

## HOUSE BILL No. 2548

By Committee on Agriculture and Natural Resources

1-31

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1 AN ACT concerning the department of health and environment; relating to  
2 fee funds; creating the water program management fund; transferring  
3 the air quality fee fund; amending K.S.A. 65-3008 and 65-3024 and  
4 K.S.A. 2013 Supp. 65-166a and repealing the existing sections.  
5

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

7 New Section 1. (a) There is hereby created in the state treasury the  
8 water program management fund. The secretary shall remit to the state  
9 treasurer, in accordance with the provisions of K.S.A. 75-4215, and  
10 amendments thereto, all moneys collected or received by the secretary  
11 from the following sources: (1) Water pollution control permit system fees  
12 imposed pursuant to K.S.A. 65-166a, and amendments thereto;

13 (2) interest attributable to investment of moneys in the water program  
14 management fund;

15 (3) gifts, grants, reimbursements or appropriations intended to be  
16 used for the purposes of the fund, but excluding federal grants and  
17 cooperative agreements; and

18 (4) any other moneys provided by law.

19 Upon receipt of each such remittance, the state treasurer shall deposit in  
20 the state treasury any amount remitted pursuant to this subsection to the  
21 credit of the water program management fund.

22 (b) Moneys in the water program management fund shall be  
23 expended for the following purposes: (1) Monitoring and investigating the  
24 quality of waters of the state;

25 (2) payment of the state's share of the clean water act matching costs,  
26 as required by the federal clean water act, 33 U.S.C. § 1256(d);

27 (3) payment for emergency action by the secretary as necessary or  
28 appropriate to assure that the public health or safety is not threatened  
29 whenever there is a release from a wastewater treatment facility;

30 (4) payment of the administrative, technical and legal costs incurred  
31 by the secretary in carrying out the provisions of K.S.A. 65-159 through  
32 65-171y, and amendments thereto, including the cost of any additional  
33 employees or increased general operating costs of the department  
34 attributable therefore; and

35 (5) development of educational materials and programs for informing  
36 the public about water issues.

1 (c) Expenditures from the water program management fund shall be  
2 made in accordance with appropriation acts upon warrants of the director  
3 of accounts and reports issued pursuant to vouchers approved by the  
4 secretary or a person designated by the secretary.

5 (d) On or before the 10<sup>th</sup> of each month, the director of accounts and  
6 reports shall transfer from the state general fund to the water program  
7 management fund interest earnings based on: (1) The average daily  
8 balance of moneys in the water program management fund for the  
9 preceding month; and

10 (2) the net earnings rate of the pooled money investment portfolio for  
11 the preceding month.

12 (e) The water program management fund shall be used for the  
13 purposes set forth in this act and for no other governmental purposes. It is  
14 the intent of the legislature that the fund shall remain intact and inviolate  
15 for the purposes set forth in this act, and moneys in the fund shall not be  
16 subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and  
17 amendments thereto.

18 (f) The secretary shall prepare and deliver to the legislature on or  
19 before the first day of each regular legislative session, a report which  
20 summarizes all expenditures from the water program management fund,  
21 fund revenues and recommendations regarding the adequacy of the fund to  
22 support necessary water program management programs.

23 Sec. 2. K.S.A. 2013 Supp. 65-166a is hereby amended to read as  
24 follows: 65-166a. (a) The secretary of health and environment is  
25 authorized and directed to establish by duly adopted rules or regulations a  
26 schedule of fees to defray all or any part of the costs of administering the  
27 water pollution control permit system established by K.S.A. 65-165 and  
28 65-166, and amendments thereto. The amount of the fees so established  
29 shall be based upon the quantity of raw wastes or treated wastes to be  
30 discharged, units of design capacity of treatment facilities or structures,  
31 numbers of potential pollution units, physical or chemical characteristics  
32 of discharges and staff time necessary for review and evaluation of  
33 proposed projects. In establishing the fee schedule, the secretary of health  
34 and environment shall not assess fees for permits required in the extension  
35 of a sewage collection system, but such fees shall be assessed for all  
36 treatment devices, facilities or discharges where a permit is required by  
37 law and is issued by the secretary of health and environment or the  
38 secretary's designated representative. Such fees shall be nonrefundable.

39 (b) Any such permit for which a fee is assessed shall expire five years  
40 from the date of its issuance. The secretary of health and environment may  
41 issue permits pursuant to K.S.A. 65-165, and amendments thereto, for  
42 terms of less than five years, if the secretary determines valid cause exists  
43 for issuance of the permit with a term of less than five years. The

1 minimum fee assessed for any permit issued pursuant to K.S.A. 65-165,  
2 and amendments thereto, shall be for not less than one year. Permit fees  
3 may be assessed and collected on an annual basis and failure to pay the  
4 assessed fee shall be cause for revocation of the permit. Any permit which  
5 has expired or has been revoked may be reissued upon payment of the  
6 appropriate fee and submission of a new application for a permit as  
7 provided in K.S.A. 65-165 and 65-166, and amendments thereto.

8 (c) A permit shall be required for:

9 (1) Any confined feeding facility with an animal unit capacity of 300  
10 to 999 if the secretary determines that the facility has significant water  
11 pollution potential; and

12 (2) any confined feeding facility with an animal unit capacity of  
13 1,000 or more.

14 (d) At no time shall the annual permit fee for a confined feeding  
15 facility exceed:

16 (1) \$25 for facilities with an animal unit capacity of not more than  
17 999;

18 (2) \$100 for facilities with an animal unit capacity of 1,000 to 4,999;

19 (3) \$200 for facilities with an animal unit capacity of 5,000 to 9,999;  
20 or

21 (4) \$400 for facilities with an animal unit capacity of 10,000 or more.

22 (e) Annual permit fees for any truck washing facility for animal  
23 wastes shall be as follows:

24 (1) For a private truck washing facility for animal wastes with two or  
25 fewer trucks, not more than \$25;

26 (2) for a private truck washing facility for animal wastes with three or  
27 more trucks, not more than \$200; and

28 (3) for a commercial truck washing facility for animal wastes, not  
29 more than \$320.

30 (f) The secretary of health and environment shall remit all moneys  
31 received from the fees established pursuant to this act to the state treasurer  
32 in accordance with the provisions of K.S.A. 75-4215, and amendments  
33 thereto. Upon receipt of each such remittance, the state treasurer shall  
34 deposit the entire amount in the state treasury to the credit of the ~~state~~  
35 ~~general fund~~ *water program management fund created in section 1, and*  
36 *amendments thereto.*

37 (g) Any confined feeding facility with an animal unit capacity of less  
38 than 300 may be required to obtain a permit from the secretary if the  
39 secretary determines that such facility has significant water pollution  
40 potential.

41 (h) Any confined feeding facility not otherwise required to obtain a  
42 permit or certification may obtain a permit or certification from the  
43 secretary. Any such facility obtaining a permit shall pay an annual permit

1 fee of not more than \$25.

2 Sec. 3. K.S.A. 65-3008 is hereby amended to read as follows: 65-  
3 3008. (a) No person shall construct, own, operate, install, alter or use any  
4 air contaminant emission stationary source which, in accordance with rules  
5 and regulations, the secretary finds may cause or contribute to air  
6 pollution, unless an appropriate approval or permit has been issued for the  
7 source by the secretary under this act. Approvals or permits issued by the  
8 secretary may be subject to conditions consistent with the purposes of this  
9 act and rules and regulations promulgated under this act.

10 (b) The secretary shall require that applications for approvals and  
11 permits, and renewals thereof, under this act shall be accompanied by  
12 application fees and such plans, specifications, compliance plans or other  
13 information as the secretary deems necessary. Applications shall be  
14 submitted on forms provided by the secretary and shall be signed by a  
15 responsible official of the source, who shall certify the accuracy of the  
16 information submitted.

17 (c) The issuance or holding of an approval or permit shall not convey  
18 any property right or exclusive privilege to the holder thereof.

19 (d) Without any further action on the part of the secretary, an  
20 approval or a permit shall become void and without effect on its expiration  
21 date unless a completed application form and any required fee are filed  
22 with the secretary on or before the expiration date of the approval or the  
23 permit. For purposes of this subsection, the secretary may specify by rule  
24 and regulation an amount of time prior to the expiration date of an  
25 operating permit by which a complete application form and any required  
26 fee must be filed with the secretary in order to be considered timely filed.  
27 The secretary may provide for a grace period by rule and regulation.

28 (e) The secretary may issue by rule and regulation a general approval  
29 or permit covering numerous similar sources. Any general approval or  
30 permit shall comply with all requirements applicable to approvals or  
31 permits under this act. Any source covered by a general approval or permit  
32 must apply to the secretary and receive authority to operate under the  
33 general approval or permit.

34 (f) The secretary may fix, charge and collect fees for approvals and  
35 permits, and the renewal thereof, to cover all or any part of the cost of  
36 administering the provisions of Kansas air quality act, other than K.S.A.  
37 65-3027, *and amendments thereto*. The secretary shall adopt rules and  
38 regulations fixing such fees. The fees shall be deposited in the state  
39 treasury and credited to the ~~state general fund~~ *air quality fee fund*  
40 *established in K.S.A. 65-3024, and amendments thereto*, except that if all  
41 or any portion of the regulatory services for which a fee is collected under  
42 this section is performed by a county, city-county or multicounty health  
43 department, that portion of such fee which pertains to such services, as

1 determined by the secretary, shall be credited to the local air quality  
2 control authority regulation services fund, which is hereby created in the  
3 state treasury, and shall be paid from such fund to such local air quality  
4 control authority.

5 Sec. 4. K.S.A. 65-3024 is hereby amended to read as follows: 65-  
6 3024. (a) The secretary may fix, charge and collect annual emissions fees  
7 in amounts necessary to pay the direct and indirect costs of administering  
8 the provisions of the Kansas air quality act. The secretary shall adopt rules  
9 and regulations fixing such fees and shall periodically increase or decrease  
10 such fees consistent with the need to cover the direct and indirect costs of  
11 administering the program. To the extent possible, annual emission fees  
12 shall be based upon actual emissions determined pursuant to rules and  
13 regulations adopted by the secretary. For purposes of determining emission  
14 fees for a facility, emissions of any single regulated pollutant in excess of  
15 4,000 tons per year shall not be included in the calculation when  
16 determining the total emissions from the facility.

17 (b) There is hereby established in the state treasury the air quality fee  
18 fund. Revenue from the following sources shall be deposited in the state  
19 treasury and credited to the fund:

20 (1) Fees collected under subsection (a);

21 (2) any moneys recovered by the state under the provisions of this  
22 act, including *permit and approval fees collected under K.S.A. 65-3008,*  
23 *and amendments thereto*, administrative expenses, civil penalties and  
24 moneys paid under any agreement, stipulation or settlement; and

25 (3) interest attributable to investment of moneys in the fund.

26 (c) Moneys deposited in the fund shall be expended only for the  
27 purpose of administering the Kansas air quality act, including funding of a  
28 technical and environmental compliance assistance program, and for no  
29 other governmental purposes.

30 (d) On or before the 10<sup>th</sup> of each month, the director of accounts and  
31 reports shall transfer from the state general fund to the air quality fee fund  
32 interest earnings based on:

33 (1) The average daily balance of moneys in the air quality fee fund  
34 for the preceding month; and

35 (2) the net earnings rate of the pooled money investment portfolio for  
36 the preceding month.

37 (e) All expenditures from the fund shall be made in accordance with  
38 appropriation acts upon warrants of the director of accounts and reports  
39 issued pursuant to vouchers approved by the secretary for the purposes set  
40 forth in this section.

41 Sec. 5. K.S.A. 65-3008 and 65-3024 and K.S.A. 2013 Supp. 65-166a  
42 are hereby repealed.

43 Sec. 6. This act shall take effect and be in force from and after its

- 1 publication in the statute book.