physically present.

4 (b) Any such employee applying for a pest control technician
5 registration shall file an application on a form prescribed by the secretary.
6 Application for such registration shall be accompanied by an application
7 fee established by rules and regulations adopted by the secretary, except
8 that such fee shall not exceed \$40, ~~except that on and after July 1, 2015,~~
9 ~~such fee shall not exceed \$25,~~ and shall be reduced, but not below zero, by
10 an amount equal to the additional fee paid under subsection (b) of K.S.A.
11 2-2440, and amendments thereto, for such uncertified individual.

12 (c) If the secretary finds the applicant qualified to be a registered pest
13 control technician after meeting the training requirements determined by
14 the secretary in rules and regulations, the secretary shall issue a pest
15 control technician registration which will expire at the end of the calendar
16 year.

17 (d) This section shall be part of and supplemental to the Kansas
18 pesticide law.

19 Sec. 3. K.S.A. 2012 Supp. 2-2443a is hereby amended to read as
20 follows: 2-2443a. An applicant for a commercial applicator's certificate
21 shall show upon written examination that the applicant possesses adequate
22 knowledge concerning the proper use and application of pesticides in the
23 categories or subcategories for which the applicant has applied. A
24 commercial applicator who holds a current certificate to apply pesticides
25 commercially in any other state or political subdivision of the United
26 States may be exempted from examination for certification in this state
27 upon approval of the secretary and payment of a \$75 fee per category,
28 unless a fee not to exceed \$75 is established in rules and regulations
29 adopted by the secretary.

30 Applicants shall submit with each application a fee per examination
31 taken, including each category, subcategory and general core examination.
32 The examination fee shall be fixed by rules and regulations adopted by the
33 secretary, except that such fee shall not exceed \$45 per examination,
34 ~~except that on and after July 1, 2015, such fee shall not exceed \$35 per~~
35 ~~examination.~~ Applicants who fail to pass the examination may reapply and
36 take another examination upon paying another examination fee, which fee
37 shall be fixed by rules and regulations adopted by the secretary, except that
38 such fee shall not exceed \$45 per examination, ~~except that on and after~~
39 ~~July 1, 2015, such fee shall not exceed \$35 per examination.~~ The general
40 core examination shall include, but is not limited to, the following:

41 (a) The proper use of the equipment.

42 (b) The hazards that may be involved in applying the pesticides,
43 including:

1 (1) The effect of drift of the pesticides on adjacent and nearby lands
2 and other non-target organisms;

3 (2) the proper meteorological conditions for the application of
4 pesticides and the precautions to be taken with such application;

5 (3) the effect of the pesticides on plants or animals in the area,
6 including the possibility of damage to plants or animals or the possibility
7 of illegal pesticide residues resulting on them;

8 (4) the effect of the application of pesticides to wildlife in the area,
9 including aquatic life;

10 (5) the identity and classification of pesticides used and the effects of
11 their application in particular circumstances; and

12 (6) the likelihood of contamination of water or injury to persons,
13 plants, livestock, pollinating insects and vegetation.

14 (c) Calculating the concentration of pesticides to be used.

15 (d) Identification of common pests to be controlled and damages
16 caused by such pests.

17 (e) Protective clothing and respiratory equipment for handling and
18 application of pesticides.

19 (f) General precautions to be followed in the disposal of containers as
20 well as the cleaning and decontamination of the equipment which the
21 applicant proposes to use.

22 (g) Applicable state and federal pesticide laws and regulations.

23 (h) Any other subject which the secretary deems necessary.

24 Sec. 4. K.S.A. 2012 Supp. 2-2445a is hereby amended to read as
25 follows: 2-2445a. In lieu of obtaining a commercial applicator's certificate
26 under the provisions of K.S.A. 2-2441a, and amendments thereto, a private
27 applicator's certificate may be applied for by and issued to individuals
28 using restricted use pesticides for the purpose of producing any
29 agricultural commodity on property owned or rented by the individual or
30 such individual's employer, or on the property of another for no
31 compensation other than the trading of personal services between
32 producers. Such certificates shall expire on the anniversary of the
33 individual's date of birth occurring in the fifth calendar year following the
34 year of issue. No certification shall be required hereunder for individuals
35 operating under the supervision of a certified private applicator.

36 Certified private applicator certificates may be issued to individuals
37 who have paid: (a) A fee fixed by rules and regulations adopted by the
38 secretary, ~~except that on and after July 1, 2015;~~ such fee shall not exceed
39 ~~\$10~~ \$25; and (b) who have acquired practical knowledge of pest problems,
40 proper storage, use, handling and disposal of pesticides and pesticide
41 containers, pertinent information found on the pesticide labels, pesticide
42 use safety and environmental considerations, either through Kansas state
43 university extension service educational training or through individual

1 study of educational materials available at county extension offices or the
2 secretary. The certified private applicator certificate fee in effect on the
3 day preceding the effective date of this act shall continue in effect until the
4 secretary adopts rules and regulations fixing a different fee therefor under
5 this section. Individuals shall indicate adequate knowledge of the subjects
6 enumerated herein by passing an open-book examination approved by the
7 secretary.

8 Educational materials and examination blanks shall be made available
9 at county extension offices and at places where extension educational
10 training is conducted. The examinations shall be scored by members of the
11 extension or secretary's staff. If an individual passes the examination by
12 equaling or exceeding a standard authorized by the secretary, a certified
13 private applicator's certificate shall be issued to such individual. Such staff
14 member shall send a copy of the certificate issued, together with the fee, to
15 the secretary.

16 A certified applicator who holds a current certificate to apply pesticides
17 as a certified private applicator in any other state or political subdivision of
18 the United States may be exempted from examination for private
19 applicator certification in this state upon payment of proper fees and
20 approval by the secretary.

21 Sec. 5. K.S.A. 2012 Supp. 2-3304 is hereby amended to read as
22 follows: 2-3304. (a) Any user of the chemigation process shall register and
23 obtain a chemigation user's permit before using the process.

24 (b) Registration shall consist of making application on a form
25 supplied by the secretary. Such application shall include, but not be limited to:
26

27 (1) The name of the persons to whom a permit is to be issued,
28 including an owner or operator of land on which chemigation is to be used;

29 (2) a plan for using anti-pollution devices;

30 (3) a plan for handling tail water or accumulations of water;

31 (4) the number and locations, including a legal description, of
32 wellheads which may be involved in the chemigation process and surface
33 water supply withdrawal points, not to include siphon tubes; and

34 (5) payment of fees.

35 (c) The application fee for a chemigation user's permit shall be \$75
36 plus \$15 for each additional point of diversion, ~~except that on and after~~
37 ~~July 1, 2015, a chemigation user's permit shall be \$55 plus \$10 for each~~
38 ~~additional point of diversion.~~ A chemigation user's permit may be renewed
39 each year upon making an application, payment of the application fee and
40 completing the report form providing information used in chemigation the
41 previous year.

42 Sec. 6. K.S.A. 2012 Supp. 2-3306 is hereby amended to read as
43 follows: 2-3306. (a) Any individual operating chemigation equipment

1 under a chemigation user permit shall be responsible for the safe operation
2 of such chemigation equipment and any such equipment shall be
3 considered to be under the direct supervision of the chemigation user
4 permit holder.

5 (b) The secretary shall not issue a chemigation user permit to any
6 person unless such person is a certified chemigation equipment operator or
7 has in such person's employment at least one certified chemigation
8 equipment operator. A chemigation equipment operator is an individual
9 who has successfully completed an examination given by the secretary or
10 the secretary's designee. Except as provided in subsection (c), if the
11 chemigation user permit is issued to an individual, that individual must
12 have successfully completed the chemigation equipment operator
13 examination. Such examination shall include, but not be limited to, the
14 following:

- 15 (1) The proper use of anti-pollution devices;
- 16 (2) preparing the chemical solution and filling the chemical supply
17 container;
- 18 (3) calibrating of injection equipment;
- 19 (4) supervision of chemigation equipment to assure its safe operation;
- 20 (5) environmental and human hazards that may be involved in
21 chemigation;
- 22 (6) protective clothing and respiratory equipment;
- 23 (7) general precautions to be followed in disposal of containers and
24 decontamination of the equipment;
- 25 (8) handling of tail water and other accumulations of water containing
26 chemicals;
- 27 (9) information of procedures to be followed should chemicals
28 inadvertently enter the water supply source as a result of the chemigation
29 process;
- 30 (10) label information, especially chemigation instructions;
- 31 (11) applicable state and federal laws and regulations; and
- 32 (12) any other subject which the secretary deems necessary.

33 (c) The examination provided for in subsection (b) may be waived for
34 any individual who has been certified as a pesticide applicator in the
35 category of chemigation pursuant to the Kansas pesticide law.

36 (d) The chemigation equipment operator certification shall expire on
37 December 31 of the fourth calendar year after the year of issue. A
38 chemigation equipment operator certification shall be renewed for a
39 succeeding five year period upon payment of the certification fee and
40 passing the examination specified in either subsection (b) or (c).

41 (e) The fee for certification as a chemigation equipment operator or
42 for renewal of such certification shall be \$25, ~~except that on and after July~~
43 ~~1, 2015, such certification shall be \$10.~~

1 Sec. 7. K.S.A. 2012 Supp. 65-778 is hereby amended to read as
2 follows: 65-778. (a) Any person who engages in business as a dairy
3 manufacturing plant shall first apply for and obtain a dairy manufacturing
4 plant license from the secretary and shall pay a license fee of ~~\$120, or~~
5 ~~commencing July 1, 2002, and ending June 30, 2015, a license fee of~~
6 \$200.

7 (b) Any person who engages in business as a distributor of milk, milk
8 products or dairy products shall first apply for and obtain a milk distributor
9 license from the secretary and shall pay a license fee of ~~\$120, or~~
10 ~~commencing July 1, 2002, and ending June 30, 2015, a license fee of~~
11 \$200. No milk distributor license shall be required for a licensed dairy
12 manufacturing plant which distributes only those products which it
13 manufactures.

14 (c) Any person who engages in business as a milk hauler shall first
15 apply for and obtain a milk hauler license from the secretary and shall pay
16 a license fee of ~~\$25 or commencing July 1, 2002, and ending June 30,~~
17 ~~2015, a license fee of \$35.~~ As part of the application, the secretary may
18 require the applicant to be tested regarding proper procedures for
19 sampling, testing and weighing milk or cream and state laws and rules and
20 regulations.

21 (d) Any person who operates a milk or cream transfer station or milk
22 or cream receiving station shall first apply for and obtain a milk or cream
23 station license from the secretary and shall pay a license fee of ~~\$50, or~~
24 ~~commencing July 1, 2002, and ending June 30, 2015, a license fee of~~
25 \$100.

26 (e) Any person who engages in business as a manufacturer of single
27 service dairy containers or manufacturer of single service dairy container
28 closures shall first apply for and obtain a single service manufacturing
29 license from the secretary and shall pay a license fee of ~~\$50, or~~
30 ~~commencing July 1, 2002, and ending June 30, 2015, a license fee of~~
31 \$100.

32 (f) Any person who operates a milk tank truck cleaning facility shall
33 first apply for and obtain a milk tank truck cleaning facility license from
34 the secretary and shall pay a license fee of \$100.

35 (g) Any license issued under this section shall be renewed annually.

36 (h) The dairy manufacturing plant license, milk distributor license,
37 milk tank truck cleaning facility license, milk or cream station license and
38 single service manufacturing license shall expire on December 31 of the
39 year for which it was issued unless suspended or revoked by the secretary
40 pursuant to this act. The milk hauler license shall expire on June 30
41 following the date of issuance unless suspended or revoked by the
42 secretary pursuant to this act.

43 (i) No license issued under this section shall be transferable. No

1 license shall be renewed if any assessments or fees required under this act
2 are delinquent.

3 (j) Each applicant for a license or for the renewal of such license shall
4 submit an application on a form supplied by the secretary accompanied by
5 the license fee. All licenses shall be conspicuously displayed in the
6 applicant's place of business.

7 (k) The secretary is authorized and directed to reduce any license fee
8 in subsections (a) through (f) whenever the secretary determines that such
9 fee is yielding more than is necessary for administering the provisions of
10 this act. The secretary is authorized to increase any license fee in
11 subsections (a) through (f), when such license fee is necessary to produce
12 sufficient revenues for administering the provisions of this act. License
13 fees in subsections (a) through (f) shall not be increased in excess of the
14 amounts provided in this section.

15 Sec. 8. K.S.A. 2012 Supp. 65-781 is hereby amended to read as
16 follows: 65-781. The following fees for the statewide system of milk
17 inspection and regulatory services are hereby established:

18 (a) ~~A fee of \$.01, or commencing July 1, 2002, and ending June 30,~~
19 ~~2015, a fee of \$.015 for each 100 pounds of milk produced by milk~~
20 ~~producers under Kansas grade A inspection shall be paid. Each producer is~~
21 ~~hereby charged with such fee which shall be paid to the milk producers'~~
22 ~~cooperative, milk processor or milk distributor to whom the milk is sold or~~
23 ~~delivered. Each cooperative, processor or distributor is hereby charged~~
24 ~~with the duty of collecting such fees which shall be remitted to the~~
25 ~~secretary.~~

26 (b) ~~A fee of \$.01, or commencing July 1, 2002, and ending June 30,~~
27 ~~2015, a fee of \$.02 for each 100 pounds of packaged grade A pasteurized~~
28 ~~milk or milk products sold in Kansas at retail to the final consumer shall~~
29 ~~be paid. Each distributor is hereby charged with such fee which shall be~~
30 ~~remitted to the secretary.~~

31 (c) ~~A fee of \$.01, or commencing July 1, 2002, and ending June 30,~~
32 ~~2015, a fee of \$.02 per 100 pounds or fraction thereof of grade A raw milk~~
33 ~~for pasteurization delivered to a milk processor within the state of Kansas~~
34 ~~which is processed into grade A milk or grade A milk products shall be~~
35 ~~paid. Each milk processor is hereby charged with such fee which shall be~~
36 ~~remitted to the secretary. *This fee shall not be paid if the milk is processed*~~
37 ~~*or manufactured at the dairy where such milk is produced.*~~

38 (d) ~~A milk fee of \$.01, or commencing July 1, 2002, and ending June~~
39 ~~30, 2015, a fee of \$.015 per 100 pounds of milk or cream for~~
40 ~~manufacturing purposes produced by milk producers under Kansas~~
41 ~~manufacturing grade milk inspection shall be paid. Each producer is~~
42 ~~hereby charged with such fee which shall be paid to the milk producers'~~
43 ~~cooperative, dairy manufacturing plant or any other person to whom the~~

1 milk or cream for manufacturing purposes is sold or delivered. Each
2 cooperative, dairy manufacturing plant or other person is hereby charged
3 with the duty of collecting such fees which shall be remitted to the
4 secretary.

5 ~~(e) A fee of \$.0075, or commencing July 1, 2002, and ending June 30,~~
6 ~~2015, a fee of \$.02 per 100 pounds of Kansas produced milk or cream for~~
7 ~~manufacturing purposes or other Kansas produced milk delivered to a~~
8 ~~dairy manufacturing plant shall be paid on all Kansas milk used in the~~
9 ~~manufacturing of dairy products. As used in this subsection, the term dairy~~
10 ~~products shall not include any frozen dairy dessert or frozen dairy dessert~~
11 ~~mix. Each dairy manufacturing plant shall pay such fee which shall be~~
12 ~~remitted to the secretary. *This fee shall not be paid if the milk is processed*~~
13 ~~*or manufactured at the dairy where such milk is produced.*~~

14 ~~(f) In lieu of the fee prescribed in subsection (e), a fee of \$1, or~~
15 ~~commencing July 1, 2002, and ending June 30, 2015, a fee of \$2 per~~
16 ~~thousand gallons of frozen dairy dessert or frozen dairy dessert mix shall~~
17 ~~be paid by the manufacturer thereof. Each manufacturer of frozen dairy~~
18 ~~dessert or frozen dairy dessert mix is hereby charged with such fee which~~
19 ~~shall be remitted to the secretary. Frozen dairy dessert mix which is further~~
20 ~~processed into the corresponding frozen dairy dessert by the manufacturer~~
21 ~~of the frozen dairy dessert mix shall not be subject to the fee required by~~
22 ~~this subsection.~~

23 ~~(g) A fee of \$1, or commencing July 1, 2002, and ending June 30,~~
24 ~~2015, a fee of \$2 per thousand gallons of frozen dairy dessert or frozen~~
25 ~~dairy dessert mix imported for retail sale in Kansas shall be paid by the~~
26 ~~milk distributor who imports these products.~~

27 (h) A fee of \$50 for the annual inspection of a milk tank truck as
28 required by this act. The milk transportation company that owns or leases
29 the milk tank truck shall pay such fee which shall be remitted to the
30 secretary.

31 (i) If any fee computed pursuant to subsection (a) ~~through (e), (c), (d)~~
32 ~~or (e)~~ is less than \$2.50, then the sum of \$2.50 shall be paid in lieu of the
33 computed fee. If any fee computed pursuant to subsection (b), (f) or (g) is
34 less than \$7.50, a minimum fee of \$7.50 shall be paid in lieu of the
35 computed fee.

36 (j) All fees established herein shall be paid to the secretary in the
37 following manner:

38 (1) The fees established in subsections (a) and (c) through (e) shall be
39 remitted on or before the 30th day of each month for the calendar month
40 immediately preceding and shall be accompanied by a report, in the form
41 prescribed by the secretary, indicating the quantities upon which the
42 remittance is based.

43 (2) The fees established in subsections (b), (f) and (g) shall be

1 remitted on April 30, July 31, October 31 and January 31 for the three
2 calendar months immediately preceding and shall be accompanied by a
3 report, in the form prescribed by the secretary, indicating the quantities
4 upon which the remittance is based.

5 (3) The fee established in subsection (h) shall be remitted within 60
6 days from the date of inspection.

7 (k) Any person who fails to remit all or any part of the required fee or
8 to submit the required report by the date due may be assessed an additional
9 charge equal to 1% of the amount of delinquent fees for each day after the
10 date due, or \$5, whichever amount is greater.

11 (l) The secretary is hereby authorized and directed to reduce any
12 inspection fee in subsections (a) through (h) whenever the secretary
13 determines that such fee is yielding more than is necessary for
14 administering the provisions of this act. The secretary is authorized to
15 increase any inspection fee in subsections (a) through (h) when such
16 inspection fee is necessary to produce sufficient revenues for
17 administering the provisions of this act. License fees in subsections (a)
18 through (h) shall not be increased in excess of the amounts provided in this
19 section.

20 Sec. 9. K.S.A. 2012 Supp. 82a-708a is hereby amended to read as
21 follows: 82a-708a. (a) Any person may apply for a permit to appropriate
22 water to a beneficial use, notwithstanding that the application pertains to
23 the use of water by another, or upon or in connection with the lands of
24 another. Any rights to the beneficial use of water perfected under such
25 application shall attach to the lands on or in connection with which the
26 water is used and shall remain subject to the control of the owners of the
27 lands as in other cases provided by law.

28 (b) Except as otherwise provided in subsections (d), (e) and (f), each
29 application for a permit to appropriate water, except applications for
30 permits for domestic use, shall be accompanied by an application fee fixed
31 by this section for the appropriate category of acre feet in accordance with
32 the following:

33 Acre Feet.....	Fee
34 0 to 100.....	\$200
35 101 to 320.....	\$300
36 More than 320.....	\$300 + \$20
	for each additional 100
	acre feet or any part thereof

39 ~~On and after July 1, 2015, the application fee shall be fixed by this~~
40 ~~section for the appropriate category of acre feet in accordance with the~~
41 ~~following:~~

42 Acre Feet.....	Fee
43 0 to 100.....	\$100

1	101 to 320.....	\$150
2	More than 320.....	\$150 + \$10
3	for each additional 100	
4	acre feet or any part thereof	

5 The chief engineer shall render a decision on such permit applications
6 within 150 days of receiving a complete application except when the
7 application cannot be processed due to the standards established in K.A.R.
8 5-3-4c. Upon failure to render a decision within 180 days of receipt of a
9 complete application, the application fee is subject to refund upon request.

10 (c) Except as otherwise provided in subsections (d), (e) and (f), each
11 application for a permit to appropriate water for storage, except
12 applications for permits for domestic use, shall be accompanied by an
13 application fee fixed by this section for the appropriate category of
14 storage-acre feet in accordance with the following:

15	Storage-Acre Feet	Fee
16	0 to 250.....	\$200
17	More than 250.....	\$200 + \$20
18	for each additional 250	
19	storage-acre feet or any part thereof	

20 ~~On and after July 1, 2015, the application fee shall be fixed by this~~
21 ~~section for the appropriate category of storage-acre feet in accordance with~~
22 ~~the following:~~

23	Storage-Acre Feet.....	Fee
24	0 to 250.....	\$100
25	More than 250.....	\$100 + \$10
26	for each additional 250	
27	storage-acre feet or any part thereof	

28 The chief engineer shall render a decision on such permit applications
29 within 150 days of receiving a complete application except when the
30 application cannot be processed due to the standards established in K.A.R.
31 5-3-4c. Upon failure to render a decision within 180 days of receipt of a
32 complete application, the application fee is subject to refund upon request.

33 (d) Each application for a term permit pursuant to K.S.A. 2012 Supp.
34 82a-736, and amendments thereto, shall be accompanied by an application
35 fee established by rules and regulations of the chief engineer in an amount
36 not to exceed \$400 for the five-year period covered by the permit.

37 (e) For any application for a permit to appropriate water, except
38 applications for permits for domestic use, which proposes to appropriate
39 by both direct flow and storage, the fee charged shall be the fee under
40 subsection (b) or subsection (c), whichever is larger, but not both fees.

41 (f) Each application for a permit to appropriate water for water power
42 or dewatering purposes shall be accompanied by an application fee of
43 \$100 plus \$200 for each 100 cubic feet per second, or part thereof, of the

1 diversion rate requested in the application for the proposed project.

2 (g) All fees collected by the chief engineer pursuant to this section
 3 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
 4 amendments thereto.

5 Sec. 10. K.S.A. 2012 Supp. 82a-708b is hereby amended to read as
 6 follows: 82a-708b. (a) Any owner of a water right may change the place of
 7 use, the point of diversion or the use made of the water, without losing
 8 priority of right, provided such owner shall: (1) Apply in writing to the
 9 chief engineer for approval of any proposed change; (2) demonstrate to the
 10 chief engineer that any proposed change is reasonable and will not impair
 11 existing rights; (3) demonstrate to the chief engineer that any proposed
 12 change relates to the same local source of supply as that to which the water
 13 right relates; and (4) receive the approval of the chief engineer with
 14 respect to any proposed change. The chief engineer shall approve or reject
 15 the application for change in accordance with the provisions and
 16 procedures prescribed for processing original applications for permission
 17 to appropriate water. If the chief engineer disapproves the application for
 18 change, the rights, priorities and duties of the applicant shall remain
 19 unchanged. Any person aggrieved by an order or decision by the chief
 20 engineer relating to an application for change may petition for review
 21 thereof in accordance with the provisions of K.S.A. 2012 Supp. 82a-1901,
 22 and amendments thereto.

23 (b) Each application to change the place of use, the point of diversion
 24 or the use made of the water under this section shall be accompanied by
 25 the application fee set forth in the schedule below:

26 (1) Application to change a point of diversion 300	
27 feet or less	\$100
28 (2) Application to change a point of diversion more	
29 than 300 feet	200
30 (3) Application to change the place of use	200
31 (4) Application to change the use made of water	300

32 ~~On and after July 1, 2015, the application fee shall be set forth in the~~
 33 ~~schedule below:~~

34 (1) Application to change a point of diversion 300	
35 feet or less	50
36 (2) Application to change a point of diversion more	
37 than 300 feet	100
38 (3) Application to change the place of use	100
39 (4) Application to change the use made of the water	150

40 The chief engineer shall render a decision on such permit applications
 41 within 150 days of receiving a complete application except when the
 42 application cannot be processed due to the standards established in K.A.R.
 43 5-3-4c. Upon failure to render a decision within 180 days of receipt of a

1 complete application, the application fee is subject to refund upon request.

2 (c) All fees collected by the chief engineer pursuant to this section
3 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
4 amendments thereto.

5 Sec. 11. K.S.A. 2012 Supp. 82a-708c is hereby amended to read as
6 follows: 82a-708c. (a) A term permit is a permit to appropriate water for a
7 limited specified period of time in excess of six months. At the end of the
8 specified time, or any authorized extension approved by the chief engineer,
9 the permit shall be automatically dismissed, and any priority it may have
10 had shall be forfeited. No water right shall be perfected pursuant to a term
11 permit.

12 (b) Each application for a term permit to appropriate water shall be
13 made on a form prescribed by the chief engineer and shall be accompanied
14 by an application fee fixed by this section for the appropriate category of
15 acre feet in accordance with the following:

17	Acre Feet.....	Fee
18	0 to 100.....	\$200
19	101 to 320.....	\$300
20	More than 320.....	\$300 + \$20
21		for each additional 100
22		acre feet or any part thereof

23 ~~On and after July 1, 2015, the application fee shall be set forth in the~~
24 ~~schedule below:~~

25	Acre Feet.....	Fee
26	0 to 100.....	\$100
27	101 to 320.....	\$100
28	More than 320.....	\$150 + \$10
29		for each additional 100
30		acre feet or any part thereof

31 The chief engineer shall render a decision on such term permit
32 applications within 150 days of receiving a complete application except
33 when the application cannot be processed due to the standards established
34 in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of
35 receipt of a complete application, the application fee is subject to refund
36 upon request.

37 (c) Each application for a term permit to appropriate water for
38 storage, except applications for permits for domestic use, shall be
39 accompanied by an application fee fixed by this section for the appropriate
40 category of storage-acre feet in accordance with the following:

42	Storage-Acre Feet.....	Fee
43	0 to 250.....	\$200

1 More than 250.....\$200 + \$20
 2 for each additional 250
 3 acre feet or any part thereof
 4 ~~On and after July 1, 2015, the application fee shall be set forth in the~~
 5 ~~schedule below:~~
 6
 7 Storage-Acre Feet.....Fee
 8 0 to 250.....\$100
 9 More than 250.....\$100 + \$10
 10 for each additional 250
 11 acre feet or any part thereof

12 The chief engineer shall render a decision on such term permit
 13 applications within 150 days of receiving a complete application except
 14 when the application cannot be processed due to the standards established
 15 in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of
 16 receipt of a complete application, the application fee is subject to refund
 17 upon request.

18 (d) Each application for a term permit pursuant to K.S.A. 2012 Supp.
 19 82a-736, and amendments thereto, shall be accompanied by an application
 20 fee established by rules and regulations adopted by the chief engineer in an
 21 amount not to exceed \$400 for the five-year period covered by the permit.

22 (e) Notwithstanding the provisions of K.S.A. 82a-714, and
 23 amendments thereto, the applicant is not required to file a notice of
 24 completion of diversion works nor pay a field inspection fee. The chief
 25 engineer shall not conduct a field inspection of the diversion works
 26 required by statute for purposes of certification nor issue a certificate of
 27 appropriation for a term permit.

28 (f) A request to extend the term of a term permit in accordance with
 29 the rules and regulations adopted by the chief engineer shall be
 30 accompanied by the same filing fee applicable to other requests for
 31 extensions of time as set forth in K.S.A. 82a-714, and amendments thereto.

32 (g) An application to change the place of use, point of diversion, use
 33 made of water, or any combination thereof, pursuant to K.S.A. 82a-708b,
 34 and amendments thereto, shall not be approved for a term permit.

35 (h) The chief engineer shall adopt rules and regulations to effectuate
 36 and administer the provisions of this section.

37 Sec. 12. K.S.A. 2012 Supp. 82a-714 is hereby amended to read as
 38 follows: 82a-714. (a) Upon the completion of the construction of the
 39 works and the actual application of water to the proposed beneficial use
 40 within the time allowed, the applicant shall notify the chief engineer to that
 41 effect. The chief engineer or the chief engineer's duly authorized
 42 representative shall then examine and inspect the appropriation diversion
 43 works and, if it is determined that the appropriation diversion works have

1 been completed and the appropriation right perfected in conformity with
2 the approved application and plans, the chief engineer shall issue a
3 certificate of appropriation in duplicate. The original of such certificate
4 shall be sent to the owner and shall be recorded with the register of deeds
5 in the county or counties wherein the point of diversion is located, as are
6 other instruments affecting real estate, and the duplicate shall be made a
7 matter of record in the office of the chief engineer.

8 (b) Not later than 60 days before the expiration of the time allowed in
9 the permit to complete the construction of the appropriation diversion
10 works or the time allowed in the permit to actually apply water to the
11 proposed beneficial use, the chief engineer shall notify the permit holder
12 by certified mail that any request for extension of such time must be filed
13 with the chief engineer before the expiration of the time allowed in the
14 permit.

15 (c) Unless the applicant requests an extension or the certificate has
16 not been issued due to the applicant's failure to comply with reasonable
17 requests for information or to allow the opportunity to examine and inspect
18 the appropriation diversion works, as necessary for certification, the chief
19 engineer shall certify an appropriation:

20 (1) Before July 1, 2004, if the time allowed in the permit to perfect
21 the water right expired before July 1, 1999, except in those cases in which
22 abandonment proceedings pursuant to K.S.A. 82a-718, and amendments
23 thereto, are pending on July 1, 2004;

24 (2) before July 1, 2006, in such cases in which an abandonment
25 proceeding was pending pursuant to K.S.A. 82a-718, and amendments
26 thereto, on July 1, 2004; or

27 (3) not later than five years after the date the applicant notifies the
28 chief engineer of the completion of construction of the works and the
29 actual application of water to the proposed beneficial use within the time
30 allowed, in all other cases.

31 If the chief engineer fails to issue a certificate within the time provided
32 by this subsection, the applicant may request review, pursuant to K.S.A.
33 2012 Supp. 82a-1901, and amendments thereto, of the chief engineer's
34 failure to act.

35 (d) Except for works constructed to appropriate water for domestic
36 use, each notification to the chief engineer under subsection (a) shall be
37 accompanied by a field inspection fee of \$400, ~~or on and after July 1,~~
38 ~~2015, a fee of \$200,~~ except that for applications filed on or after July 1,
39 2009, for works constructed for sediment control use and for evaporation
40 from a groundwater pit for industrial use shall be accompanied by a field
41 inspection fee of \$200. Failure to pay the field inspection fee, after
42 reasonable notice by the chief engineer of such failure, shall result in the
43 permit to appropriate water being revoked, forfeiture of the priority date

1 and revocation of any appropriation right that may exist.

2 (e) A request for an extension of time to: (1) Complete the diversion
3 works; or (2) perfect the water right, shall be accompanied by a fee of ~~\$50,~~
4 ~~or commencing July 1, 2002, and ending June 30, 2015, a fee of \$100.~~

5 (f) A request to reinstate a water right or a permit to appropriate water
6 which has been dismissed shall be filed with the chief engineer within 60
7 days of the date dismissed and shall be accompanied by a fee of ~~\$100,~~ or
8 ~~commencing July 1, 2002, and ending June 30, 2015, a fee of \$200.~~

9 (g) All fees collected by the chief engineer pursuant to this section
10 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
11 amendments thereto.

12 Sec. 13. K.S.A. 2012 Supp. 82a-727 is hereby amended to read as
13 follows: 82a-727. (a) Subject to existing water rights and the principle of
14 beneficial use, the chief engineer may grant upon application made
15 therefor temporary permits and extensions thereof to appropriate water in
16 any case where the public interest in such water will not be unreasonably
17 or prejudicially affected, except that the chief engineer shall not grant any
18 such permit to appropriate fresh water in any case where other waters are
19 available for the proposed use and the use thereof is technologically and
20 economically feasible. No such temporary permit or any extension thereof
21 shall be granted for a period of time in excess of six months. Each
22 application submitted for a temporary permit or extension thereof shall be
23 accompanied by an application fee of \$200, ~~or on and after July 1, 2015, a~~
24 ~~fee of \$100.~~

25 (b) The chief engineer shall adopt rules and regulations to effectuate
26 and administer the provisions of this section.

27 (c) Nothing in this section shall be deemed to vest in the holder of
28 any permit granted pursuant to provisions of this section any permanent
29 right to appropriate water except as is provided by such permit.

30 (d) All fees collected by the chief engineer pursuant to this section
31 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
32 amendments thereto.

33 Sec. 14. K.S.A. 2012 Supp. 83-302 is hereby amended to read as
34 follows: 83-302. (a) Each person, other than an authorized representative
35 of the secretary or an authorized representative of a city or county
36 department of public inspection of weights and measures established
37 pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate
38 and perform testing and other services as a company in Kansas shall apply
39 to the secretary for a service company license, on a form to be supplied by
40 the secretary, and shall obtain such license from the secretary before
41 operating and performing testing or other services as a service company.
42 Each service company shall obtain a license for each place of business
43 maintained in Kansas and shall pay a license application fee of ~~\$50,~~ or

1 ~~commencing July 1, 2002, and ending June 30, 2010, a fee of \$100 and~~
2 ~~thereafter an annual license renewal application fee of \$50, or~~
3 ~~commencing July 1, 2002, and ending June 30, 2010, a fee of \$100 for~~
4 each place of business. Each service company license shall expire on June
5 30 following issuance, shall be void unless renewed prior to the expiration
6 and shall not be transferable.

7 (b) If any service company maintains any out-of-state places of
8 business which the company operates in serving Kansas patrons, the
9 service company seeking to obtain or renew a license under this section
10 shall list in the application such places of business and the firm names
11 under which the company operates at each such place of business. If any
12 out-of-state place of business is established by a service company after
13 being licensed under this section, the licensee shall supply such
14 information to the secretary before any work is performed in Kansas from
15 such out-of-state location. Each nonresident service company shall
16 designate a resident agent upon whom service of notice or process may be
17 made to enforce the provisions of chapter 83 of the Kansas Statutes
18 Annotated, and amendments thereto, or any liabilities arising from
19 operations thereunder. Each nonresident service company which maintains
20 no established place of business in Kansas shall obtain a license under this
21 section for each out-of-state place of business and shall list on the
22 application the firm name or names for each place of business from which
23 the service company intends to operate.

24 (c) Each technical representative shall be licensed annually by the
25 secretary. Each technical representative shall be required to attend
26 continuing education seminars on an annual basis as required by rules and
27 regulations adopted by the secretary and to pass a reasonable examination
28 prescribed by the secretary each year prior to being licensed. The Kansas
29 department of agriculture shall be authorized to charge a fee to the
30 attendees of the continuing education seminars sponsored by the agency.
31 The amount charged shall be no more than is necessary to cover the
32 expenses incurred in providing the seminar. Each technical representative's
33 license shall expire on June 30 following the issuance of the license and
34 shall be void unless renewed prior to the expiration.

35 (d) No service company license may be issued or renewed under this
36 section until the applicant's weights or measures, or both have been tested
37 for accuracy and sealed by the secretary. The secretary is authorized to
38 accept a certification of the accuracy of the applicant's weights or
39 measures issued by the national institute of standards and technology or by
40 a weights and measures laboratory certified by the national institute of
41 standards and technology in lieu of a test by the secretary, if such
42 certificate shows that the weights or measures have been tested within the
43 last 365 days preceding the license application.

1 (e) The secretary shall remit all moneys received under this section to
2 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
3 and amendments thereto. Upon receipt of each such remittance, the state
4 treasurer shall deposit the entire amount in the state treasury to the credit
5 of the weights and measures fee fund.

6 Sec. 15. K.S.A. 2012 Supp. 83-402 is hereby amended to read as
7 follows: 83-402. (a) Each person, other than an authorized representative
8 of the secretary or an authorized representative of a city or county
9 department of public inspection of weights and measures established
10 pursuant to K.S.A. 83-210, and amendments thereto, desiring to operate
11 and perform testing and other services as a service company in Kansas
12 shall apply to the secretary for a service company license, on a form to be
13 supplied by the secretary, and shall obtain such license from the secretary
14 before operating and performing testing or other services as a service
15 company. Each service company shall obtain a license for each place of
16 business maintained in Kansas and shall pay a license application fee of
17 ~~\$50, or commencing July 1, 2002, and ending June 30, 2010, a fee of \$100~~
18 and thereafter an annual license renewal application fee of ~~\$50, or~~
19 ~~commencing July 1, 2002, and ending June 30, 2010, a fee of \$100~~ for
20 each place of business. Each service company license shall expire on June
21 30 following issuance, shall be void unless renewed prior to the expiration
22 and shall not be transferable.

23 (b) If any service company maintains any out-of-state places of
24 business which the service company operates in serving Kansas patrons,
25 the applicant seeking to obtain or renew a license under this section shall
26 list in the application such places of business and the firm names under
27 which the service company operates at each such place of business. If any
28 out-of-state place of business is established by a service company after
29 being licensed under this section, the licensee shall supply such
30 information to the secretary before any work is performed in Kansas from
31 such out-of-state location. Each nonresident service company shall
32 designate a resident agent upon whom service of notice or process may be
33 made to enforce the provisions of chapter 83 of the Kansas Statutes
34 Annotated, and amendments thereto, or any liabilities arising from
35 operations thereunder. Each nonresident service company which maintains
36 no established place of business in Kansas shall obtain a license under this
37 section for each out-of-state place of business and shall list on the
38 application the firm name or names for each place of business from which
39 the service company intends to operate.

40 (c) Each technical representative shall be licensed annually by the
41 secretary. Each technical representative shall be required to attend
42 continuing education seminars on an annual basis as required by rules and
43 regulations adopted by the secretary and to pass a reasonable examination

1 prescribed by the secretary each year prior to being licensed. The Kansas
2 department of agriculture shall be authorized to charge a fee to the
3 attendees of the seminar sponsored by the department. The amount
4 charged shall be no more than is necessary to cover the expenses incurred
5 in providing the seminar. All technical representatives who install, repair,
6 adjust or calibrate a device and certify such devices shall be required to
7 pass the state examination annually. Each technical representative license
8 shall expire on June 30 following issuance of the license and shall be void
9 unless renewed prior to the expiration.

10 (d) No service company license may be issued or renewed under this
11 section until the applicant's weights and measures have been tested for
12 accuracy and sealed by the secretary. The secretary is authorized to accept
13 a certification of the accuracy of the applicant's weights or measures issued
14 by the national institute of standards and technology, by a weights and
15 measures laboratory certified by the national institute of standards and
16 technology, or by the appropriate certifying agency of another state in lieu
17 of a test by the secretary, if such certificate shows that the weights or
18 measures have been tested within the 12 calendar months next preceding
19 the license application.

20 (e) The secretary shall remit all moneys received under this section to
21 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
22 and amendments thereto. Upon receipt of each such remittance, the state
23 treasurer shall deposit the entire amount in the state treasury to the credit
24 of the weights and measures fee fund.

25 Sec. 16. K.S.A. 2012 Supp. 2-2440, 2-2440b, 2-2443a, 2-2445a, 2-
26 3304, 2-3306, 65-778, 65-781, 82a-708a, 82a-708b, 82a-708c, 82a-714,
27 82a-727, 83-302 and 83-402 are hereby repealed.

28 Sec. 17. This act shall take effect and be in force from and after its
29 publication in the statute book.