

HOUSE BILL No. 2510

By Committee on Vision 2020

1-21

1 AN ACT concerning water; relating to the state water plan; amending
2 K.S.A. 70a-102, 70a-105 and 82a-951 and K.S.A. 2015 Supp. 2-2204,
3 65-166a, 82a-903 and 82a-2101 and repealing the existing sections.
4

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

6 New Section 1. (a) There is hereby created in the state treasury the
7 water depletion fund. The director of the Kansas water office shall
8 administer the water depletion fund. Except as provided in subsection (b),
9 all amounts credited to the water depletion fund pursuant to the provisions
10 of K.S.A. 2-2204 and 65-166a, and amendments thereto, shall be credited
11 to a separate account which shall be established within such fund for each
12 county that has experienced a depletion in available water resources as
13 determined by the director of the Kansas water office. Each county's
14 account shall be credited in proportion to the amount of available water
15 resources depleted in the county, as determined by the director of the
16 Kansas water office. Commencing July 1, 2017, and thereafter on an
17 annual basis, the director of the Kansas water office shall certify to the
18 director of accounts and reports the amount due the county from the
19 county's water depletion fund account on October 1 based on all amounts
20 credited thereto, and the director of accounts and reports shall draw a
21 warrant upon the state treasurer in favor of each county for the amount
22 credited to such county's water depletion fund account.

23 (b) During each fiscal year, of all amounts credited to the water
24 depletion fund pursuant to subsection (a), 20% shall be transferred and
25 credited to the state water plan fund.

26 New Sec. 2. (a) In addition to the fees prescribed pursuant to law or
27 rules and regulations of the secretary of wildlife, parks and tourism, the
28 secretary shall charge a recreation water protection fee of \$10 for each: (1)
29 Vessel registration fee collected pursuant to K.S.A. 32-1172, and
30 amendments thereto; (2) waterfowl hunting permit fee collected pursuant
31 to K.S.A. 32-988, and amendments thereto; and (3) state park permit fee.

32 (b) The secretary shall remit all moneys received pursuant to this
33 section to the state treasurer in accordance with the provisions of K.S.A.
34 75-4215, and amendments thereto. Upon receipt of each such remittance,
35 the state treasurer shall deposit the entire amount in the state treasury to
36 the credit of the water depletion fund created by section 1, and

1 amendments thereto.

2 Sec. 3. K.S.A. 2015 Supp. 2-2204 is hereby amended to read as
3 follows: 2-2204. (a) Every agricultural chemical which is distributed, sold
4 or offered for sale within this state or delivered for transportation or
5 transported in intrastate commerce or between points within this state
6 through any point outside this state shall be registered by the secretary.
7 The secretary shall have the authority to classify or designate as restricted-
8 use any pesticide registered for sale, use or distribution in the state of
9 Kansas, according to rules and regulations promulgated by the secretary.
10 The secretary may adopt rules and regulations to allow products to be
11 registered for a period not to exceed three years. All registration of
12 products shall expire on December 31 of the year the registration is set to
13 expire, unless such registration shall be renewed, in which event expiration
14 date shall be extended for each year of renewal registration, or until
15 otherwise terminated. Products which have the same formula, and are
16 manufactured by the same person, the labeling of which contains the same
17 claims, and the labels of which bear a designation identifying the product
18 as the same agricultural chemical may be registered as a single product
19 and additional names and labels shall be added by supplement statements
20 during the current period of registration. Within the discretion of the
21 secretary, or an authorized representative of the secretary, a change in the
22 labeling or formulas of an agricultural chemical may be made within the
23 current period of registration without requiring a reregistration of the
24 product. Any agricultural chemical imported into this state which is subject
25 to the provisions of any federal act providing for the registration and
26 which has been duly registered under the provisions of such federal act, in
27 the discretion of the secretary, may be exempted from registration under
28 this act when such agricultural chemical is sold or distributed in the
29 unbroken immediate container in which such agricultural chemical was
30 originally shipped.

31 (b) The registrant shall file with the secretary, a statement including:
32 (1) The name and address of the registrant and the name and address of the
33 person whose name will appear on the label if other than the registrant; (2)
34 the name of the agricultural chemical; (3) a complete copy of the labeling
35 accompanying the agricultural chemical and a statement of all claims
36 made and to be made for it and a statement of directions for use; and (4) if
37 requested by the secretary, or an authorized representative of the secretary,
38 a full description of the tests made and the results thereof upon which the
39 claims are based.

40 (c) The secretary may require the registrant to submit a copy of the
41 product label registered by the EPA under the provisions of FIFRA.

42 (d) Any time the registrant modifies the label, the modified label shall
43 be submitted to the secretary for review and approval prior to

1 implementing the new label in Kansas.

2 (e) On the date of registration, the registrant shall pay a fee fixed by
3 rules and regulations adopted by the secretary of agriculture. Such fee
4 shall equal an amount per registered agricultural chemical, ~~not to exceed~~
5 ~~\$150 per year~~ of \$225 for the fiscal year ending June 30, 2017. Such fee
6 for each fiscal year thereafter shall be determined by the secretary of
7 agriculture on or before July 1 of such fiscal year and shall be equal to the
8 maximum amount for the preceding fiscal year plus an additional amount
9 determined by the secretary to be proportionally equal to the increase, if
10 any, by which the consumer price index for all urban consumers published
11 by the United States department of labor for the preceding calendar year,
12 exceeds that index for the second preceding calendar year. Such fee shall
13 be deposited in the state treasury and credited as follows: (1) An amount
14 equal to ~~\$100~~ 16.65% for each year of registration shall be credited to the
15 eastern state water plan account in the state water plan fund created by
16 K.S.A. 82a-951, and amendments thereto; (2) an amount equal to 16.65%
17 for each year of registration shall be credited to the western state water
18 plan account in the state water plan fund created by K.S.A. 82a-951, and
19 amendments thereto; (3) an amount equal to 33.3% shall be credited to
20 the water depletion fund created by section 1, and amendments thereto;
21 and ~~(2)~~ (4) the remainder shall be credited to the agricultural chemical fee
22 fund to be used for carrying out the provisions of this act. The annual fee
23 for each agricultural chemical registered which is in effect on the day
24 preceding the effective date of this act shall continue in effect until the
25 secretary of agriculture adopts rules and regulations fixing a different fee
26 therefor under this subsection. The secretary of agriculture is hereby
27 authorized and empowered, whenever it determines that the fee imposed
28 by this subsection and paid into the state treasury as provided by law is
29 yielding more revenue than is required for the purposes to which such fee
30 is devoted by law, to reduce the fee imposed by this subsection for such
31 period as the secretary shall deem justified by adopting rules and
32 regulations under this subsection but not for less than one year. In the
33 event that the secretary, after reducing such fee, finds that sufficient
34 revenues are not being produced by such reduced fee, the secretary is
35 authorized and empowered by adopting rules and regulations under this
36 subsection, to restore in full or in part such fee to an amount which, in the
37 judgment of the secretary, will produce sufficient revenues for the
38 purposes as provided in this section, but not exceeding the maximum
39 amount of the fee imposed by this subsection.

40 (f) The secretary, or an authorized representative of the secretary,
41 whenever it is deemed essential in the administration of this act, may
42 require the submission of the complete formula or any other data in
43 support of the registration for any pesticide. The complete formula and any

1 other trade secrets submitted to support the registration application shall be
2 considered as confidential. If it appears to the secretary, or an authorized
3 representative of the secretary, that the composition of the product is such
4 as to warrant the proposed claims for the product and if the product and its
5 labeling and other material required to be submitted comply with the
6 requirements of this act, the secretary shall register the product.

7 (g) If it does not appear to the secretary, or an authorized
8 representative of the secretary, that the product is such as to warrant the
9 proposed claims for it or if the product and its labeling and other material
10 required to be submitted do not comply with the provisions of this act, the
11 secretary shall notify the registrant of the manner in which the product,
12 labeling, or other material required to be submitted fail to comply with the
13 act and rules and regulations adopted pursuant thereto so as to afford the
14 registrant an opportunity to make the necessary corrections. If, upon
15 receipt of such notice, the registrant does not make the required changes
16 within 30 days, the secretary may deny registration of the product. In
17 addition, the secretary may deny registration of a product if the application
18 for registration fails to comply with this act or any rule or regulation
19 adopted pursuant thereto. If the secretary denies a registration, the
20 registrant may request a hearing in accordance with the provisions of the
21 Kansas administrative procedure act.

22 (h) Any pesticide registration canceled or suspended under the
23 provisions of FIFRA shall be considered to be canceled or suspended
24 under provisions of the agricultural chemical act of 1947, unless such
25 cancellation is due to the nonpayment of registration fees required under
26 FIFRA.

27 (i) If the secretary determines that a registered product fails to meet
28 the claims made on its label, the secretary may suspend or revoke the
29 product registration after a hearing in accordance with the provisions of
30 the Kansas administrative procedure act. In addition, if the secretary
31 determines that a registered product or its labeling fails to comply with this
32 act, or a rule or regulation adopted pursuant to this act, the secretary may
33 suspend or revoke the product registration after a hearing in accordance
34 with the provisions of the Kansas administrative procedure act.

35 (j) In order to protect the public, the secretary, or a duly authorized
36 representative of the secretary, on the secretary's own motion, may at any
37 time, after written notice to the registrant, suspend or revoke the
38 registration of an agricultural chemical. Any person so notified shall be
39 given an opportunity for a hearing in accordance with the provisions of the
40 Kansas administrative procedure act with regard to the secretary's
41 contemplated action, before any registration is suspended or revoked.

42 (k) Notwithstanding any other provisions of this act, registration is
43 not required in the case of an agricultural chemical shipped from one plant

1 within this state to another plant within this state operated by the same
2 person.

3 (l) Any information required to be filed pursuant to this section, may
4 be filed electronically pursuant to rules and regulations promulgated by the
5 secretary.

6 Sec. 4. K.S.A. 2015 Supp. 65-166a is hereby amended to read as
7 follows: 65-166a. (a) The secretary of health and environment is
8 authorized and directed to establish by duly adopted rules or regulations a
9 schedule of fees to defray all or any part of the costs of administering the
10 water pollution control permit system established by K.S.A. 65-165 and
11 65-166, and amendments thereto. The amount of the fees so established
12 shall be based upon the quantity of raw wastes or treated wastes to be
13 discharged, units of design capacity of treatment facilities or structures,
14 numbers of potential pollution units, physical or chemical characteristics
15 of discharges and staff time necessary for review and evaluation of
16 proposed projects. In establishing the fee schedule, the secretary of health
17 and environment shall not assess fees for permits required in the extension
18 of a sewage collection system, but such fees shall be assessed for all
19 treatment devices, facilities or discharges where a permit is required by
20 law and is issued by the secretary of health and environment or the
21 secretary's designated representative. Such fees shall be nonrefundable.

22 (b) Any such permit for which a fee is assessed shall expire five years
23 from the date of its issuance. The secretary of health and environment may
24 issue permits pursuant to K.S.A. 65-165, and amendments thereto, for
25 terms of less than five years, if the secretary determines valid cause exists
26 for issuance of the permit with a term of less than five years. The
27 minimum fee assessed for any permit issued pursuant to K.S.A. 65-165,
28 and amendments thereto, shall be for not less than one year. Permit fees
29 may be assessed and collected on an annual basis and failure to pay the
30 assessed fee shall be cause for revocation of the permit. Any permit which
31 has expired or has been revoked may be reissued upon payment of the
32 appropriate fee and submission of a new application for a permit as
33 provided in K.S.A. 65-165 and 65-166, and amendments thereto.

34 (c) A permit shall be required for:

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

38 (2) any confined feeding facility with an animal unit capacity of
39 1,000 or more.

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

42 (1) ~~\$25~~ \$31.25 for facilities with an animal unit capacity of not more
43 than 999;

1 (2) ~~\$100~~ \$125 for facilities with an animal unit capacity of 1,000 to
2 4,999;

3 (3) ~~\$200~~ \$250 for facilities with an animal unit capacity of 5,000 to
4 9,999; or

5 (4) ~~\$400~~ \$500 for facilities with an animal unit capacity of 10,000 or
6 more.

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

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

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

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

15 (f) The secretary of health and environment shall remit all moneys
16 received from the fees established pursuant to this act to the state treasurer
17 in accordance with the provisions of K.S.A. 75-4215, and amendments
18 thereto. Upon receipt of each such remittance, the state treasurer shall
19 deposit the entire amount in the state treasury ~~to the credit of and credited~~
20 *as follows: (1) An amount equal to 25% shall be credited to the water*
21 *depletion fund created in section 1, and amendments thereto; and (2) the*
22 *remainder shall be credited to the water program management fund*
23 *created in K.S.A. 2015 Supp. 65-166b, and amendments thereto.*

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

28 (h) Any confined feeding facility not otherwise required to obtain a
29 permit or certification may obtain a permit or certification from the
30 secretary. Any such facility obtaining a permit shall pay an annual permit
31 fee of not more than \$25.

32 Sec. 5. K.S.A. 70a-102 is hereby amended to read as follows: 70a-
33 102. (a) Whenever any person desires to take any sand, gravel, oil, gas,
34 mineral, hay, timber or other materials from any river owned by the state
35 ~~or~~, from any land in such river, *or from land within one mile of any such*
36 *river*, the person shall obtain the consent of the director of taxation upon
37 such terms of payment to the state of *the* Kansas and under such terms and
38 conditions as the director of taxation determines to be just and proper.
39 Compensation for such products shall be paid to the state of Kansas at
40 such times and under such terms as the director of taxation directs. With
41 respect to river sand, the compensation shall be computed at the rate of
42 ~~\$15~~ \$.23 per ton removed *for the fiscal year ending June 30, 2017. Such*
43 *compensation rate for each fiscal year thereafter shall be determined by*

1 *the secretary of revenue on or before July 1 of such fiscal year and shall*
2 *be equal to the maximum amount for the preceding fiscal year plus an*
3 *additional amount determined by the secretary to be proportionally equal*
4 *to the increase, if any, by which the consumer price index for all urban*
5 *consumers published by the United States department of labor for the*
6 *preceding calendar year, exceeds that index for the second preceding*
7 *calendar year. The secretary of revenue shall determine, by rule and*
8 *regulation, the amount of compensation to be paid for other materials*
9 *removed from rivers owned by the state or from land in such rivers.*

10 (b) No contract shall be entered into giving any person, company or
11 corporation any exclusive privilege of making purchases under this act.

12 (c) Nothing herein shall prevent the taking without payment of any
13 sand or gravel to be used exclusively for a person's own domestic use.

14 Sec. 6. K.S.A. 70a-105 is hereby amended to read as follows: 70a-
15 105. (a) The proceeds derived from the sale of any state property under the
16 provisions of article 1 of chapter 70a of Kansas Statutes Annotated, *and*
17 *amendments thereto*, shall be paid to the state treasurer by the director of
18 taxation. The state treasurer shall deposit the entire amount in the state
19 treasury and credit it to the sand royalty fund which is hereby created. At
20 the end of each fiscal year, the amounts payable to the drainage districts
21 and counties from the proceeds derived from sand taken from the bed of
22 any navigable stream shall be paid from the sand royalty fund to drainage
23 districts and counties as provided by K.S.A. 82a-309, and amendments
24 thereto.

25 (b) All necessary and reasonable expenses incurred by the director of
26 taxation in carrying out the provisions of this act shall be paid from the
27 sand royalty fund. On or before the 15th day of each month, the director of
28 accounts and reports shall transfer moneys in the sand royalty fund to the
29 *eastern state water plan account in the state water plan fund* created by
30 K.S.A. 82a-951, and amendments thereto, in an amount certified monthly
31 by the director of taxation as equal to the moneys in the sand royalty fund
32 at the end of the preceding month in excess of those needed for: (1)
33 Payment of such expenses incurred by the director of taxation; and (2)
34 annual payments to drainage districts and counties as provided by K.S.A.
35 82a-309, and amendments thereto.

36 Sec. 7. K.S.A. 2015 Supp. 82a-903 is hereby amended to read as
37 follows: 82a-903. (a) In accordance with the policies and long-range goals
38 and objectives established by the legislature, the office shall formulate on a
39 continuing basis a comprehensive ~~two~~ state water ~~plan~~ *plans* for the
40 management, conservation and development of the water resources of the
41 state. *One water plan shall be developed for the eastern part of the state,*
42 *and one water plan shall be developed for the western part of the state.*
43 Such state water ~~plan~~ *plans* shall include sections corresponding with

1 water planning areas as determined by the office. The Kansas water office
 2 and the Kansas water authority shall seek advice from the general public
 3 and from committees consisting of individuals with knowledge of and
 4 interest in water issues in the water planning areas. The ~~plan~~ *plans* shall set
 5 forth the recommendations of the office for the management, conservation
 6 and development of the water resources of the state, including the general
 7 location, character, and extent of such existing and proposed projects,
 8 programs, and facilities as are necessary or desirable in the judgment of
 9 the office to accomplish such policies, goals and objectives. The ~~plan~~
 10 *plans* shall specify standards for operation and management of such
 11 projects, programs, and facilities as are necessary or desirable. The ~~plan~~
 12 *plans* shall be formulated and used for the general purpose of
 13 accomplishing the coordinated management, conservation and
 14 development of the water resources of the state. The division of water
 15 resources of the Kansas department of agriculture, state geological survey,
 16 the division of environment of the department of health and environment,
 17 department of wildlife, parks and tourism, Kansas department of
 18 agriculture division of conservation and all other interested state agencies
 19 shall cooperate with the office in formulation of such ~~plan~~ *plans*.

20 (b) *The priorities for the eastern water plan shall include:*

21 (1) *Data collection and analysis to determine state water plan*
 22 *programs performance in achieving defined objectives and to improve the*
 23 *ability to use interagency state, federal and commercial water quantity*
 24 *and quality data sets for analytical and policy-making purposes;*

25 (2) *stream bank stabilization, including vegetative work;*

26 (3) *watershed dams;*

27 (4) *municipal drinking water supply lake restoration partnerships;*

28 *and*

29 (5) *acquiring available water storage in federal reservoirs.*

30 (c) *The priorities for the western water plan shall include:*

31 (1) *Retiring water rights through purchases and cost-share transition*
 32 *to alternative crops;*

33 (2) *multi-purpose small lake development;*

34 (3) *sustainable crop research support; and*

35 (4) *small water purification system research in coordination with the*
 36 *national oil and gas industry's work researching brackish water and well*
 37 *drilling fluid treatments that could be suitable and economically viable for*
 38 *use by communities and agricultural interests.*

39 Sec. 8. K.S.A. 82a-951 is hereby amended to read as follows: 82a-
 40 951. (a) On and after July 1, 1989, there is hereby created, in the state
 41 treasury, the state water plan fund. *All moneys credited to the state water*
 42 *plan fund shall be credited within the fund, as provided by law, to an*
 43 *account or accounts of the fund which are created by this section. All*

1 moneys in the state water plan fund shall be expended in accordance with
2 appropriations acts for implementation of the state water plan formulated
3 pursuant to K.S.A. 82a-903 et seq., and amendments thereto. Such moneys
4 shall be used only for the establishment and implementation of water-
5 related projects or programs, and related technical assistance, and shall not
6 be used for: (1) Replacing full time equivalent positions of any state
7 agency; or (2) recreational projects which do not meet one or more of the
8 long-range goals, objectives and considerations set forth in the state water
9 resource planning act.

10 (b) *There is hereby created the eastern state water plan account in*
11 *the state water plan fund. All moneys credited to the eastern state water*
12 *plan account shall be used to carry out the priorities identified in*
13 *subsection (a) as such priorities relate to the eastern part of the state.*

14 (c) *There is hereby created the western state water plan account in*
15 *the state water plan fund. All moneys credited to the western state water*
16 *plan account shall be used to carry out the priorities identified in*
17 *subsection (a) as such priorities relate to the western part of the state.*

18 ~~(b)~~ (d) On or before December 1 of each year, the Kansas water
19 authority shall submit to the governor and the legislature a report setting
20 out: (1) An account of all moneys expended from the state water plan fund
21 during such fiscal year; and (2) a five-year capital development plan for
22 state water plan projects.

23 Sec. 9. K.S.A. 2015 Supp. 82a-2101 is hereby amended to read as
24 follows: 82a-2101. (a) ~~On and after January 1, 2002,~~ There is hereby
25 imposed a clean drinking water fee at the rate of ~~\$.03~~ \$.10 per 1,000
26 gallons of water sold at retail by a public water supply system and
27 delivered through mains, lines or pipes. Such fee shall be paid,
28 administered, enforced and collected in the manner provided for the fee
29 imposed by ~~subsection (a)(1) of~~ K.S.A. 82a-954(a)(1), and amendments
30 thereto. The price to the consumer of water sold at retail by any such
31 system shall not include the amount of such fee.

32 ~~(b) (1) A public water supply system may elect to opt out of the fee~~
33 ~~imposed by this section by notifying, before October 1, 2001, the Kansas~~
34 ~~water office and the department of revenue of the election to opt out.~~
35 ~~Except as provided by subsection (b)(2), such election shall be irrevocable.~~
36 ~~Such public water supply system shall continue to pay all applicable sales~~
37 ~~tax on direct and indirect purchases of tangible personal property and~~
38 ~~services purchased by such system.~~

39 ~~(2) On and after January 1, 2005, any public water supply system~~
40 ~~which elected to opt out of the fee imposed by subsection (a) may elect to~~
41 ~~collect such fee as provided by subsection (a) and direct and indirect~~
42 ~~purchases of tangible personal property and services by such system shall~~
43 ~~be exempt from sales tax as provided by K.S.A. 79-3606, and amendments~~

1 ~~thereto. Such election shall be irrevocable.~~

2 ~~(e)(b)~~ The director of taxation shall remit to the state treasurer in
3 accordance with the provisions of K.S.A. 75-4215, and amendments
4 thereto, all moneys received or collected from the fee imposed pursuant to
5 this section. Upon receipt thereof, the state treasurer shall deposit the
6 entire amount in the state treasury and credit it as follows:

7 (1) ^{5/106} of such amount shall be credited to the state highway fund
8 ~~and the remainder to the state general fund;~~ and

9 (2) ~~on and after July 1, 2007,~~ ^{5/106} of such amount shall be credited to
10 ~~the state highway fund~~ and the remaining amount shall be credited to the
11 state water plan fund created by K.S.A. 82a-951, and amendments thereto,
12 for use as follows: (A) Not less than 15% shall be used to provide on-site
13 technical assistance for public water supply systems, as defined in K.S.A.
14 65-162a, and amendments thereto, to aid such systems in conforming to
15 responsible management practices and complying with regulations of the
16 United States environmental protection agency and rules and regulations
17 of the department of health and environment; (B) *not less than 10% shall*
18 *be used to provide on-site technical assistance for drinking and*
19 *wastewater treatment operators to support conservation district and*
20 *watershed dam support programs, equus and other recharge programs*
21 *and multi-purpose small lake partnerships;* and ~~(B)~~ (C) the remainder
22 shall be used to renovate and protect lakes which are used directly as a
23 source of water for such public water supply systems, so long as where
24 appropriate, watershed restoration and protection practices are planned or
25 in place.

26 ~~(d)(c)~~ The Kansas department of agriculture division of conservation
27 shall promulgate rules and regulations in coordination with the Kansas
28 water office establishing the project application evaluation criteria for the
29 use of such moneys under subsection ~~(e)(b)(2)(B)(C)~~.

30 Sec. 10. K.S.A. 70a-102, 70a-105 and 82a-951 and K.S.A. 2015
31 Supp. 2-2204, 65-166a, 82a-903 and 82a-2101 are hereby repealed.

32 Sec. 11. This act shall take effect and be in force from and after its
33 publication in the statute book.