

HOUSE BILL No. 2686

By Committee on Appropriations

2-10

1 AN ACT concerning the water and environment of Kansas; creating the
2 Kansas department of water and environment within the executive
3 branch of government; transferring certain powers, duties and
4 functions; abolishing the Kansas water office, the Kansas department of
5 health and environment, division of environment, the Kansas
6 department of agriculture, division of conservation and the Kansas
7 department of agriculture, division of water resources; updating
8 statutory references thereof; establishing the water and environment
9 maintenance fund; modifying procedures for elections of the board of
10 directors for a groundwater management district, board of directors
11 eligibility, definition of eligible voter and term limits of board of
12 directors; requiring groundwater management districts to submit annual
13 financial reports to the legislature and to submit water conservation and
14 stabilization plans to the chief engineer; increasing water protection
15 fees for public water supply systems, industrial use and stockwatering
16 permit holders; authorizing the chief engineer to issue certain orders
17 without review by the secretary of water and environment; establishing
18 a civil penalty for obstructions in streams violations and creating the
19 water structures emergency fund; amending K.S.A. 2-3302, 2-3703, 2-
20 3704, 2-3710, 12-2707, 19-27a03, 19-27a12, 19-27a17, 19-2963, 19-
21 3704, 24-407, 24-418, 24-656, 24-659, 24-1202, 24-1204, 24-1211, 24-
22 1212, 32-1152, 32-1154, 32-1403, 42-701, 42-725, 47-1214, 47-1511,
23 49-403, 55-527, 65-153f, 65-156, 65-157, 65-159, 65-162a, 65-163, 65-
24 163c, 65-163d, 65-163g, 65-164, 65-165, 65-166, 65-166a, 65-166b,
25 65-167, 65-169, 65-170, 65-170b, 65-170d, 65-170e, 65-170g, 65-
26 171a, 65-171b, 65-171c, 65-171d, 65-171e, 65-171f, 65-171h, 65-171i,
27 65-171m, 65-171n, 65-171o, 65-171p, 65-171q, 65-171r, 65-171t, 65-
28 171u, 65-1,107, 65-1,178, 65-1,182, 65-1,201, 65-1,222, 65-1629, 65-
29 3002, 65-3003, 65-3005, 65-3011, 65-3018, 65-3022, 65-3027, 65-
30 3303, 65-3308, 65-3309, 65-3310, 65-3311, 65-3312, 65-3313, 65-
31 3321, 65-3329, 65-3330, 65-3401, 65-3402, 65-3419, 65-3423, 65-
32 3424d, 65-3424i, 65-3426, 65-3427, 65-3430, 65-3446, 65-3458, 65-
33 3491, 65-34,102, 65-34,126, 65-34,133, 65-34,142, 65-34,144, 65-
34 34,153, 65-34,162, 65-34,175, 65-34,176, 65-34,178, 65-4501, 65-
35 5301, 65-7003, 68-1414, 68-2203, 74-2608, 74-2609, 74-2622, 74-
36 99f04, 75-3084, 75-37,121, 75-5601, 75-5608, 75-5608a, 75-5609a,

1 75-5657, 75-5672, 82a-220, 82a-301, 82a-301a, 82a-303a, 82a-303b,
 2 82a-305a, 82a-326, 82a-328, 82a-405, 82a-603, 82a-612, 82a-701, 82a-
 3 731, 82a-732, 82a-733, 82a-737, 82a-738, 82a-739, 82a-762, 82a-767,
 4 82a-771, 82a-773, 82a-902, 82a-903, 82a-905, 82a-906, 82a-922, 82a-
 5 923, 82a-954, 82a-1021, 82a-1023, 82a-1025, 82a-1027, 82a-1034,
 6 82a-1042, 82a-1101, 82a-1103, 82a-1203, 82a-1214, 82a-1216, 82a-
 7 1301, 82a-1303, 82a-1311a, 82a-1315b, 82a-1315c, 82a-1332, 82a-
 8 1333, 82a-1335, 82a-1345, 82a-1347, 82a-1348, 82a-1349, 82a-1360,
 9 82a-1361, 82a-1362, 82a-1363, 82a-1364, 82a-1367, 82a-1368, 82a-
 10 1370, 82a-1402, 82a-1501, 82a-1502, 82a-1604, 82a-1605, 82a-1606,
 11 82a-1608, 82a-1609, 82a-1703, 82a-1704, 82a-1803, 82a-1804, 82a-
 12 1805, 82a-1901, 82a-1904, 82a-1905, 82a-1906, 82a-2001, 82a-2007,
 13 82a-2101, 82a-2301, 82a-2302, 82a-2303, 82a-2304, 82a-2305, 82a-
 14 2310, 82a-2311, 82a-2312, 82a-2313, 82a-2314, 82a-2317, 82a-2324,
 15 82a-2402, 82a-2403, 82a-2404, 82a-2406, 82a-2407, 82a-2408, 82a-
 16 2411, 82a-2412, 82a-2414, 82a-2415, 82a-2416 and 82a-2419 and
 17 K.S.A. 2021 Supp. 2-1903, 2-1904, 2-1915, 2-1933, 2-3318, 2-3702, 2-
 18 3708, 2-3709, 12-541, 12-636, 12-761, 12-766, 12-2713, 48-1603, 48-
 19 1606, 48-1608, 49-511, 49-512, 49-513, 49-517, 49-603, 49-618, 49-
 20 623, 55-153, 55-1,117, 55-1,117a, 55-1,119, 65-171v, 65-180, 75-3036,
 21 75-5133, 82a-736, 82a-1602, 82a-1603 and 82a-1702 and repealing the
 22 existing sections.
 23

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

25 New Section 1. (a) There is hereby established within the executive
 26 branch of government the Kansas department of water and environment.

27 (b) The provisions of the Kansas governmental operations
 28 accountability law shall apply to the Kansas department of water and
 29 environment. The department shall be subject to audit, review and
 30 evaluation under such law.

31 New Sec. 2. (a) (1) The Kansas department of water and environment
 32 shall be administered under the direction and supervision of a secretary of
 33 water and environment. The secretary shall be appointed by the governor
 34 with the consent of the senate as provided in K.S.A. 75-4315b, and
 35 amendments thereto. Except as provided by K.S.A. 46-2601, and
 36 amendments thereto, no person appointed as secretary shall exercise any
 37 power, duty or function as secretary until confirmed by the senate.

38 (2) The secretary shall be in the unclassified service under the Kansas
 39 civil service act and shall receive an annual salary to be fixed by the
 40 governor. The secretary shall be a member of the governor's cabinet. The
 41 secretary shall serve at the pleasure of the governor.

42 (3) (A) The secretary shall maintain an office in Topeka, Kansas, and
 43 may maintain offices and facilities to carry out the functions of the

1 department in other locations of this state.

2 (B) For the purpose of easing accessibility to the public, prior to July
3 1, 2028, the secretary shall investigate the feasibility of consolidating the
4 department's offices and facilities on a local level. Progress concerning
5 such consolidation shall be reported to the legislature each year when the
6 secretary presents the department's budget to the legislature for
7 consideration.

8 (b) Subject to the provisions of this act, the secretary may organize
9 the Kansas department of water and environment in the manner the
10 secretary deems most efficient. The secretary may establish policies
11 governing the transaction of business of the department and the
12 administration of each division within the department. The director of each
13 division of the department shall perform such duties and exercise such
14 powers as the secretary may prescribe and such duties and powers as are
15 prescribed by law. Such directors shall act for and exercise the powers of
16 the secretary to the extent authority to do so is delegated by the secretary.

17 (c) (1) The secretary shall have the legal custody of all records,
18 memoranda, writings, entries, prints or representations, or combination
19 thereof, of any act, transaction, occurrence or event of the Kansas
20 department of water and environment and any agency or office abolished
21 or transferred under this act.

22 (2) No suit, action or other proceeding, judicial or administrative,
23 lawfully commenced, or that could have been commenced, by or against
24 any state agency mentioned in this act, or by or against any officer of the
25 state in such officer's capacity or in relation to the discharge of such
26 officer's duties, shall abate by reason of the governmental reorganization
27 effected under the provisions of this act. The court may allow any such
28 suit, action or other proceeding to be maintained by or against the
29 successor of any such state agency or any officer affected.

30 (3) No criminal action commenced or that could have been
31 commenced by the state shall abate by this act.

32 (d) The secretary shall appoint a chief attorney for the Kansas
33 department of water and environment, who shall be in the unclassified
34 service under the Kansas civil service act. The secretary may appoint
35 additional attorneys to full-time positions within the department. Such
36 additional attorneys shall be in the unclassified service under the Kansas
37 civil service act and shall be subject to assignment and reassignment of
38 duty within the department as may be determined by the chief attorney.

39 (e) The secretary shall have the power to:

40 (1) Adopt rules and regulations as necessary to implement, administer
41 and enforce the powers and duties transferred by sections 3 and 4, and
42 amendments thereto, and to administer the Kansas department of water
43 and environment and the duties of the secretary;

1 (2) appoint employees for the office of the secretary as necessary to
2 enable the secretary to carry out the duties of the office. Such employees
3 shall be within the unclassified service under the Kansas civil service act
4 and shall be subject to assignment and reassignment of duty within the
5 office as may be determined by the secretary;

6 (3) enter into such contracts and agreements as necessary or
7 incidental to the performance of the powers and duties of the secretary;

8 (4) designate an official seal and alter such official seal at the
9 secretary's pleasure;

10 (5) sue, be sued, plead and be impleaded in the name of the
11 department;

12 (6) charge and collect, by order, a fee necessary for the administration
13 and processing of paper documents, including, but not limited to,
14 applications, registrations, permits, licenses, certifications, renewals,
15 reports and remittance of fees that are necessary or incidental to the
16 execution of the laws relating to the Kansas department of water and
17 environment. Such fee shall be in addition to any fee that the secretary is
18 authorized to charge by law and may be up to 6% of such applicable fee
19 amount, except that such fee shall not exceed \$50 and shall only be
20 charged when an electronic system for processing the documents exists;
21 and

22 (7) do such other acts as necessary and proper to carry out the
23 purposes of the water and environment laws of this state and to better
24 protect, conserve, control, use, increase, develop and provide for the
25 enjoyment of the water and environment of this state.

26 New Sec. 3. (a) (1) The division of water and environmental planning
27 is hereby created within the Kansas department of water and environment.

28 (2) The Kansas water office and the office of the director of the
29 Kansas water office established pursuant to K.S.A. 74-2613, and
30 amendments thereto, are hereby abolished. All of the powers, duties and
31 functions of the existing Kansas water office are hereby transferred to the
32 Kansas department of water and environment, division of water and
33 environmental planning.

34 (3) Whenever the Kansas water office, or words of like effect, is
35 referred to or designated by any statute, rule and regulation, contract or
36 any other document, including any statute, rule and regulation, contract or
37 any document created pursuant to the authorities transferred by this
38 section, such reference or designation shall apply to the division of water
39 and environmental planning.

40 (4) On July 1, 2023, officers and employees who, immediately prior
41 to such date, were engaged in the performance of powers, duties or
42 functions that are transferred pursuant to the provisions of this section and
43 who, in the opinion of the secretary of water and environment, are

1 necessary to perform the powers, duties and functions of the Kansas
2 department of water and environment, division of water and environmental
3 planning shall be transferred to, and shall become officers and employees
4 of such department. Such officers or employees shall retain all retirement
5 benefits and all rights of civil service that had accrued or vested in such
6 officers or employees prior to July 1, 2023.

7 (5) (A) On and after July 1, 2023, when any conflict arises as to the
8 disposition of any power, duty or function or the unexpended balance of
9 any appropriation as a result of any transfer made by this section, or under
10 the authority of this section, such conflict shall be resolved by the
11 governor, and the decision of the governor shall be final.

12 (B) In all cases under the provisions of this section where part or all
13 of the powers, duties and functions of any state agency are divided
14 between the division of water and environmental planning and any other
15 state agency, the division of water and environmental planning shall
16 succeed to all property and records that were used for or pertain to the
17 performance of the powers, duties and functions transferred to the division
18 of water and environmental planning. Any conflict as to the proper
19 disposition of property or records arising under this section, and resulting
20 from the transfer, attachment or abolition of any state agency, or all or part
21 of the powers, duties and functions thereof, shall be determined by the
22 governor, and the decision of the governor shall be final.

23 (6) (A) On July 1, 2023, the balance of all funds appropriated and
24 reappropriated to the Kansas water office is hereby transferred to the
25 division of water and environmental planning and shall be used only for
26 the purposes for which the appropriation was originally made.

27 (B) On July 1, 2023, liability for all accrued compensation or salaries
28 of officers and employees who, immediately prior to such date, were
29 engaged in the performance of powers, duties or functions of any state
30 agency or office abolished or transferred by this section shall be assumed
31 and paid by the Kansas department of water and environment.

32 (b) (1) The Kansas department of water and environment, division of
33 water and environmental planning shall be administered by a director of
34 the Kansas department of water and environment, division of water and
35 environmental planning, who shall be in the unclassified service under the
36 Kansas civil service act. The director of the division of water and
37 environmental planning shall be appointed by the secretary of water and
38 environment and shall serve at the pleasure of the secretary.

39 (2) The director of the division of water and environmental planning
40 created by this section shall be the successor in every way to the same
41 powers, duties and functions that were vested in the director of the Kansas
42 water office prior to July 1, 2023, except as provided in paragraph (4) and
43 section 2, and amendments thereto. Every act performed under the

1 authority of the director of the division of water and environmental
2 planning created by this section shall be deemed to have the same force
3 and effect as if performed by the Kansas water office or the director
4 thereof prior to July 1, 2023, except as provided in paragraph (4) and
5 section 2, and amendments thereto.

6 (3) Whenever the director of the Kansas water office, or words of like
7 effect, is referred to or designated by any statute, rule and regulation,
8 contract or any other document, including any statute, rule and regulation,
9 contract or any document created pursuant to the authorities transferred by
10 this section, such reference or designation shall apply to the director of the
11 division of water and environmental planning.

12 (4) (A) All rules and regulations of the Kansas water office or the
13 director of the Kansas water office in existence on July 1, 2023, shall
14 continue to be effective and shall be duly adopted rules and regulations of
15 the secretary of water and environment until revised, amended, revoked or
16 nullified pursuant to law.

17 (B) All powers of the Kansas water office or the director of the
18 Kansas water office to adopt rules and regulations by law shall transfer to
19 the secretary of water and environment.

20 (5) All orders or directives of the director of the Kansas water office
21 in existence on July 1, 2023, shall continue to be effective and shall be the
22 orders or directives of the director of the division of water and
23 environmental planning until revised, amended, repealed or nullified
24 pursuant to law.

25 (6) On July 1, 2023, the director of the division of water and
26 environmental planning shall succeed to whatever right, title or interest the
27 Kansas water office has acquired in any real property in this state, and the
28 director shall hold the such right, title or interest for and in the name of the
29 state of Kansas. On and after July 1, 2023, whenever any statute, contract,
30 deed or other document concerns the power or authority of the Kansas
31 water office to acquire, hold or dispose of real property or any interest
32 therein, the director of the division of water and environmental planning
33 shall succeed to such power or authority.

34 (c) The powers, duties and functions transferred by this section
35 include, but are not limited to, responsibilities concerning:

36 (1) The development and implementation of the state water plan,
37 K.S.A. 74-2608 et seq. and 82a-901 et seq., and amendments thereto;

38 (2) drought monitoring and response, K.S.A. 74-2608, and
39 amendments thereto;

40 (3) municipal water, K.S.A. 74-2608, and amendments thereto;

41 (4) conservation plans, K.S.A. 74-2608, and amendments thereto;

42 (5) reservoir operations, K.S.A. 74-2609, and amendments thereto;

43 (6) the Kansas water authority, K.S.A. 74-2622, and amendments

1 thereto;

2 (7) the coordination of streambank projects, K.S.A. 82a-1101 et seq.,
3 and amendments thereto;

4 (8) the water marketing fund, K.S.A. 82a-1301 et seq., and
5 amendments thereto;

6 (9) the state water plan storage act, K.S.A. 82a-1301 et seq., and
7 amendments thereto;

8 (10) the water assurance program act, K.S.A. 82a-1330 et seq., and
9 amendments thereto;

10 (11) the financing of large reservoir projects, K.S.A. 82a-1360 et seq.,
11 and amendments thereto;

12 (12) the Kansas weather modification act, K.S.A. 82a-1401, et seq.,
13 and amendments thereto;

14 (13) the water transfer act, K.S.A. 82a-1501 et seq., and amendments
15 thereto;

16 (14) the multipurpose small lakes program act, K.S.A. 82a-1601 et
17 seq., and amendments thereto;

18 (15) water litigation and the associated funds, K.S.A. 82a-1801 et
19 seq., and amendments thereto;

20 (16) the clean drinking water fee, K.S.A. 82a-2101, and amendments
21 thereto;

22 (17) the lower smoky hill water supply access program, K.S.A. 82a-
23 2301 et seq., and amendments thereto; and

24 (18) the reservoir improvement district act, K.S.A. 82a-2401, and
25 amendments thereto.

26 New Sec. 4. (a) (1) The division of environment and conservation is
27 hereby created within the Kansas department of water and environment.

28 (2) (A) The Kansas department of health and environment, division
29 of environment and the office of the director of the division of
30 environment established pursuant to K.S.A. 75-5605, and amendments
31 thereto, are hereby abolished. All of the powers, duties and functions of the
32 existing Kansas department of health and environment, division of
33 environment are hereby transferred to the Kansas department of water and
34 environment, division of environment and conservation.

35 (B) The Kansas department of agriculture, division of conservation
36 and the office of the executive director of the division of conservation
37 established pursuant to K.S.A. 74-5,126, and amendments thereto, are
38 hereby abolished. All of the powers, duties and functions of the existing
39 Kansas department of agriculture, division of conservation are hereby
40 transferred to the division of environment and conservation.

41 (3) (A) Whenever the Kansas department of health and environment,
42 division of environment, or words of like effect, is referred to or
43 designated by any statute, rule and regulation, contract or any other

1 document, including any statute, rule and regulation, contract or any
2 document created pursuant to the authorities transferred by this section,
3 such reference or designation shall apply to the division of environment
4 and conservation.

5 (B) Whenever the Kansas department of agriculture, division of
6 conservation, or words of like effect, is referred to or designated by any
7 statute, rule and regulation, contract or any other document, including any
8 statute, rule and regulation, contract or any document created pursuant to
9 the authorities transferred by this section, such reference or designation
10 shall apply to the division of environment and conservation.

11 (4) On July 1, 2023, officers and employees who, immediately prior
12 to such date, were engaged in the performance of powers, duties or
13 functions that are transferred pursuant to the provisions of this section and
14 who, in the opinion of the secretary of water and environment, are
15 necessary to perform the powers, duties and functions of the Kansas
16 department of water and environment, division of environment and
17 conservation shall be transferred to and shall become officers and
18 employees of such department. Such officers or employees shall retain all
19 retirement benefits and all rights of civil service that had accrued or vested
20 in such officers or employees prior to July 1, 2023.

21 (5) (A) On and after July 1, 2023, when any conflict arises as to the
22 disposition of any power, duty or function or the unexpended balance of
23 any appropriation as a result of any transfer made by this section or under
24 the authority of this section, such conflict shall be resolved by the
25 governor, and the decision of the governor shall be final.

26 (B) In all cases under the provisions of this section where part or all
27 of the powers, duties and functions of any state agency are divided
28 between the division of environment and conservation and any other state
29 agency, the division of environment and conservation shall succeed to all
30 property and records that were used for or pertain to the performance of
31 the powers, duties and functions transferred to the division of environment
32 and conservation. Any conflict as to the proper disposition of property or
33 records arising under this section and resulting from the transfer,
34 attachment or abolition of any state agency, or all or part of the powers,
35 duties and functions thereof, shall be determined by the governor, and the
36 decision of the governor shall be final.

37 (6) (A) On July 1, 2023, the balance of all funds appropriated and
38 reappropriated to the Kansas department of health and environment,
39 division of environment, including the balance of all funds appropriated
40 and reappropriated associated with the authorities transferred by this
41 section, is hereby transferred to the division of environment and
42 conservation and shall be used only for the purposes for which the
43 appropriation was originally made.

1 (B) On July 1, 2023, the balance of all funds appropriated and
2 reappropriated to the Kansas department of agriculture, division of
3 conservation, including the balance of all funds appropriated and
4 reappropriated associated with the authorities transferred by this section, is
5 hereby transferred to the division of environment and conservation and
6 shall be used only for the purposes for which the appropriation was
7 originally made.

8 (C) On July 1, 2023, liability for all accrued compensation or salaries
9 of officers and employees who, immediately prior to such date, were
10 engaged in the performance of powers, duties or functions of any state
11 agency or office abolished or transferred by this section shall be assumed
12 and paid by the Kansas department of water and environment.

13 (b) (1) The Kansas department of water and environment, division of
14 environment and conservation, shall be administered by a director of the
15 Kansas department of water and environment, division of environment and
16 conservation, who shall be in the unclassified service under the Kansas
17 civil service act. The director of the division of environment and
18 conservation shall be appointed by the secretary of water and environment
19 and shall serve at the pleasure of the secretary.

20 (2) (A) The director of the division of environment and conservation
21 shall be the successor in every way to the same powers, duties and
22 functions that were vested in the director of the Kansas department of
23 health and environment, division of environment, prior to July 1, 2023,
24 except as provided in paragraph (4) and section 2, and amendments
25 thereto. Every act performed under the authority of the director of the
26 division of environment and conservation shall have the same force and
27 effect as if performed by the Kansas department of health and
28 environment, division of environment, or the director thereof, prior to July
29 1, 2023, except as provided paragraph (4) and section 2, and amendments
30 thereto.

31 (B) The director of the division of environment and conservation
32 shall be the successor in every way to the same powers, duties and
33 functions that were vested in the executive director of the Kansas
34 department of agriculture, division of conservation, prior to July 1, 2023,
35 except as provided in paragraph (4) and section 2, and amendments
36 thereto. Every act performed under the authority of the director of the
37 division of environment and conservation shall have the same force and
38 effect as if performed by the Kansas department of agriculture, division of
39 conservation, or the executive director thereof, prior to July 1, 2023,
40 except as provided in paragraph (4) and section 2, and amendments
41 thereto.

42 (3) (A) Whenever the director of the Kansas department of health and
43 environment, division of environment, or words of like effect, is referred

1 to or designated by any statute, rule and regulation, contract or any other
2 document, including any statute, rule and regulation, contract or any
3 document created pursuant to the authorities transferred by this section,
4 such reference or designation shall apply to the director of the division of
5 environment and conservation.

6 (B) Whenever the executive director of the Kansas department of
7 agriculture, division of conservation, or words of like effect, is referred to
8 or designated by any statute, rule and regulation, contract or any other
9 document, including any statute, rule and regulation, contract or any
10 document created pursuant to the authorities transferred by this section,
11 such reference or designation shall apply to the director of the division of
12 environment and conservation.

13 (4) (A) All rules and regulations of the Kansas department of health
14 and environment or the secretary of health and environment adopted
15 pursuant to the authorities transferred by this section in existence on July
16 1, 2023, shall continue to be effective and shall be duly adopted rules and
17 regulations of the secretary of water and environment until revised,
18 amended, revoked or nullified pursuant to law.

19 (B) All rules and regulations of the Kansas department of health and
20 environment, division of environment or the director of the division of
21 environment in existence on July 1, 2023, shall continue to be effective
22 and shall be duly adopted rules and regulations of the secretary of water
23 and environment until revised, amended, revoked or nullified pursuant to
24 law.

25 (C) All rules and regulations of the Kansas department of agriculture,
26 division of conservation or the secretary of agriculture adopted pursuant to
27 the authorities transferred by this section in existence on July 1, 2023,
28 shall continue to be effective and shall be duly adopted rules and
29 regulations of the secretary of water and environment until revised,
30 amended, revoked or nullified pursuant to law.

31 (D) All powers of the Kansas department of health and environment,
32 the secretary of health and environment, the Kansas department of health
33 and environment, division of environment, the director of the division of
34 environment, the Kansas department of agriculture, division of
35 conservation or the secretary of agriculture to adopt rules and regulations
36 pursuant to the authorities transferred by this section shall transfer to the
37 secretary of water and environment.

38 (5) (A) All orders or directives of the Kansas department of health
39 and environment or the secretary of health and environment issued
40 pursuant to the authorities transferred by this section, in existence on July
41 1, 2023, shall continue to be effective and shall be the orders or directives
42 of the secretary of water and environment until revised, amended, repealed
43 or nullified pursuant to law.

1 (B) All orders or directives of the director of the Kansas department
2 of health and environment, division of environment, in existence on July 1,
3 2023, shall continue to be effective and shall be the orders or directives of
4 the secretary of water and environment until revised, amended, repealed or
5 nullified pursuant to law.

6 (C) All orders or directives of the director of the Kansas department
7 of agriculture, division of conservation, in existence on July 1, 2023, shall
8 continue to be effective and shall be the orders or directives of the
9 secretary of water and environment until revised, amended, repealed or
10 nullified pursuant to law.

11 (6) (A) On July 1, 2023, the director of the division of environment
12 and conservation shall succeed to whatever right, title or interest the
13 Kansas department of health and environment, division of environment,
14 has acquired in any real property in this state, and the director shall hold
15 such right, title or interest for and in the name of the state of Kansas. On
16 and after July 1, 2023, whenever any statute, contract, deed or other
17 document, including any statute, contract, deed or other document created
18 pursuant to the authorities transferred by this section, concerns the power
19 or authority of the Kansas department of health and environment, division
20 of environment to acquire, hold or dispose of real property or any interest
21 therein, the director of the division of environment and conservation, shall
22 succeed to such power or authority.

23 (B) On July 1, 2023, the director of the division of environment and
24 conservation shall succeed to whatever right, title or interest the Kansas
25 department of agriculture, division of conservation has acquired in any real
26 property in this state, and the director shall hold such right, title or interest
27 for and in the name of the state of Kansas. On and after July 1, 2023,
28 whenever any statute, contract, deed or other document concerns the
29 power or authority of the Kansas department of agriculture, division of
30 conservation to acquire, hold or dispose of real property or any interest
31 therein, the director of the division of environment and conservation shall
32 succeed to such power or authority.

33 (c) The powers, duties and functions transferred by this section
34 include, but are not limited to, responsibilities concerning:

35 (1) The bureau of air, including, but not limited to:

36 (A) Limiting methyl tertiary-butyl ether in motor vehicle fuel, K.S.A.
37 55-527, and amendments thereto;

38 (B) the residential childhood lead poisoning prevention act, K.S.A.
39 65-1,200 et seq., and amendments thereto;

40 (C) the Kansas air quality act, K.S.A. 65-3001 et seq., and
41 amendments thereto; and

42 (D) asbestos control, K.S.A. 65-5301 et seq., and amendments
43 thereto;

- 1 (2) environmental field services, including, but not limited to:
- 2 (A) The Kansas chemigation safety law, K.S.A. 2-3301 et seq., and
- 3 amendments thereto;
- 4 (B) county sanitation controls, K.S.A. 19-3701 et seq., and
- 5 amendments thereto;
- 6 (C) disposal of dead animals, K.S.A. 47-1214, and amendments
- 7 thereto;
- 8 (D) providing staff engineers for feedlot planning assistance, K.S.A.
- 9 47-1511, and amendments thereto;
- 10 (E) confined feeding facilities for swine, K.S.A. 65-1,178 et seq., and
- 11 amendments thereto; and
- 12 (F) nonpoint source pollution control, K.S.A. 75-5657, and
- 13 amendments thereto, and 33 U.S.C. § 1329;
- 14 (3) environmental remediation, including, but not limited to:
- 15 (A) The Kansas agriculture remediation program, K.S.A. 2-3708 et
- 16 seq., and amendments thereto;
- 17 (B) the nuclear energy development and radiation control act, K.S.A.
- 18 48-1601 et seq., and amendments thereto;
- 19 (C) the mined-land conservation and reclamation act, K.S.A. 49-401
- 20 et seq., and amendments thereto;
- 21 (D) relocation assistance for Treece community in Cherokee county,
- 22 K.S.A. 49-513, and amendments thereto;
- 23 (E) the surface-mining land conservation and reclamation act, K.S.A.
- 24 49-601 et seq., and amendments thereto;
- 25 (F) the abatement of nuisances, K.S.A. 65-159 and 65-160, and
- 26 amendments thereto;
- 27 (G) cleanup operations for water and soil pollutants, K.S.A. 65-171v,
- 28 and amendments thereto;
- 29 (H) environmental use controls, K.S.A. 65-1,221 et seq., and
- 30 amendments thereto;
- 31 (I) environmental response, K.S.A. 65-3452a et seq., and
- 32 amendments thereto;
- 33 (J) the Kansas storage tank act, K.S.A. 65-34,100 et seq., and
- 34 amendments thereto;
- 35 (K) the Kansas drycleaner environmental response act, K.S.A. 65-
- 36 34,141 et seq., and amendments thereto;
- 37 (L) the voluntary cleanup and property redevelopment act, K.S.A. 65-
- 38 34,161 et seq., and amendments thereto;
- 39 (M) the risk management program, K.S.A. 65-34,176, and
- 40 amendments thereto;
- 41 (N) the contaminated property redevelopment act, K.S.A. 65-34,177
- 42 et seq., and amendments thereto;
- 43 (O) the Kansas chemical control act, K.S.A. 65-7001 et seq., and

- 1 amendments thereto;
- 2 (P) the natural resources damages trust fund, K.S.A. 75-5672, and
- 3 amendments thereto; and
- 4 (Q) the state water resources planning act, K.S.A. 82a-901a et seq.,
- 5 and amendments thereto;
- 6 (4) health and environment laboratories, including, but not limited to:
- 7 (A) Prenatal serological tests for detection of syphilis and hepatitis b,
- 8 K.S.A. 65-153f, and amendments thereto;
- 9 (B) analysis of water, K.S.A. 65-156 and 65-157, and amendments
- 10 thereto;
- 11 (C) screening newborn infants for certain genetic diseases, K.S.A. 65-
- 12 180, and amendments thereto;
- 13 (D) authority to approve certain laboratories, K.S.A. 65-1,107 et seq.,
- 14 and amendments thereto;
- 15 (E) samples of drugs collected by the state board of pharmacy, K.S.A.
- 16 65-1629, and amendments thereto; and
- 17 (F) the office of laboratory services, K.S.A. 75-5608 through 75-
- 18 5609a, and amendments thereto;
- 19 (5) waste management, including, but not limited to:
- 20 (A) Solid waste management, K.S.A. 65-3401 et seq., and
- 21 amendments thereto;
- 22 (B) used and waste tires, K.S.A. 65-3424 et seq., and amendments
- 23 thereto;
- 24 (C) hazardous waste management, K.S.A. 65-3430 et seq., and
- 25 amendments thereto; and
- 26 (D) the hazardous waste management fund, K.S.A. 65-3491, and
- 27 amendments thereto;
- 28 (6) water, including, but not limited to:
- 29 (A) Local sewage disposal facilities and improvements, K.S.A. 12-
- 30 3710 et seq., and amendments thereto;
- 31 (B) sewer district management, K.S.A. 19-27a01 et seq., and
- 32 amendments thereto;
- 33 (C) marine sewage, K.S.A. 32-1152 through 32-1154, and
- 34 amendments thereto;
- 35 (D) regulation of underground storage of hydrocarbons and salt
- 36 solution mining wells, K.S.A. 55-1,117 et seq., and amendments thereto;
- 37 (E) public water supply and sewage systems, K.S.A. 65-161 et seq.,
- 38 and amendments thereto;
- 39 (F) water pollution control, K.S.A. 65-3301 et seq., and amendments
- 40 thereto;
- 41 (G) certification of water and wastewater treatment operators, K.S.A.
- 42 65-4501 et seq., and amendments thereto;
- 43 (H) the Kansas groundwater exploration and protection act, K.S.A.

1 82a-1201 et seq., and amendments thereto;

2 (I) the water transfer act, K.S.A. 82a-1501 et seq., and amendments
3 thereto;

4 (J) the multipurpose small lakes program act, K.S.A. 82a-1601, and
5 amendments thereto;

6 (K) water development projects, K.S.A. 82a-1701 et seq., and
7 amendments thereto; and

8 (L) classifying stream segments, K.S.A. 82a-2001 et seq., and
9 amendments thereto; and

10 (7) conservation management, including, but not limited to:

11 (A) Conservation district management pursuant to the conservation
12 districts law provided in K.S.A. 2-1901 et seq., and amendments thereto;
13 and

14 (B) the state conservation commission established by K.S.A. 2-1904,
15 and amendments thereto, and continued in existence by K.S.A. 74-5,128,
16 and amendments thereto.

17 New Sec. 5. (a) (1) The division of water resources is hereby created
18 within the Kansas department of water and environment.

19 (2) The Kansas department of agriculture, division of water resources
20 established pursuant to K.S.A. 74-506a, and amendments thereto, and the
21 office of the chief engineer of the division of water resources established
22 pursuant to K.S.A. 74-506d, and amendments thereto, are hereby
23 abolished. All of the powers, duties and functions of the existing Kansas
24 department of agriculture, division of water resources are hereby
25 transferred to the Kansas department of water and environment, division of
26 water resources.

27 (3) Whenever the Kansas department of agriculture, division of water
28 resources, or words of like effect, is referred to or designated by any
29 statute, rule and regulation, contract or any other document, including any
30 statute, rule and regulation, contract or any document created pursuant to
31 the authorities transferred by this section, such reference or designation
32 shall apply to the Kansas department of water and environment, division
33 of water resources.

34 (4) On July 1, 2023, officers and employees who, immediately prior
35 to such date, were engaged in the performance of powers, duties or
36 functions that are transferred pursuant to the provisions of this section and
37 who, in the opinion of the secretary of water and environment, are
38 necessary to perform the powers, duties and functions of the Kansas
39 department of water and environment, division of water resources, shall be
40 transferred to and shall become officers and employees of such
41 department. Such officers or employees shall retain all retirement benefits
42 and all rights of civil service that had accrued or vested in such officers or
43 employees prior to July 1, 2023.

1 (5) (A) On and after July 1, 2023, when any conflict arises as to the
2 disposition of any power, duty or function or the unexpended balance of
3 any appropriation as a result of any transfer made by this section, or under
4 the authority of this section, such conflict shall be resolved by the
5 governor, and the decision of the governor shall be final.

6 (B) In all cases under the provisions of this section where part or all
7 of the powers, duties and functions of any state agency are divided
8 between the Kansas department of water and environment, division of
9 water resources and any other state agency, the division of water resources
10 shall succeed to all property and records that were used for or pertain to
11 the performance of the powers, duties and functions transferred to the
12 division of water resources. Any conflict as to the proper disposition of
13 property or records arising under this section and resulting from the
14 transfer, attachment or abolition of any state agency, or all or part of the
15 powers, duties and functions thereof, shall be determined by the governor,
16 and the decision of the governor shall be final.

17 (6) (A) On July 1, 2023, the balance of all funds appropriated and
18 reappropriated to the Kansas department of agriculture, division of water
19 resources is hereby transferred to the Kansas department of water and
20 environment, division of water resources and shall be used only for the
21 purposes for which the appropriation was originally made.

22 (B) On July 1, 2023, liability for all accrued compensation or salaries
23 of officers and employees who, immediately prior to such date, were
24 engaged in the performance of powers, duties or functions of the Kansas
25 department of agriculture, division of water resources shall be assumed
26 and paid by the Kansas department of water and environment.

27 (b) (1) The Kansas department of water and environment, division of
28 water resources shall be administered by the chief engineer, who shall
29 serve as the director of the Kansas department of water and environment,
30 division of water resources and shall be in the classified service under the
31 Kansas civil service act. The secretary of water and environment is
32 authorized to employ the chief engineer and to fix the chief engineer's
33 compensation.

34 (2) The chief engineer of the Kansas department of water and
35 environment, division of water resources shall be the successor in every
36 way to the same powers, duties and functions that were vested in the chief
37 engineer of the Kansas department of agriculture, division of water
38 resources, prior to July 1, 2023. Every act performed under the authority of
39 the chief engineer of the Kansas department of water and environment,
40 division of water resources shall have the same force and effect as if
41 performed by the Kansas department of agriculture, division of water
42 resources, or the chief engineer thereof, prior to July 1, 2023.

43 (3) Whenever the chief engineer of the Kansas department of

1 agriculture, division of water resources, or words of like effect, is referred
2 to or designated by any statute, rule and regulation, contract or any other
3 document regardless of whether such reference is in regard to any of the
4 powers, duties or functions transferred pursuant to this section, such
5 reference or designation shall be deemed to apply to the chief engineer of
6 the Kansas department of water and environment, division of water
7 resources.

8 (4) (A) All rules and regulations of the Kansas department of
9 agriculture, division of water resources or the chief engineer of the
10 division of water resources in existence on July 1, 2023, shall continue to
11 be effective and shall be duly adopted rules and regulations of the chief
12 engineer of the Kansas department of water and environment, division of
13 water resources until revised, amended, revoked or nullified pursuant to
14 law.

15 (B) All powers to adopt rules and regulations granted to the chief
16 engineer of the Kansas department of agriculture, division of water
17 resources shall continue to be powers of the chief engineer of the Kansas
18 department of water and environment, division of water resources. All
19 rules and regulations adopted by the chief engineer of the Kansas
20 department of water and environment, division of water resources shall be
21 subject to review by the secretary of water and environment.

22 (5) All orders or directives of the chief engineer of the Kansas
23 department of agriculture, division of water resources, in existence on July
24 1, 2023, shall continue to be effective and shall be the orders or directives
25 of the chief engineer of the Kansas department of water and environment,
26 division of water resources until revised, amended, repealed or nullified
27 pursuant to law.

28 (6) On July 1, 2023, the chief engineer of the Kansas department of
29 water and environment, division of water resources shall succeed to
30 whatever right, title or interest the Kansas department of agriculture,
31 division of water resources, has acquired in any real property in this state,
32 and the director shall hold such right, title or interest for and in the name
33 of the state of Kansas. On and after July 1, 2023, whenever any statute,
34 contract, deed or other document concerns the power or authority of the
35 Kansas department of agriculture, division of water resources, to acquire,
36 hold or dispose of real property or any interest therein, the chief engineer
37 of the Kansas department of water and environment, division of water
38 resources, shall succeed to such power or authority.

39 (c) The powers, duties and functions transferred by this section
40 include, but are not limited to, responsibilities concerning:

41 (1) Protection from flood waters, K.S.A. 12-635 et seq., and
42 amendments thereto;

43 (2) floodplain zoning, K.S.A. 12-766, and amendments thereto;

- 1 (3) drainage and levees, K.S.A. 24-126, and amendments thereto;
- 2 (4) the watershed district act, K.S.A. 24-1201 et seq., and
3 amendments thereto;
- 4 (5) irrigation districts, K.S.A. 42-701 et seq., and amendments
5 thereto;
- 6 (6) the water projects environmental coordination act, K.S.A. 82a-
7 325 et seq., and amendments thereto;
- 8 (7) drought monitoring, K.S.A. 48-924 and 74-2608, and
9 amendments thereto;
- 10 (8) dams and other obstructions in streams, K.S.A. 82a-301 et seq.,
11 and amendments thereto;
- 12 (9) rural water districts pursuant to K.S.A. 82a-612 et seq., and
13 amendments thereto;
- 14 (10) water appropriations, K.S.A. 82a-701 et seq., and amendments
15 thereto;
- 16 (11) groundwater management districts act, K.S.A. 82a-1020 et seq.,
17 and amendments thereto;
- 18 (12) the state water plan storage act, K.S.A. 82a-1301 et seq., and
19 amendments thereto;
- 20 (13) the water assurance program act, K.S.A. 82a-1330 et seq., and
21 amendments thereto; and
- 22 (14) the water transfer act, K.S.A. 82a-1501 et seq., and amendments
23 thereto.

24 New Sec. 6. The name of the Kansas department of health and
25 environment is hereby changed to the Kansas department of health. Except
26 as provided in sections 2 through 5, and amendments thereto, all
27 properties, moneys, appropriations, rights and authorities now vested in
28 the Kansas department of health and environment are hereby vested in the
29 Kansas department of health. Except as provided in sections 2 through 5,
30 and amendments thereto, whenever the title of the Kansas department of
31 health and environment, or words of like effect, is referred to or designated
32 by any statute, contract or other document, such reference or designation
33 shall apply to the Kansas department of health. Nothing in this section
34 shall be construed to abolish the Kansas department of health and
35 environment or the office of the secretary of health and environment or to
36 reestablish the department.

37 New Sec. 7. (a) There is hereby established in the state treasury the
38 water and environment maintenance fund. The water and environment
39 maintenance fund shall be administered by the secretary of water and
40 environment in coordination with the water and environment maintenance
41 board as provided by section 8, and amendments thereto. All moneys
42 received pursuant to this section shall be remitted to the state treasurer in
43 accordance with the provisions of K.S.A. 75-4215, and amendments

1 thereto. Upon receipt of each such remittance, the state treasurer shall
2 deposit the entire amount in the state treasury to the credit of the fund.

3 (b) The water and environment maintenance fund shall be maintained
4 as individual accounts as follows:

5 (1) State appropriations or moneys from other sources designated for
6 the state water plan fund created by K.S.A. 82a-951, and amendments
7 thereto, shall be maintained in a separate account within the water and
8 environment maintenance fund. Disbursement of funds from such account
9 shall only be made for the implementation of the state water plan in
10 accordance with the provisions of K.S.A. 82a-951, and amendments
11 thereto.

12 (2) State appropriations or funds from other sources designated for
13 the Kansas department of water and environment shall be maintained in a
14 separate account within the water and environment maintenance fund and
15 may include, but not be limited to:

16 (A) Any proceeds from the assessments and fees imposed by the
17 water rights fee established pursuant to section 9, and amendments thereto;

18 (B) any interest attributable to investment of moneys in the water and
19 environment maintenance fund; and

20 (C) moneys received by the secretary in the form of gifts, grants or
21 reimbursements from any source intended to be used for the purposes of
22 this act.

23 (c) Subject to the limitations in subsection (b), the secretary is
24 authorized to expend funds from the water and environment maintenance
25 fund to administer, implement and enforce the laws of this state relating to
26 water and the environment.

27 (d) The water and environment maintenance fund shall be used for
28 the purposes set forth in this act and for no other governmental purpose. It
29 is the intent of the legislature that the fund shall remain intact and inviolate
30 for the purposes set forth in this act, and moneys in the fund shall not be
31 subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and
32 amendments thereto.

33 (e) On or before the 10th day of each month, the director of accounts
34 and reports shall transfer from the state general fund to the water and
35 environment maintenance fund interest earnings based on:

36 (1) The average daily balance of moneys in the water and
37 environment trust fund for the preceding month; and

38 (2) the net earnings rate for the pooled money investment portfolio
39 for the preceding month.

40 (f) All expenditures from the water and environment maintenance
41 fund shall be made in accordance with appropriation acts upon warrants of
42 the director of accounts and reports issued pursuant to vouchers approved
43 by the secretary, or the secretary's designee, for the purposes set forth in

1 this section.

2 New Sec. 8. (a) There is hereby established the water and
3 environment maintenance board. The water and environment maintenance
4 board shall consist of seven members as follows:

5 (1) The secretary of the Kansas department of water and
6 environment, to serve as chairperson;

7 (2) the chairperson of the Kansas water authority;

8 (3) the state treasurer;

9 (4) one member of the Kansas senate to be appointed by the president
10 of the senate;

11 (5) one member of the Kansas house of representatives to be
12 appointed by the speaker of the house of representatives;

13 (6) two members of the general public appointed by the governor
14 who have special technical experience and knowledge about water issues
15 and the water industry, subject to confirmation by the senate as provided in
16 K.S.A. 75-4315b, and amendments thereto.

17 (b) The water and environment maintenance board shall meet at least
18 four times in each calendar year at any location in Kansas upon call of the
19 chairperson.

20 (c) Members of the board appointed by the legislature and governor
21 shall serve terms of two years and until their successors are appointed and
22 qualified. In the event a vacancy occurs on the board, a successor shall be
23 appointed to fill the unexpired term in the same manner as the member
24 was originally appointed.

25 (d) A majority of the board members shall constitute a quorum for the
26 transaction of business. Any action of the board shall require the
27 affirmative vote of a majority of those members at any meeting where a
28 quorum is present.

29 (e) Members of the board attending regular or special meetings or
30 subcommittee meetings authorized by the board shall be paid amounts for
31 expenses, mileage and subsistence as provided in K.S.A. 75-3223(e), and
32 amendments thereto.

33 (f) The board shall:

34 (1) Oversee the water and environment maintenance fund to ensure
35 the proper use of moneys and resources to promote proper water
36 conservation, quality and use in Kansas;

37 (2) make recommendations for an agency budget for the Kansas
38 department of water and environment established by section 1, and
39 amendments thereto, to fund the agency and its objectives and to
40 implement the state water plan, including all projects, initiatives and
41 programs created to serve the purposes of the agency; and

42 (3) annually, before the 10th day of each regular session of the
43 legislature, submit a written report to the governor and to the house

1 standing committee on water, the house standing committee on agriculture
2 and the senate standing committee on agriculture and natural resources and
3 any other appropriate committees providing:

4 (A) Summary financial information and a statement of assurance that
5 the Kansas department of water and environment has prepared a
6 comprehensive financial report of all funds for the preceding year
7 including a report by independent public accountants attesting that the
8 financial statements present fairly the financial position of the Kansas
9 department of water and environment and the water and environment
10 maintenance fund in conformity with generally accepted accounting
11 principles;

12 (B) all revenue available for the water and environment maintenance
13 fund, including, but not limited to, moneys dedicated to the state water
14 plan fund, water rights or appropriation fees or other miscellaneous fees
15 that are deposited into the water and environment maintenance fund or any
16 division of the Kansas department of water and environment;

17 (C) a detailed breakdown of anticipated annual expenditures for the
18 next three fiscal years on agency programs, projects and operations;

19 (D) all committed expenditures identified by program or project;

20 (E) specific recommendations for any statutory changes necessary for
21 the successful, efficient and effective operation of the Kansas department
22 of water and environment;

23 (F) information concerning the condition and performance of the state
24 water systems and information concerning various other water issues
25 affecting the state; and

26 (G) an explanation of any material changes from the previous annual
27 report.

28 New Sec. 9. (a) Except as provided in subsection (f), on and after
29 July 1, 2023, there is hereby imposed an annual water rights fee on all
30 existing owners of a water right or permit to appropriate water for
31 beneficial use developed in accordance with the Kansas water
32 appropriation act by the chief engineer. The water rights fee is based on the
33 authorized quantity of the water right in an amount equal to \$1 per acre
34 foot of authorized quantity. The water rights fee shall be an amount not
35 less than \$25 and not more than \$250.

36 (b) The fee imposed by subsection (a) shall be paid annually to the
37 chief engineer when the owner of a water right or permit to appropriate
38 water for beneficial use submits the annual water use report required by
39 K.S.A. 82a-732, and amendments thereto. Any owner of a water right or
40 permit to appropriate water for beneficial use who fails to pay the water
41 rights fee shall be considered a violation of the water appropriation act
42 pursuant to K.S.A. 82a-737, and amendments thereto, and subject to a
43 penalty not to exceed \$100 per water right. In addition to assessing a civil

1 penalty as provided in this section, the chief engineer may issue an order
2 indefinitely suspending all water use under such water right or permit until
3 such time that the water rights fee, and any additional penalties, has been
4 submitted to the chief engineer.

5 (c) No civil penalty or suspension of a water right or use of water
6 shall be imposed pursuant to this section except on written order of the
7 chief engineer or duly authorized agent of the chief engineer. Such order
8 shall state the nature of the violation, the factual basis for the finding, the
9 penalty to be imposed and the appropriate procedure for appeal of the
10 order, as established by K.S.A. 82a-1901, and amendments thereto.

11 (d) Any person aggrieved by an order of the chief engineer, or the
12 chief engineer's duly authorized agent, pursuant to this section may request
13 a hearing or review as provided by K.S.A. 82a-1901, and amendments
14 thereto, and, upon exhaustion of administrative remedies, may appeal to
15 the district court in the manner provided by the Kansas judicial review act.

16 (e) All water rights fees and any additional penalties collected by the
17 secretary of water and environment pursuant to this section shall be
18 remitted to the state treasurer in accordance with the provisions of K.S.A.
19 75-4215, and amendments thereto. Upon receipt of each such remittance,
20 the state treasurer shall deposit the entire amount in the state treasury to
21 the credit of the water and environment maintenance fund created by
22 section 6, and amendments thereto.

23 (f) Any owner of a water right or permit to appropriate water for
24 beneficial use that is subject to the water protection fee prescribed in
25 K.S.A. 82a-954, and amendments thereto, shall not be subject to the fee
26 imposed by subsection (a).

27 (g) The provisions of this section shall be a part of and supplemental
28 to the Kansas water appropriation act.

29 New Sec. 10. (a) Elections of members of the district board shall be
30 nonpartisan and conducted by the county election officer of the county
31 where the home office of the district is located. In any district having
32 territory in more than one county, the county election officers of all such
33 counties shall cooperate with the county election officer of the county
34 where the home office is located. General elections for district board
35 directors shall be held on the Tuesday following the first Monday in
36 November of each odd-numbered year.

37 (b) Primary elections for district board directors shall be held on the
38 first Tuesday of August of each odd-numbered year in accordance with
39 K.S.A. 25-205, and amendments thereto.

40 (c) Notice of the time and place of holding each primary and general
41 election shall be published by the county election officer in a newspaper
42 published in the county in accordance with K.S.A. 25-105 and 25-209, and
43 amendments thereto.

1 (d) Primary and general elections of district board directors shall be
2 conducted jointly with other local elections insofar as is practicable. Any
3 officer or board having responsibility for any other local election held on
4 the date of a primary or general election of district board directors shall
5 cooperate with the election officer. If a difference arises that cannot be
6 agreed upon, determination of the difference shall be made by the election
7 officer, unless such difference involves a question that is provided by law
8 to be determined and made by the secretary of state, and in such case the
9 determination shall be made by the secretary of state. Any determination
10 of a difference made by the officer responsible under this section shall be
11 conclusive.

12 (e) If there are more than three times the number of candidates as
13 there are board directors to be elected, the county election officer shall
14 call, and there shall be held, a primary election. The names of twice the
15 number of candidates as there are board directors to be elected who
16 receive the greatest number of votes at the primary election shall appear on
17 the ballots in the general election. If there are not more than three times the
18 number of candidates as there are board directors to be elected, there shall
19 not be a primary election and the names of the candidates shall be placed
20 on the ballots in the general election.

21 (f) On the ballots in general elections for district board directors,
22 blank lines for the names of write-in candidates shall be printed at the end
23 of the list of candidates for each different office. The number of blank
24 lines for each elected office shall be equal to the number of candidates to
25 be elected thereto. Such blank lines shall permit the voter to insert the
26 name of any person not printed on the ballot for whom such voter desires
27 to vote for such office. No blank lines for write-in candidates shall appear
28 on primary district election ballots.

29 (g) All board directors shall be elected at-large within the district and
30 shall reside within the boundaries of the district. Each eligible voter of the
31 district shall be entitled to vote for as many candidates as the number of
32 board directors that are to be elected but may not cast more than one vote
33 for any one candidate. The candidates receiving the greatest number of
34 votes cast shall respectively be elected.

35 (h) For all districts in existence on July 1, 2021, the board of directors
36 elected pursuant to K.S.A. 82a-1026, and amendments thereto, shall
37 determine by resolution the number of board directors that will make up
38 the board and shall submit such resolution to each county election officer
39 where the district territory extends. The board shall select an odd number
40 of directors between five, seven or nine to be elected at-large from the
41 district beginning with the 2023 election. Based on the number of board
42 directors selected by the existing board, the top half of board directors
43 receiving the most votes of the candidates plus one shall serve four-year

1 terms to the board and the remaining candidates elected shall receive two-
2 year terms. Thereafter, each board director shall be elected to four-year
3 terms.

4 (i) For any district formed after July 1, 2021, the steering committee
5 shall act as the board of directors until the next regularly scheduled
6 election.

7 (j) This section shall be a part of and supplemental to K.S.A. 82a-
8 1020 through 82a-1042, and amendments thereto.

9 New Sec. 11. (a) A person may become a candidate for election to a
10 district board by either one of the following methods:

11 (1) Any person who is an eligible voter of the district may petition to
12 be a candidate for board director. Any such person shall file with the
13 election officer a petition for such person's candidacy signed by not less
14 than 50 electors residing in the district; or

15 (2) any person who is an eligible voter of the district may become a
16 candidate for board director by filing with the election officer a declaration
17 of intent to be such a candidate and paying a filing fee in the amount of
18 \$20.

19 (b) Every petition or declaration of intent filed under this section shall
20 be filed on or before noon on June 1 of each odd-numbered year as
21 provided in K.S.A. 25-205, and amendments thereto, and K.S.A. 2021
22 Supp. 25-21a03, and amendments thereto.

23 (c) This section shall be a part of and supplemental to K.S.A. 82a-
24 1020 through 82a-1042, and amendments thereto.

25 New Sec. 12. (a) Any district may change the number of directors,
26 subject to section 10(h), and amendments thereto, in the manner provided
27 in this section. A proposition to change the number of directors shall first
28 be submitted to a vote of the qualified electors of the district at any district
29 primary or general election. The board may submit such proposition by
30 resolution and shall submit such resolution upon the filing of a petition
31 signed by at least 10% of the eligible voters of the district. The petition
32 shall be headed "Petition for an election to change the number of directors
33 for _____ groundwater management district No. _____,
34 _____ county (counties), Kansas," and shall be addressed to the
35 board and be filed with the election officer of the county where the board
36 office is located. Such petition shall conform to the requirements of article
37 36 of chapter 25 of the Kansas Statutes Annotated, and amendments
38 thereto, and the petition's sufficiency shall be determined in the manner
39 therein provided and shall be certified to the board secretary by the county
40 election officer.

41 (b) Upon the adoption of a resolution or the certification of a petition
42 as provided in this section, the board shall submit the proposition at the
43 next district primary or general election for district boards, not less than 60

1 days following the adoption or certification. Notice of the petition shall be
2 published in the manner provided by K.S.A. 25-105, and amendments
3 thereto. The form of the ballots to be used at the election shall be as
4 follows:

5 "Shall the _____ groundwater management district No.
6 _____ change the number of directors elected from _____ to _____?"

7 Yes No

8 (c) If a majority of the votes cast upon such proposition shall be in
9 favor of the proposal, then at the next regular district election the number
10 of at-large positions shall be adjusted accordingly.

11 (d) This section shall be a part of and supplemental to K.S.A. 82a-
12 1020 through 82a-1042, and amendments thereto.

13 New Sec. 13. (a) The board of each district shall annually submit to
14 the house standing committee on water, the house standing committee on
15 agriculture and the senate standing committee on agriculture and natural
16 resources and any other appropriate committees, and any successor
17 committees, a written report on the finances and activities of the district in
18 the previous calendar year not later than February 1. A representative of
19 the board shall appear before the committees upon request. Such report
20 shall contain a detailed financial statement and a description of the
21 activities undertaken by the board and shall be prepared according to
22 generally accepted accounting principles.

23 (b) The financial statement included in the annual report shall
24 include, at a minimum, the following information:

25 (1) An itemized list of all income and the source from which the
26 income was received, including any grants and interest income earned;

27 (2) an itemized list of all expenditures by the board; and

28 (3) an accounting of all assets currently held by the board.

29 (c) The annual report shall also include a detailed statement that
30 explains how the expenditures by the board served to further the
31 conservation of groundwater, the prevention of economic deterioration, the
32 stabilization of agriculture or otherwise supported implementation of the
33 district's management program.

34 (d) Failure to timely provide the annual report with the information
35 required by this section shall result in a suspension of the board's authority
36 to make any further expenditures for the calendar year when the report was
37 due, except for costs directly related to completion of the required report.

38 (e) This section shall be a part of and supplemental to K.S.A. 82a-
39 1020 through 82a-1042, and amendments thereto.

40 New Sec. 14. (a) It is the intent of the legislature that the groundwater
41 resources of the state be conserved and extended for the prevention of
42 economic deterioration and stabilization of agriculture, pursuant to K.S.A.
43 82a-1020, and amendments thereto, by local water users. The legislature

1 has provided tools for districts and local water users to achieve such goals
2 with intensive groundwater use control areas designated pursuant to
3 K.S.A. 82a-1036, and amendments thereto, and local enhanced
4 management areas established pursuant to K.S.A. 82a-1041, and
5 amendments thereto. The board of each district shall:

6 (1) Identify, not later than January 1, 2024, all areas within each
7 district and set reasonable boundaries for each area of concern using data
8 from the Kansas geological survey or any other source approved by the
9 chief engineer where:

10 (A) Groundwater levels are declining or have declined excessively;

11 (B) the rate of withdrawal of groundwater equals or exceeds the rate
12 of recharge;

13 (C) preventable waste of water is occurring or may occur; or

14 (D) an unreasonable deterioration of the quality of groundwater is
15 occurring or may occur; and

16 (2) conduct public education and outreach in each area so that the
17 board may develop a plan to address the identified concerns in each area
18 based on input from the water right owners and users within the area that
19 will support conservation, prevention of economic deterioration and
20 stabilization of agriculture, based on the information available. Such plans
21 shall be incorporated into the district's management program and
22 submitted to the chief engineer by January 1, 2026. As soon as practicable,
23 the chief engineer shall review such plans. If such plans are approved by
24 the chief engineer, the chief engineer shall implement any plans that
25 require action from the chief engineer.

26 (b) If a board fails to identify areas of concern within a district or to
27 submit a management program that includes a plan to address the concerns
28 in each area identified, or if a board submits a plan that fails to adequately
29 address the problems within each area identified, the chief engineer is
30 hereby authorized to initiate intensive groundwater use control area
31 proceedings pursuant to K.S.A. 82a-1036, 82a-1037 and 82a-1038, and
32 amendments thereto. In the case of declining groundwater levels or
33 withdrawals that exceed recharge, the chief engineer shall develop a plan
34 to, at a minimum, reduce by 50% the 2000-2019 rate of groundwater
35 declines as determined by the chief engineer, unless a stricter conservation
36 goal is subsequently requested by the board.

37 (c) Upon request of a board, the chief engineer shall review the
38 activities previously undertaken by the board to determine if they have
39 already complied with some or all of the requirements of this section.

40 (d) The Kansas department of water and environment, including the
41 division of water and environmental planning and the division of
42 environment and conservation, Kansas department of agriculture, the chief
43 engineer, Kansas department of health, state corporation commission,

1 university of Kansas, Kansas geological survey, Kansas state university,
 2 Kansas state university extension system and local conservation districts
 3 shall provide assistance and support to each board as is reasonably
 4 necessary for the achievement of the goals set forth in this section.

5 (e) Beginning on January 15, 2027, the chief engineer shall submit an
 6 annual written report to the house standing committee on agriculture and
 7 the senate standing committee on agriculture and natural resources, and
 8 any other appropriate committees, and any successor committees,
 9 summarizing any activities undertaken pursuant to this section in the
 10 previous calendar year.

11 (f) This section shall be a part of and supplemental to K.S.A. 82a-
 12 1020 through 82a-1042, and amendments thereto.

13 Sec. 15. K.S.A. 82a-1021 is hereby amended to read as follows: 82a-
 14 1021. (a) As used in this section:

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

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

20 (3) "Chief engineer" means the chief engineer of the *Kansas*
 21 *department of water and environment*, division of water resources ~~of the~~
 22 ~~Kansas department of agriculture~~.

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

27 (5) "Eligible voter" means a natural person 18 years of age or older,
 28 ~~or a public or private corporation, municipality or any other legal or~~
 29 ~~commercial entity that:~~

30 (A) ~~Is a landowner that owns, of record, any land, or any interest in~~
 31 ~~land, comprising 40 or more contiguous acres located within the~~
 32 ~~boundaries of the district and not within the corporate limits of any~~
 33 ~~municipality; or~~

34 (B) ~~withdraws or uses groundwater from within the boundaries of the~~
 35 ~~district in an amount of one acre-foot or more per year~~ *who is a qualified*
 36 *elector of the district.*

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

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

1 landowners by reason of such ownership.

2 (8)(7) "Management program" means a written report describing the
3 characteristics of the district and the nature and methods of dealing with
4 groundwater supply problems within the district. It shall include
5 information as to the groundwater management program to be undertaken
6 by the district and such maps, geological information, and other data as
7 may be necessary for the formulation of such a program.

8 (9)(8) "Person" means any natural person, public or private
9 corporation, municipality or any other legal or commercial entity.

10 (10)(9) "Water right" shall have the meaning ascribed to that term
11 means the same as defined in K.S.A. 82a-701, and amendments thereto.

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

17 (b) ~~Each tract of land of 40 or more contiguous acres and each~~
18 ~~quantity of water withdrawn or used in an amount of one acre-foot or more~~
19 ~~per year shall be represented by but a single eligible voter. If the land is~~
20 ~~held by lease, under an estate for years, under contract, or otherwise, the~~
21 ~~fee owner shall be the one entitled to vote, unless the parties in interest~~
22 ~~agree otherwise. If the land is held jointly or in common, the majority in~~
23 ~~interest shall determine which natural person or corporation shall be~~
24 ~~entitled to vote. Each eligible voter, or such eligible voter's duly authorized~~
25 ~~representative, shall be entitled to cast only one vote per eligible voter.~~
26 ~~Nothing herein shall be construed to authorize proxy voting.~~

27 (c) ~~Any landowner who is not a water user may have such~~
28 ~~landowner's land excluded from any district assessments and thereby~~
29 ~~abandon the right to vote on district matters by serving a written notice of~~
30 ~~election of exclusion with the steering committee or the board. Such~~
31 ~~landowner may again become an eligible voter by becoming a water user~~
32 ~~or by serving a written notice of inclusion on the board stating that the~~
33 ~~landowner has elected to be reinstated as a voting member of the district~~
34 ~~and will be subject to district assessments.~~

35 (d)(b) Any eligible voter who is the owner of a tract or tracts of land
36 comprising not less than 640 acres, located within the boundaries of the
37 district, ~~on which~~ *where* no water is being used or ~~from which~~ *where* no
38 water is being withdrawn, may have such tract or tracts of land excluded
39 from district assessment in the manner described above.

40 (e)(c) All notices of inclusion or exclusion of land shall be submitted
41 to the board not later than January 1 of the effective year.

42 Sec. 16. K.S.A. 82a-1023 is hereby amended to read as follows: 82a-
43 1023. (a) Within 12 months after certification of the description of the

1 lands to be included within the proposed district, and before any
2 groundwater management district shall be organized, a petition shall be
3 circulated by the steering committee and filed with the secretary of state
4 after being signed by not less than ~~50 eligible voters or 50%~~ 10% of the
5 eligible voters of the district, ~~whichever is the smaller.~~

6 (b) The petition shall set forth:

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

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

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

18 (4) A statement of the number of persons that will constitute the
19 elected board of directors of the district, which shall be an uneven number
20 of not less than ~~three~~ *five* or more than ~~15~~ *nine*.

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

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

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

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

26 "Before the secretary of state of the state of Kansas in the matter of the
27 proposed _____ groundwater management district No. _____,
28 in _____ county, (counties), Kansas.

29 PETITION

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

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

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

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

9 "Submitted to the secretary of state this _____ day of _____,
10 ____."

11 Sec. 17. K.S.A. 82a-1025 is hereby amended to read as follows: 82a-
12 1025. (a) Within ~~ten (10)~~ days after receipt of a certified copy of the chief
13 engineer's report approving the petition, or the petition as amended, the
14 chairman of the steering committee shall call a meeting of the committee.
15 The committee shall meet at the time and place fixed in the notice and
16 shall provide by resolution for ~~the calling of an election at which all~~
17 ~~eligible voters of the district shall be entitled to vote on the question of~~
18 ~~whether the district should be organized in accordance with the petition as~~
19 ~~approved by the chief engineer. The steering committee shall cause a~~
20 ~~notice of the election to be published once each week for three (3)~~
21 ~~consecutive weeks in a newspaper or newspapers of general circulation~~
22 ~~within the proposed district, the first publication to be not less than twenty-~~
23 ~~eight (28) days prior to such election. If the proposed district lies in more~~
24 ~~than one county, a similar notice shall be published in a newspaper of~~
25 ~~general circulation in each of the counties in which a part of the proposed~~
26 ~~district is located. The notice shall set forth when and where the election~~
27 ~~shall be held and the proposition to be voted on. It shall contain a copy of~~
28 ~~the petition as approved by the chief engineer (omitting the map attached~~
29 ~~as an exhibit) and shall be signed by the chairman and attested by the~~
30 ~~secretary of the steering committee. The steering committee shall conduct~~
31 ~~the election, canvass the vote, and certify the results to the secretary of~~
32 ~~state the submission of the petition as approved by the chief engineer to~~
33 ~~the county election official in the county where the district home office is~~
34 ~~proposed to be located. The county election official shall place the~~
35 ~~question of whether a district should be organized and created on the~~
36 ~~ballot at the next primary or general election, except that the county~~
37 ~~election official must receive the petition at least 60 days prior to an~~
38 ~~election. The election shall be conducted in each county that contains a~~
39 ~~part of the district's proposed territory pursuant to section 10, and~~
40 ~~amendments thereto.~~

41 (b) If a majority of the votes cast are in favor of the organization and
42 creation of the district, the secretary of state shall issue to the steering
43 committee a certificate of incorporation for the district, which shall be

1 filed of record in the office of the register of deeds of each county ~~in which~~
2 *where* all or a portion of the district lies. Upon such recordation, the
3 district shall be authorized to function in accordance with the provisions of
4 this act.

5 (c) If a majority of those voting on the proposition vote against the
6 organization and creation of the district, the secretary of state shall endorse
7 that fact on the face of the petition and the proceedings shall be closed.

8 (d) No action attacking the legality of the incorporation of any
9 groundwater management district organized under this act shall be
10 maintained unless commenced within ~~ninety (90)~~ days after the issuance
11 of the certificate of incorporation for a district by the secretary of state,
12 and any alleged illegality of the incorporation of any district shall not be
13 interposed as a defense to any action brought after that time.

14 Sec. 18. K.S.A. 82a-1027 is hereby amended to read as follows: 82a-
15 1027. (a) All powers granted to a groundwater management district under
16 the provisions of this act shall be exercised by an elected board of
17 directors, which shall be composed of the number of persons specified in
18 the petition *or as established pursuant to section 10 or 12, and*
19 *amendments thereto*. Each director shall serve for a period of ~~three (3)~~
20 ~~four years and until his or her the director's~~ successor is duly elected and
21 qualified, ~~except that as nearly as possible one-third of the original~~
22 ~~directors shall serve for a term of one (1) year, one-third shall serve for a~~
23 ~~term of two (2) years, and one-third shall serve for a term of three (3)~~
24 ~~years~~. The directors shall serve without compensation but shall be allowed
25 actual and necessary expenses incurred in the performance of their official
26 duties.

27 (b) The board of directors, after being duly elected, shall elect from
28 its number a president, a vice-president, a secretary, and a treasurer. ~~In~~
29 ~~districts having only three (3) directors, the board shall elect one director~~
30 ~~to hold the offices of secretary and treasurer.~~

31 (c) A majority of the directors shall constitute a quorum for the
32 transaction of business and a majority of those voting shall determine all
33 actions taken by the board. In the absence of any of the duly elected
34 officers, those directors present at any meeting may select a director to act
35 as an officer pro tem.

36 (d) The elected board shall fill any vacancy occurring on the board
37 prior to the expiration of the term of any director by selecting a
38 replacement from among the eligible voters of the district to serve for the
39 unexpired term. *If an insufficient number of candidates are elected to fill*
40 *all open seats, then the outgoing board shall nominate three candidates at*
41 *the next board meeting following the general election and submit such*
42 *candidates to the director of the Kansas department of water and*
43 *environment, division of water and environmental planning. The director*

1 *shall select a candidate to fill the open position within 30 days of*
2 *submission by the board.*

3 *(e) Each director elected after January 1, 2023, shall be limited to*
4 *serving two consecutive terms on the board but may be eligible for*
5 *election again after not serving for at least one full term thereafter.*

6 Sec. 19. K.S.A. 82a-1034 is hereby amended to read as follows: 82a-
7 1034. (a) Whenever the board of a groundwater management district
8 organized and incorporated under the provisions of this act finds reasons
9 for the dissolution of the district, the board may, by resolution adopted by
10 a two-thirds vote of all members of the board ~~at a special meeting of the~~
11 ~~board called for that purpose, notice of which shall specify the purpose for~~
12 ~~which the meeting is to be called, provide for the calling of an election of~~
13 ~~the eligible voters of the district for the purpose of determining whether~~
14 ~~the district shall be dissolved~~ *place the question of dissolution of the*
15 *district on the ballot at the next regular district primary or general*
16 *election in the same manner as questions related to the number of*
17 *directors as provided in section 12, and amendments thereto. The board*
18 *shall also provide for the calling of an election placing the question of*
19 *dissolution of the district on the ballot at the next regular district primary*
20 *or general election if written petitions therefor, signed by twenty percent*
21 *(20%) of the eligible voters of the district, are filed with the secretary of*
22 *the board. The election to determine whether the district shall be dissolved*
23 *shall be held and conducted by the board in the same manner as provided*
24 *for conducting the election for the organization of the district insofar as*
25 *those provisions can be made applicable. If a majority of the votes cast are*
26 *in favor of dissolution of the district, the board county election officer shall*
27 *immediately certify the results of the election to the secretary of state who*
28 *shall thereupon issue and deliver to the secretary of the board a certificate*
29 *of dissolution.*

30 (b) Upon receipt from the secretary of state of the certificate of
31 dissolution of a groundwater management district under the provisions of
32 this act, the secretary of the board shall notify the board of the certification
33 and the board shall immediately pay all obligations of the district,
34 including all costs incurred by the district, the chief engineer and the
35 secretary of state in regard to the dissolution proceedings. The treasurer of
36 the board shall thereupon distribute all moneys in ~~his or her~~ *the treasurer's*
37 *hands belonging to the district in the manner prescribed by this act and*
38 *immediately after making the distribution the treasurer shall notify the*
39 *secretary of the board of the distribution. Upon receipt of the notification*
40 *the secretary of the board shall have the certificate of dissolution published*
41 *once in a newspaper or newspapers of general circulation within the*
42 *district and proof of the publication shall be filed in the office of the*
43 *secretary of state. The effective date of the dissolution, unless otherwise*

1 provided, shall be the date ~~on which~~ *that* the proof of publication is filed in
2 the office of the secretary of state, but in no event shall the date of
3 dissolution be a date prior to the date of the publication of the certificate of
4 dissolution. A certified copy of the certificate of dissolution of the district
5 shall also be recorded in the office of the county clerk of each county
6 where any portion of the dissolved district was located.

7 (c) Any funds or other assets of a groundwater management district
8 ~~which that~~ has been dissolved under the provisions of this act shall be
9 apportioned and paid to the general fund of any county located within or
10 partially within the district in the proportion ~~which that~~ the assessed
11 valuation of the property in the district located within the county bears to
12 the total assessed valuation of the district, based on equalized assessed
13 valuations for the preceding year. The treasurer of the district, upon
14 notification of receipt of the certificate of dissolution, shall immediately
15 pay the amounts due each county located within the district to the treasurer
16 of the county.

17 (d) The secretary of the board of any groundwater management
18 district ~~which that~~ has been dissolved under the provisions of this act shall
19 file all minutes and records of the district with the register of deeds of the
20 county where the designated office of the district was located.

21 Sec. 20. K.S.A. 2021 Supp. 2-1903 is hereby amended to read as
22 follows: 2-1903. As used in this act:

23 (1) "District" or "conservation district" means a governmental
24 subdivision of this state, and a public body corporate and politic, organized
25 in accordance with the provisions of this act, for the purposes, with the
26 powers, and subject to the restrictions hereinafter set forth.

27 (2) "Supervisor" means one of the members of the governing body of
28 a district, elected or appointed in accordance with the provisions of this
29 act.

30 (3) "Commission" means the conservation program policy board
31 created in K.S.A. 2-1904, and amendments thereto, including the state
32 conservation commission continued in existence by K.S.A. 74-5,128, and
33 amendments thereto.

34 (4) "State" means the state of Kansas.

35 (5) "Agency of this state" includes the government of this state and
36 any subdivision, agency or instrumentality, corporation or otherwise, of
37 the government of this state.

38 (6) "United States" or "agencies of the United States" includes the
39 United States of America, the natural resources conservation service of the
40 United States department of agriculture and any other agency or
41 instrumentality, corporate or otherwise, of the United States of America.

42 (7) "Government" or "governmental" includes the government of this
43 state, the government of the United States and any subdivision, agency or

1 instrumentality, corporate or otherwise, of either of them.

2 (8) "Division" means the *Kansas department of water and*
3 *environment*, division of *environment and conservation* established ~~within~~
4 ~~the Kansas department of agriculture in K.S.A. 74-5,126 in section 4,~~ and
5 amendments thereto.

6 (9) "Director" means the ~~executive~~ director of the division.

7 (10) "Invasive plant species" means a species of plant not native to
8 Kansas whose introduction, presence or spread does or is likely to cause
9 economic harm, environmental harm or harm to human health.

10 (11) "Secretary" means the secretary of the Kansas department of
11 ~~agriculture~~ *water and environment*.

12 Sec. 21. K.S.A. 2021 Supp. 2-1904 is hereby amended to read as
13 follows: 2-1904. (a) There is hereby established, to serve as a conservation
14 program policy board of the state and to perform the functions conferred
15 upon it in this act, the state conservation commission. The state
16 conservation commission shall succeed to all the powers, duties and
17 property of the state soil conservation committee. The commission shall
18 consist of nine members as follows:

19 (1) The dean of the Kansas state university college of agriculture
20 located at Manhattan, Kansas, shall appoint two designees to serve on the
21 commission as members. One designee shall represent an agricultural
22 experiment station and one shall represent the cooperative extension
23 service.

24 (2) The secretary shall request the secretary of agriculture of the
25 United States of America to appoint one person, and the secretary shall
26 appoint one person, each of whom shall be residents of the state of Kansas
27 to serve as members of the commission. These members shall hold office
28 for four years and until a successor is appointed and qualifies, with terms
29 commencing on the second Monday in January ~~beginning in 1973~~.

30 (3) Five members of the commission shall be elected by the
31 conservation district supervisors at a time and place to be designated by
32 the commission. The method of electing such members to be conducted as
33 follows: The state is to be divided into five separate areas. Area No. I to
34 include the following counties: Cheyenne, Rawlins, Decatur, Norton,
35 Phillips, Smith, Osborne, Rooks, Graham, Sheridan, Thomas, Sherman,
36 Wallace, Logan, Gove, Trego, Ellis and Russell. Area No. II to include:
37 Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee, Hodgeman, Finney,
38 Kearny, Hamilton, Edwards, Ford, Gray, Haskell, Grant, Stanton, Morton,
39 Stevens, Seward, Meade, Clark, Comanche and Kiowa. Area No. III to
40 include: Jewell, Republic, Mitchell, Cloud, Lincoln, Ottawa, Ellsworth,
41 Saline, Rice, McPherson, Reno, Harvey, Kingman, Sedgwick, Sumner,
42 Harper, Barber, Pratt, Barton and Stafford. Area No. IV to include:
43 Washington, Marshall, Nemaha, Brown, Doniphan, Clay, Riley,

1 Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth, Wyandotte,
2 Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson, Morris,
3 Osage, Franklin and Miami. Area No. V to include: Marion, Chase, Lyon,
4 Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Greenwood, Butler,
5 Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua, Montgomery,
6 Labette and Cherokee. Areas II and IV shall elect members in even-
7 numbered years and Areas I, III and V shall elect members in odd-
8 numbered years for two-year terms. The elected commission members
9 from Areas I, III and V shall take office on January 1 of the even-
10 numbered years. The remaining two elected members of the state
11 commission from Areas II and IV shall take office on January 1 of the odd-
12 numbered years. The method of election is to be by area caucus of the
13 district supervisors of each of the five separate areas of Kansas. The
14 commission shall give each district notice of the time and place of such
15 annual election meeting by letter if a member is to be elected to the
16 commission from that area that year. The selection of a successor to fill an
17 unexpired term shall be by appointment by the commission. The successor
18 who is appointed to fill the unexpired term shall be a resident of the same
19 area as that of the predecessor.

20 (b) The commission shall keep a record of its official actions and
21 shall review all rules and regulations proposed by the ~~division~~ *secretary*
22 that are necessary for the execution of the division's functions under this
23 act.

24 (c) In addition to the powers and duties conferred in this section, the
25 commission shall have the powers and duties not delegated to the division
26 pursuant to K.S.A. 74-5,126, and amendments thereto.

27 (d) The commission shall designate ~~its~~ a chairperson and, from time
28 to time, may change such designation. A majority of the commission shall
29 constitute a quorum, and the concurrence of a majority in any matter
30 within their duties shall be required for its determination. Members of the
31 commission attending meetings of such commission or attending a
32 subcommittee meeting thereof authorized by such commission shall be
33 paid compensation, subsistence allowances, mileage and other expenses as
34 provided in K.S.A. 75-3223, and amendments thereto. The commission
35 shall provide for keeping of a full and accurate record of all proceedings
36 and of all resolutions, rules and regulations and orders issued or adopted.

37 (e) The commission together with the division shall make
38 conservation program policy decisions to be approved by the secretary,
39 including modification of current conservation programs, creation of new
40 conservation programs and annual budget recommendations.

41 (f) The division in consultation with the commission shall have the
42 following duties and powers:

43 (1) To offer such assistance as may be appropriate to the supervisors

1 of conservation districts, organized as provided hereinafter, in the carrying
2 out of any of their powers and programs;

3 (2) to keep the supervisors of each of the several districts organized
4 under the provisions of this act informed of the activities and experience of
5 all other districts organized hereunder and to facilitate an interchange of
6 advice and experience between such districts and cooperation between
7 them;

8 (3) to coordinate the programs of the several conservation districts
9 organized hereunder;

10 (4) to secure the cooperation and assistance of the United States and
11 any of its agencies and of agencies of this state, in the work of such
12 districts and to contract with or to accept donations, grants, gifts and
13 contributions in money, services or otherwise from the United States or
14 any of its agencies or from the state or any of its agencies in order to carry
15 out the purposes of this act;

16 (5) to disseminate information throughout the state concerning the
17 activities and programs of the conservation districts organized hereunder
18 and to encourage the formation of such districts in areas where their
19 organization is desirable;

20 (6) to cooperate with and give assistance to watershed districts and
21 other special purpose districts in the state of Kansas for the purpose of
22 cooperating with the United States through the secretary of agriculture in
23 the furtherance of conservation pursuant to the provisions of the watershed
24 protection and flood prevention act, as amended;

25 (7) to cooperate in and carry out, in accordance with state policies,
26 activities and programs to conserve and develop the water resources of the
27 state and maintain and improve the quality of such water resources;

28 (8) to enlist the cooperation and collaboration of state, federal,
29 regional, interstate, local, public and private agencies with the
30 conservation districts;

31 (9) to facilitate arrangements ~~under which~~ *whereby* conservation
32 districts may serve county governing bodies and other agencies as their
33 local operating agencies in the administration of any activity concerned
34 with the conservation of natural resources; and

35 (10) to take such actions as are necessary to restore, establish,
36 enhance and protect natural resources with conservation easements for the
37 purpose of compensatory mitigation required under section 404 of the
38 federal clean water act, including:

39 (A) Accepting, purchasing or otherwise acquiring conservation
40 easements, as defined in K.S.A. 58-3810, and amendments thereto, on
41 behalf of watershed districts for the purpose of protecting compensatory
42 mitigation sites;

43 (B) contracting with engineering consultants, surveyors and

1 construction contractors for the purpose of restoration, establishment and
 2 enhancement of natural resources; and

3 (C) establishing fees for the acquisition and administration of
 4 conservation easements held on behalf of watershed districts, accepting
 5 such fees from state and local government agencies, and assuming
 6 responsibility to ensure the terms of the conservation easement are met, as
 7 approved by the department, for the length of term of the easement for
 8 which fees have been accepted.

9 (g) There is hereby established in the state treasury the compensatory
 10 mitigation fund to be administered by the *Kansas* department of
 11 ~~agriculture~~ *water and environment*. All expenditures from the
 12 compensatory mitigation fund shall be for conservation. All expenditures
 13 from the compensatory mitigation fund shall be made in accordance with
 14 appropriation acts upon warrants of the director of accounts and reports
 15 issued pursuant to vouchers approved by the secretary of ~~agriculture~~
 16 the designee of the secretary. The secretary of ~~agriculture~~ shall remit all
 17 moneys received by or for the secretary under this section to the state
 18 treasurer in accordance with the provisions of K.S.A. 75-4215, and
 19 amendments thereto. Upon each such remittance, the state treasurer shall
 20 deposit the entire amount in the state treasury to the credit of the
 21 compensatory mitigation fund.

22 (h) All costs associated with compensatory mitigation, including, but
 23 not limited to, the costs of any litigation or civil fines or penalties, shall be
 24 paid by the watershed district for which the division holds the conservation
 25 easement.

26 (i) (1) Except as provided in paragraph (2), the Kansas department of
 27 ~~agriculture~~ *water and environment* shall not expend moneys appropriated
 28 from the state general fund or from any special revenue fund or funds for
 29 the purpose of accepting, purchasing or otherwise acquiring conservation
 30 easements on behalf of watershed districts.

31 (2) The Kansas department of ~~agriculture~~ *water and environment* may
 32 expend moneys in the compensatory mitigation fund established by this
 33 section for the purpose of accepting, purchasing or otherwise acquiring
 34 conservation easements on behalf of watershed districts and for the
 35 administration of such conservation easements.

36 (j) The division shall not accept, purchase or otherwise acquire any
 37 conservation easement other than for the purposes of this section.

38 Sec. 22. K.S.A. 2021 Supp. 2-1915 is hereby amended to read as
 39 follows: 2-1915. (a) (1) Appropriations may be made for grants out of
 40 funds in the treasury of this state for:

41 (A) Terraces, terrace outlets, check dams, dikes, ponds, ditches,
 42 critical area planting, grassed waterways, irrigation technology, precision
 43 land forming, range seeding, soil and grassland health, detention and grade

1 stabilization structures and other enduring water conservation and water
2 quality practices installed on public lands and on privately owned lands;
3 and

4 (B) the control of invasive species on public lands and on privately
5 owned lands.

6 (2) Except as provided by the multipurpose small lakes program act
7 and other programs approved by the secretary, any such grant shall not
8 exceed 80% of the total cost of any such practice.

9 (b) A program for protection of riparian and wetland areas shall be
10 developed by the division and implemented by the conservation districts.
11 The conservation districts shall prepare district programs to address
12 resource management concerns of water quality, erosion and sediment
13 control and wildlife habitat as part of the conservation district long-range
14 and annual work plans. Preparation and implementation of conservation
15 district programs shall be accomplished with assistance from appropriate
16 state and federal agencies involved in resource management.

17 (c) Subject to the provisions of K.S.A. 2-1919, and amendments
18 thereto, any holder of a water right, as defined by K.S.A. 82a-701(g), and
19 amendments thereto, who is willing to voluntarily return all or a part of the
20 water right to the state shall be eligible for a grant not to exceed 80% of
21 the total cost of the purchase price for such water right. The division shall
22 administer this cost-share program with funds appropriated by the
23 legislature for such purpose. The chief engineer shall certify to the division
24 that any water right for which application for cost-share is received under
25 this section is eligible in accordance with the criteria established in K.S.A.
26 2-1919, and amendments thereto.

27 (d) (1) Subject to appropriation acts therefor, the division shall
28 develop the Kansas water quality buffer initiative for the purpose of
29 restoring riparian areas using best management practices. The director
30 shall ensure that the initiative is complementary to the federal conservation
31 reserve program and update any applicable standards from time to time as
32 necessary for the continued success of the program.

33 (2) There is hereby created in the state treasury the Kansas water
34 quality buffer initiative fund. All expenditures from such fund shall be
35 made in accordance with appropriation acts upon warrants of the director
36 of accounts and reports issued pursuant to vouchers approved by the
37 director or the director's designee. Moneys credited to the fund shall be
38 used for the purpose of making grants to install water quality best
39 management practices pursuant to the initiative.

40 (3) The county or district appraiser shall identify and map riparian
41 buffers consisting of at least one contiguous acre per parcel of real
42 property located in the appraiser's county. Notwithstanding any other
43 provisions of law, riparian buffers shall be valued by the county or district

1 appraiser as tame grass land, native grass land or waste land, as
 2 appropriate. As used in this paragraph, "riparian buffer" means an area of
 3 stream-side vegetation that: (A) Consists of tame or native grass and may
 4 include forbs and woody plants; (B) is located along a perennial or
 5 intermittent stream, including the stream bank and adjoining floodplain;
 6 and (C) is a minimum of 66 feet wide and a maximum of 180 feet wide.

7 (e) ~~The division, with the approval of the secretary,~~ shall adopt rules
 8 and regulations to administer such grant and protection programs. Prior to
 9 submission of any proposed rules and regulations of the ~~division~~ *secretary*
 10 to the director of the budget, the secretary of administration and the
 11 attorney general in accordance with the rules and regulations filing act,
 12 K.S.A. 77-415 et seq., and amendments thereto:

13 (1) ~~The director~~ *secretary* shall submit such proposed rules and
 14 regulations to the commission; and

15 (2) the commission shall review and make recommendations to ~~the~~
 16 ~~director and~~ the secretary regarding such proposed rules and regulations.

17 (f) Any district is authorized to make use of any assistance
 18 whatsoever given by the United States, or any agency thereof, or derived
 19 from any other source, for the planning and installation of such practices.
 20 The division may enter into agreements with other state and federal
 21 agencies to implement the Kansas water quality buffer initiative.

22 Sec. 23. K.S.A. 2021 Supp. 2-1933 is hereby amended to read as
 23 follows: 2-1933. (a) As used in this section, "division" means the *Kansas*
 24 *department of water and environment*, division of *environment and*
 25 *conservation established within the Kansas department of agriculture* in
 26 ~~K.S.A. 74-5-126 section 4~~, and amendments thereto.

27 (b) The division shall administer the conservation reserve
 28 enhancement program (CREP) on behalf of the state of Kansas pursuant to
 29 agreements with the United States department of agriculture for the
 30 purpose of implementing beneficial water quality and water quantity
 31 projects concerning targeted watersheds to be enrolled in CREP.

32 (c) There is hereby established in the state treasury the Kansas
 33 conservation reserve enhancement program fund, which shall be
 34 administered by the division. All expenditures from the Kansas
 35 conservation reserve enhancement program fund shall be for the
 36 implementation of CREP pursuant to agreements between the state of
 37 Kansas and the United States department of agriculture. All expenditures
 38 from such fund shall be made in accordance with appropriation acts upon
 39 warrants of the director of accounts and reports issued pursuant to
 40 vouchers approved by the secretary of ~~agriculture~~ *water and environment*
 41 or by the secretary's designee.

42 (d) The division may request the assistance of other state agencies,
 43 Kansas state university, local governments and private entities in the

1 implementation of CREP.

2 (e) The division may receive and expend moneys from the federal or
3 state government or private sources for the purpose of carrying out the
4 provisions of this section. All moneys received shall be remitted to the
5 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
6 amendments thereto. Upon receipt of each such remittance, the state
7 treasurer shall deposit the entire amount in the state treasury to the credit
8 of the Kansas conservation reserve enhancement program fund. The
9 division shall carry over unexpended moneys in the Kansas conservation
10 reserve enhancement program fund from one fiscal year to the next.

11 (f) The division may enter into cost-share contracts with landowners
12 that will result in fulfilling specific objectives of projects approved in
13 agreements between the United States department of agriculture and the
14 state of Kansas.

15 (g) The division shall administer all CREPs in Kansas subject to the
16 following criteria:

17 (1) The aggregate total number of acres enrolled in Kansas in all
18 CREPs shall not exceed 40,000 acres;

19 (2) the number of acres eligible for enrollment in CREP in Kansas
20 shall be limited to $\frac{1}{2}$ of the number of acres represented by federal
21 contracts in the federal conservation reserve program that have expired in
22 the prior year in counties within the particular CREP area, except that if
23 federal law permits the lands enrolled in the CREP program to be used for
24 agricultural purposes, such as planting agricultural commodities,
25 including, but not limited to, grains, cellulosic or biomass materials,
26 alfalfa, grasses or legumes, but not including cover crops, then the number
27 of acres eligible for enrollment shall be limited to the number of acres
28 represented by contracts in the federal conservation reserve program that
29 have expired in the prior year in counties within the specific CREP area;

30 (3) ~~no~~ not more than 25% of the acreage in CREP may be in any one
31 county, except that the last eligible offer to exceed the number of acres
32 constituting a 25% acreage cap in any one county shall be approved;

33 (4) no whole-field enrollments shall be accepted into a CREP
34 established for water quality purposes; and

35 (5) lands enrolled in the federal conservation reserve program as of
36 January 1, 2008, shall not be eligible for enrollment in CREP.

37 (h) (1) For a CREP established with the purpose of meeting water
38 quantity goals, the division shall administer such CREP in accordance with
39 the following additional criteria:

40 (A) No water right that is owned by a governmental entity shall be
41 purchased or retired by the state or federal government pursuant to CREP;
42 and

43 (B) only water rights in good standing are eligible for inclusion under

1 CREP.

2 (2) To be a water right in good standing:

3 (A) At least 50% of the maximum annual quantity authorized to be
4 diverted under the water right that has been used in any three years within
5 the most recent five-year period preceding the submission for which
6 irrigation water use reports are approved and made available by the
7 *Kansas department of water and environment*, division of water resources
8 ~~of the Kansas department of agriculture~~;

9 (B) the water rights used for the acreage in CREP during the most
10 recent five-year period preceding the submission for which irrigation water
11 use reports are approved and made available by the division of water
12 resources shall not have: (i) Exceeded the maximum annual quantity
13 authorized to be diverted; and (ii) been the subject of enforcement
14 sanctions by the division of water resources; and

15 (C) the water right holder has submitted the required annual water use
16 report required under K.S.A. 82a-732, and amendments thereto, for each
17 of the most recent 10 years.

18 (i) (1) ~~The Kansas department of agriculture~~ *water and environment*
19 shall submit a CREP report to the senate committee on agriculture and
20 natural resources and the house committee on agriculture at the beginning
21 of each annual regular session of the legislature containing a description of
22 program activities for each CREP administered in the state and including:

23 (A) The acreage enrolled in CREP during fiscal year 2008 through
24 the most current fiscal year to date;

25 (B) the dollar amounts received and expended for CREP during fiscal
26 year 2008 through the most current fiscal year to date;

27 (C) an assessment of meeting each of the program objectives
28 identified in the agreement with the farm services agency; and

29 (D) such other information specified by the Kansas department of
30 ~~agriculture~~ *water and environment*.

31 (2) For a CREP established with the purpose of meeting water
32 quantity goals, the following information shall be included in such annual
33 report:

34 (A) The total water rights, measured in acre-feet, retired in CREP
35 from fiscal year 2008 through the current fiscal year to date;

36 (B) the change in groundwater water levels in the CREP area during
37 fiscal year 2008 through the most current fiscal year to date;

38 (C) the annual amount of water usage in the CREP area from fiscal
39 year 2008 through the most current fiscal year to date; and

40 (D) the average water use, measured in acre-feet, for each of the five
41 years preceding enrollment for each water right enrolled.

42 (j) ~~The Kansas department of agriculture~~ *water and environment* shall
43 submit a report on the economic impact of each specific CREP to the

1 senate committee on agriculture and natural resources and the house of
 2 representatives committee on agriculture every five years, beginning in
 3 2017. The report shall include economic impacts to businesses located
 4 within each specific CREP region.

5 Sec. 24. K.S.A. 2-3302 is hereby amended to read as follows: 2-3302.
 6 As used in the Kansas chemigation safety law:

7 (a) "Chemigation" means any process whereby pesticides, fertilizers
 8 or other chemicals or animal wastes are added to irrigation water applied
 9 to land or crops, or both, through an irrigation distribution system.

10 (b) "Board" means the secretary of ~~agriculture water and~~
 11 ~~environment.~~

12 (c) "Secretary" means the secretary of ~~agriculture water and~~
 13 ~~environment.~~

14 (d) "Operating chemigation equipment" ~~for the purposes of this act~~
 15 ~~shall include~~ *includes*, but *is not* be limited to:

- 16 (1) Preparing solution and filling the chemical supply container;
- 17 (2) calibrating of injection equipment;
- 18 (3) starting and stopping equipment when injection of chemicals is
 19 involved; and
- 20 (4) supervision of the chemigation equipment to assure its safe
 21 operation.

22 (e) "Anti-pollution devices" means mechanical equipment used to
 23 reduce hazard to the environment in cases of malfunction of the equipment
 24 during chemigation and includes but is not limited to interlock, waterline
 25 check valve, chemical line closure device, vacuum relief device and
 26 automatic low pressure drain.

27 (f) "Supervision" means the attention given to the chemigating
 28 system during its operation when chemicals are being applied.

29 (g) "Direct supervision" means supervision with ability to change the
 30 procedures.

31 (h) "Irrigation distribution system" means any device or combination
 32 of devices having a hose, pipe or other conduit ~~which that~~ connects
 33 directly to any source of ground or surface water, through which water or a
 34 mixture of water and chemicals is drawn and applied to land. ~~The term~~
 35 *"Irrigation distribution system"* does not include any handheld hose
 36 sprayer or other similar device ~~which that~~ is constructed so that an
 37 interruption in water flow automatically prevents any backflow to the
 38 water source. For the purpose of this act ~~it~~, *"irrigation distribution system"*
 39 does not include greenhouse irrigation or residence yards. Animal waste
 40 lagoons are not to be considered water sources.

41 (i) "Calibration device" means equipment of sufficient accuracy to
 42 determine the rate of chemical application.

43 (j) "Point of diversion" means:

1 (1) The point where the longitudinal axis of the dam crosses the
2 center line of the stream in the case of a reservoir; or

3 (2) the location of the headgate or intake in the case of a direct
4 diversion from a river, stream or other watercourse; or

5 (3) the location of a well in the case of groundwater diversion.

6 (k) "Agronomic application rates" means the method and amount of
7 swine waste defined by the secretary that in the secretary's discretion best
8 protects the environment, including consideration of the crops or soil to
9 which swine waste may be applied and the economic impact associated
10 with any application of swine waste.

11 (l) "~~Chemicals~~" ~~shall include~~ *includes* nutrients or the chemical
12 composition of animal waste.

13 Sec. 25. K.S.A. 2021 Supp. 2-3318 is hereby amended to read as
14 follows: 2-3318. (a) Regardless of whether irrigation water is added,
15 whenever swine waste is applied to crops or land, the secretary ~~of health~~
16 ~~and environment~~ is authorized to investigate, inspect or conduct any
17 manner of examination or review of the application of swine waste. No
18 swine waste shall be applied to crops or land in excess of agronomic
19 application rates.

20 (b) The secretary ~~of health and environment~~ shall review and approve
21 all nutrient utilization plans that provide for the application of swine waste
22 to crops or land and that are submitted by swine confined feeding facilities
23 pursuant to K.S.A. 65-1,182, and amendments thereto, if the plans
24 demonstrate that swine waste will be applied pursuant to agronomic
25 application rates and include all required information. Nutrient utilization
26 plans shall be submitted on a form required by the secretary ~~of health and~~
27 ~~environment~~.

28 (c) Failure of the operator of a swine confined feeding facility to
29 implement a nutrient utilization plan approved by the secretary ~~of health~~
30 ~~and environment~~ shall be considered a violation of the Kansas chemigation
31 safety law ~~for which~~, *and* the secretary may suspend a permit pursuant to
32 K.S.A. 2-3310, and amendments thereto, or may impose a civil penalty
33 pursuant to K.S.A. 2-3317, and amendments thereto, or both.

34 (d) This section shall be a part of and supplemental to the Kansas
35 chemigation safety law.

36 Sec. 26. K.S.A. 2021 Supp. 2-3702 is hereby amended to read as
37 follows: 2-3702. As used in K.S.A. 2-3701 et seq., and amendments
38 thereto:

39 (a) "Agricultural or specialty chemical" means any pesticide,
40 fertilizer, plant amendment or soil amendment but does not include nitrate
41 and related nitrogen from a natural source.

42 (b) "Board" means the Kansas agricultural remediation board created
43 by K.S.A. 2-3709, and amendments thereto.

1 (c) "Corrective action" means action in response to release of an
2 agricultural or specialty chemical that poses a threat to human health or the
3 environment.

4 (d) "Eligible corrective action costs" means reasonable and necessary
5 costs of corrective action, as determined in accordance with rules and
6 regulations adopted by the board.

7 (e) "Eligible lending institution" means:

8 (1) A bank, as defined in K.S.A. 75-4201, and amendments thereto,
9 that agrees to participate in the remediation linked deposit program and is
10 eligible to be a depository of state funds; or

11 (2) an institution of the farm credit system organized under the
12 federal farm credit act of 1971, 12 U.S.C. § 2001, as amended, that agrees
13 to participate in the remediation linked deposit program and provides
14 securities acceptable to the pooled money investment board pursuant to
15 article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments
16 thereto.

17 (f) "Eligible person" means:

18 (1) A responsible party or an owner of real property, but does not
19 include the state, any state agency, any political subdivision of the state,
20 the federal government or any agency of the federal government; or

21 (2) a person who:

22 (A) Is involved in a transaction relating to real property;

23 (B) is not a responsible party or owner of the real property; and

24 (C) voluntarily takes corrective action on the property in response to
25 a request or order for corrective action from the *Kansas* department of
26 ~~health~~ *water* and environment.

27 (g) "Fund" means the Kansas agricultural remediation fund
28 established by K.S.A. 2-3711, and amendments thereto.

29 (h) "Kansas pesticide waste disposal fund" means the fund
30 established by K.S.A. 2021 Supp. 2-3716, and amendments thereto.

31 (i) "Kansas pesticide waste disposal program" means the program
32 established by K.S.A. 2021 Supp. 2-3715, and amendments thereto.

33 (j) "Linked deposit" means an investment account placed by the
34 director of investments under the provisions of article 42 of chapter 75 of
35 the Kansas Statutes Annotated, and amendments thereto, with an eligible
36 lending institution for the purpose of the remediation linked deposit loan
37 program.

38 (k) "Pesticide" means the same as provided in K.S.A. 2-2202, and
39 amendments thereto.

40 (l) (1) "Pesticide waste" means any pesticide that:

41 (A) Is not exempt from registration under the federal insecticide,
42 fungicide, and rodenticide act, 7 U.S.C. § 136w(b), as in effect on January
43 1, 2021;

- 1 (B) is not eligible for sale or distribution; and
- 2 (C) is not otherwise eligible for return or disposal.
- 3 (2) "Pesticide waste" includes, but is not limited to:
- 4 (A) Pesticides with no identifiable owner or responsible party that
- 5 have been abandoned or illegally dumped at a site;
- 6 (B) pesticides that are unregistered, canceled, suspended or revoked
- 7 by the Kansas department of agriculture or the United States
- 8 environmental protection agency;
- 9 (C) pesticides with missing or illegible labels;
- 10 (D) pesticides that have been adulterated;
- 11 (E) pesticides in a leaking or damaged container; or
- 12 (F) pesticides that are of no use to the current owner of such
- 13 pesticides.
- 14 (m) "Release" means any spill, leak, emission, discharge, escape or
- 15 disposal of an agricultural or specialty chemical into the soils or waters of
- 16 the state.
- 17 (n) "Remediation linked deposit loan package" means the forms
- 18 provided by the state treasurer for the purpose of applying for a
- 19 remediation linked deposit.
- 20 (o) "Remediation linked deposit loan program" means the program
- 21 provided for by K.S.A. 2-3703 through 2-3707, and amendments thereto.
- 22 (p) "Remediation reimbursement program" means the program
- 23 provided for by K.S.A. 2-3708 through 2-3713, and amendments thereto.
- 24 (q) "Site" means all land and water areas, including air space, and all
- 25 plants, animals, structures, buildings, contrivances and machinery, whether
- 26 fixed or mobile, including anything used for transportation, within a ~~one-~~
- 27 ~~half~~ 1/2 mile radius of a release.
- 28 Sec. 27. K.S.A. 2-3703 is hereby amended to read as follows: 2-3703.
- 29 (a) There is hereby established the remediation linked deposit loan
- 30 program, which shall be administered by the state treasurer. The program
- 31 shall be for the purpose of providing loans to eligible persons to pay the
- 32 costs of corrective action approved by the *Kansas* department of ~~health~~
- 33 ~~water~~ and environment or taken in accordance with requests or orders
- 34 issued by the department of ~~health and environment~~. Such loans shall be
- 35 made only for projects approved by the board.
- 36 (b) The state treasurer may adopt rules and regulations to administer
- 37 and implement the remediation linked deposit loan program.
- 38 (c) On or before February 1 of each year, the state treasurer shall
- 39 submit to the governor, the senate standing committee on energy and
- 40 natural resources and the house of representatives standing committee on
- 41 environment an annual report on the activities of the remediation linked
- 42 deposit loan program.
- 43 Sec. 28. K.S.A. 2-3704 is hereby amended to read as follows: 2-3704.

1 (a) The state treasurer is hereby authorized to disseminate information and
2 provide remediation linked deposit loan packages to lending institutions
3 eligible for participation in the remediation linked deposit loan program.

4 (b) The remediation linked deposit loan package shall be completed
5 by the eligible person applying for the loan before the package is
6 forwarded to the lending institution for consideration.

7 (c) (1) An eligible lending institution that agrees to receive a
8 remediation linked deposit shall accept and review applications for
9 remediation linked deposit loans from eligible persons. The lending
10 institution shall apply all usual lending standards to determine the credit
11 worthiness of eligible persons applying for remediation linked deposit
12 loans. The total amount of linked deposit loans for any one site shall not
13 exceed \$300,000. The total amount of linked deposits pursuant to K.S.A.
14 2-3701 through 2-3714, and amendments thereto, shall not exceed
15 \$5,000,000 at any one time.

16 (2) Only one remediation linked deposit loan shall be made and be
17 outstanding at any one time to any eligible person.

18 (3) No remediation linked deposit loan shall be amortized for a period
19 of more than 10 years.

20 (d) An eligible person applying for a remediation linked deposit loan
21 shall certify on the loan application that the loan will be used exclusively
22 for the purpose of paying costs of corrective action approved by the
23 *Kansas* department of ~~health~~ *water* and environment or taken in
24 accordance with requests or orders issued by the department of ~~health and~~
25 ~~environment~~.

26 (e) The eligible lending institution may approve or reject a
27 remediation linked deposit loan package based on the lending institution's
28 evaluation of the applicant included in the package, the amount of the
29 individual loan in the package and other appropriate considerations.

30 (f) The eligible lending institution shall forward to the state treasurer
31 an approved remediation linked deposit loan package, in the form and
32 manner prescribed and approved by the state treasurer. The package shall
33 include information regarding the amount of the loan requested by the
34 applicant and such other information as the state treasurer requires,
35 including a certification by the applicant that the applicant is an eligible
36 person.

37 Sec. 29. K.S.A. 2021 Supp. 2-3708 is hereby amended to read as
38 follows: 2-3708. (a) There is hereby established the remediation
39 reimbursement program. The program shall be for the purpose of:

40 (1) Providing reimbursement to eligible persons for the costs of
41 corrective action approved by the *Kansas* department of ~~health~~ *water* and
42 environment or taken in accordance with requests or orders issued by the
43 department of ~~health and environment~~; and

1 (2) providing funding to the Kansas pesticide waste disposal program
2 in accordance with K.S.A. 2021 Supp. 2-3716, and amendments thereto.

3 (b) The amount of reimbursement that an eligible person may receive
4 from the fund shall be limited as follows:

5 (1) Except as provided in paragraph (2), for an eligible person who
6 has paid all applicable assessments imposed pursuant to K.S.A. 2-3713,
7 and amendments thereto, reimbursement per site shall not exceed an
8 amount equal to: (A) 90% of total eligible corrective action costs greater
9 than \$1,000 and less than or equal to \$100,000; plus (B) 80% of total
10 eligible corrective action costs greater than \$100,000 and less than or
11 equal to \$200,000. The total amount reimbursed for any one site shall not
12 exceed \$200,000 within a five-year period or as otherwise set forth by the
13 board pursuant to rules and regulations, unless the property has been sold
14 or leased and both the buyer and seller or lessee and lessor are responsible
15 for remediation, ~~and in which~~ *such* case, the total amount reimbursed for
16 any such site shall not exceed \$400,000 within a five-year period or as
17 otherwise set forth by the board pursuant to rules and regulations.

18 (2) For an eligible person who is not required to pay or has not paid
19 any assessment imposed pursuant to K.S.A. 2-3713, and amendments
20 thereto, or for a pesticide dealer who has paid the annual \$5 assessment
21 pursuant to K.S.A. 2-3713(a)(4), and amendments thereto, reimbursement
22 per site shall not exceed an amount equal to 100% of total eligible
23 corrective action costs greater than \$1,000 and less than or equal to
24 \$10,000.

25 Sec. 30. K.S.A. 2021 Supp. 2-3709 is hereby amended to read as
26 follows: 2-3709. (a) There is hereby created the Kansas agricultural
27 remediation board. The board shall consist of five members appointed by
28 the governor. Of the five members, one shall be a representative of
29 agricultural retailers, one shall be a representative of agricultural
30 producers, one shall be a representative of agricultural processors, one
31 shall be a representative of specialty chemical distributors or retailers and
32 one shall be a representative of agricultural and specialty chemical
33 registrants. Not more than three voting members shall be members of the
34 same political party. One representative of the Kansas department of
35 agriculture and one representative of the Kansas department of ~~health-~~
36 *water* and environment shall serve as members of the board ex officio.

37 (b) Except as provided by this section, the term of office of each
38 member of the board shall be four years. Each member shall serve until a
39 successor is appointed. Whenever a vacancy occurs in the membership of
40 the board prior to the expiration of a term of office, the governor shall
41 appoint a qualified successor to fill the unexpired term.

42 (c) The governor shall designate the chairperson and ~~vice-chairperson~~
43 *vice chairperson* of the board from the members of such board.

1 (d) Meetings shall be held as determined by the board.

2 (e) Members of the board attending meetings of the board, or
3 attending a subcommittee meeting thereof authorized by the board, shall
4 be paid compensation, subsistence allowances, mileage and other expenses
5 as provided in K.S.A. 75-3223, and amendments thereto.

6 Sec. 31. K.S.A. 2-3710 is hereby amended to read as follows: 2-3710.
7 The board shall have the following powers, duties and functions:

8 (a) Administer the fund and the remediation reimbursement program.

9 (b) Subject to K.S.A. 2-3701 through 2-3714, and amendments
10 thereto, adopt rules and regulations concerning the terms and conditions of
11 any reimbursements from the fund.

12 (c) Adopt rules and regulations establishing, for purposes of the
13 remediation linked deposit loan program and the remediation
14 reimbursement program, criteria for classification and prioritization of
15 properties where contamination was caused by a release of agricultural or
16 specialty chemicals, or both. Classification and prioritization may account
17 for the criteria contained in Kansas department of ~~health~~ water and
18 environment's voluntary clean up and property redevelopment program
19 and state cooperator program.

20 (d) Establish operating standards and procedures ~~which~~ that shall
21 include, but not be limited to, the following:

22 (1) With respect to the remediation linked deposit loan program,
23 provisions governing board approval of projects for which applications for
24 loans may be made;

25 (2) with respect to the remediation reimbursement program,
26 provisions governing application procedures, determination of eligible
27 corrective action costs, determination of ineligible corrective costs and
28 reimbursement or payment of eligible corrective action costs; and

29 (3) with respect to both programs, provisions governing conflicts of
30 interest, appeals procedures, review and priority determinations and
31 enforcement of the provisions of K.S.A. 2-3701 through 2-3714, and
32 amendments thereto.

33 (e) Appoint or contract for qualified administrative services subject to
34 the limitation that expenditures from the fund for the administrative
35 expenses of the board and the programs established by K.S.A. 2-3701
36 through 2-3714, and amendments thereto, shall not exceed \$150,000 in
37 any fiscal year.

38 (f) Annually provide an independent audit of the fund.

39 (g) On or before February 1 of each year, submit to the governor, the
40 senate standing committee on energy and natural resources and the house
41 standing committee on environment an annual report of the activities and
42 reimbursements for which money from the fund has been expended during
43 the previous fiscal year, including a copy of the independent audit.

1 Sec. 32. K.S.A. 2021 Supp. 12-541 is hereby amended to read as
2 follows: 12-541. (a) Following annexation, the rural water district shall
3 remain the water service provider to the annexed area unless the city gives
4 written notice designating a different supplier. If the city designates a
5 different supplier, the city shall purchase the property, facilities,
6 improvements and going concern value of the facilities of the district
7 located within the territory annexed by the city. If an agreement for the
8 purchase of such property, facilities, improvements and going concern
9 value of the facilities of the district annexed by the city is not executed
10 within 90 days after delivery of the notice designating a different supplier,
11 the city and the rural water district in good faith shall engage in mediation.
12 Unless an agreement is executed, no change in water service provider shall
13 occur and no appraisers shall be appointed until more than 120 days after
14 delivery of the notice of intent to change the water supplier and the
15 mediation has been terminated.

16 (b) If the district and the city are unable to reach agreement on the
17 reasonable value for such property, facilities, improvements and going
18 concern value of the facilities of the district, then the reasonable value
19 shall be determined in the following manner:

20 (1) The district and the city shall each select one qualified appraiser
21 and the two appraisers so selected shall then select a third appraiser for the
22 purpose of conducting an appraisal to determine reasonable value of the
23 property, facilities, improvements and going concern value of the facilities
24 of the district annexed by the city. The appraisers shall consider all
25 elements of value, employing any method of valuation the appraisers deem
26 appropriate and shall specifically consider the following factors in
27 determining reasonable value:

28 (A) Whether any property of the district is rendered useless or
29 valueless to the district;

30 (B) the amount of damage to property remaining in the ownership of
31 the district following annexation;

32 (C) impact on the existing indebtedness of the district and such
33 district's ability to repay that debt;

34 (D) the value of the service facilities of the district located within the
35 area in question;

36 (E) the amount of any expenditures for planning, design or
37 construction of service facilities outside the incorporated or annexed area
38 that are allocable to service to the area in question;

39 (F) the amount of the district's contractual obligations allocable to the
40 area in question;

41 (G) if the area transferred consists of land ~~for which~~ *where* no water
42 service is being provided by the system at the time of the annexation, the
43 value of such land based on the planning, design and construction of

- 1 improvements located outside the annexed area reasonably made to
- 2 provide future water service to the annexed area;
- 3 (H) any demonstrated impairment of service or increase of cost to
- 4 consumers of the district remaining after the annexation and the impact on
- 5 future revenues lost from existing customers;
- 6 (I) any necessary and reasonable legal expenses and professional
- 7 fees;
- 8 (J) any factors relevant to maintaining the current financial integrity
- 9 of the district;
- 10 (K) the average increase in the number of benefit units in the area
- 11 annexed for the three years immediately preceding such annexation; and
- 12 (L) any other relevant factors as agreed to by the three appointed
- 13 appraisers.
- 14 (2) The appraisers shall hear such evidence as the appraisers deem
- 15 appropriate and shall make a written summary of findings and conclusions.
- 16 The agreement or decision of at least two of the three appraisers shall be
- 17 the fair market value presented to the city for payment and the district for
- 18 acceptance.
- 19 (3) If either the district or the city is dissatisfied with the decision of
- 20 the appraisers, then the district or the city may appeal within 30 days such
- 21 award to the district court. Such appeal shall be heard de novo by the court
- 22 without a jury.
- 23 (c) The compensation required by this section shall be paid to the
- 24 district whether or not the city actually utilizes the facilities of the district
- 25 for the delivery of water to property within the city and shall be paid at a
- 26 time not later than 120 days following the date ~~upon which~~ that the fair
- 27 market value of the facilities are certified to the city and to the district, or
- 28 at such later date as may be mutually agreed upon by the city and the
- 29 district or as may be determined by the district court.
- 30 (d) In any event, the district may elect to retain facilities located
- 31 within the city used for transmission of water, provided that the district use
- 32 those facilities to continue to supply water service to benefit units outside
- 33 the city. The district shall not receive compensation for facilities it elects to
- 34 retain.
- 35 (e) Except as otherwise provided, nothing in this section shall be
- 36 construed as limiting the authority of a city to select water service
- 37 suppliers to areas within the city limits, or to limit the authority of a city to
- 38 adopt and enforce regulations for the operation of a water service supplier,
- 39 including, but not limited to, standards of water quality, classification of
- 40 water customers, capacity of water system, water system connections to
- 41 sanitary sewer systems, rates and billing practices and other regulations for
- 42 protection of the public health, safety and welfare.
- 43 (f) In the event that a district will no longer be the water supplier to

1 land as a result of annexation and notice pursuant to subsection (a), the
2 district shall continue to provide such service until the city gives notice of
3 its assumption of responsibility for service, designating the date that the
4 service shall transfer to the supplier designated by the city. The district and
5 the city shall cooperate as necessary to minimize the inconvenience to
6 water customers as a result of the transfer. The city shall give written
7 notice to each customer of the district for whom water service is being
8 transferred specifying the name and address of the new supplier, the
9 effective date of the transfer, the reason for the transfer and a schedule of
10 applicable rates. The district shall not discontinue or limit service to
11 customers who were supplied water by the district at the time of
12 annexation during the period of negotiations unless such customer has
13 violated district bylaws or rules and regulations.

14 (g) Following the transfer of water service from the district to the
15 city, the annexed land, or amount of such land ~~for which~~ *where* water
16 service has been transferred to the city, shall be deleted from the territory
17 of the district and all benefit units attached to land located therein shall be
18 canceled without compensation. Notice of such deletion of territory shall
19 be provided to the county clerk and the chief engineer of the *Kansas*
20 *department of water and environment*, division of water resources ~~of the~~
21 ~~department of agriculture~~.

22 Sec. 33. K.S.A. 2021 Supp. 12-636 is hereby amended to read as
23 follows: 12-636. Before making the improvements mentioned in K.S.A.
24 12-635, and amendments thereto, the governing body of the city, by
25 resolution duly passed, shall declare it necessary for the public good and
26 convenience that the property described in the resolution be protected from
27 the overflow of the watercourse and shall require a competent engineer to
28 make a survey thereof and file the same with the city clerk of the city with
29 maps and profiles of the survey and a full and complete plan of protecting
30 the property from the overflow or damage by water of the watercourse and
31 also the physical characteristics and location of any right-of-way, roadbed,
32 bridge or bridges, streets and alleys and other property liable to be injured
33 or damaged by the overflow of the watercourse. The engineer shall also
34 make an estimate of the cost of the entire work and improvement required
35 to protect the property, showing the several items of the same. The
36 engineer shall inspect and examine all lots and buildings thereon, rights-
37 of-way, roadbeds, bridges, culverts, depot grounds, grades, streets, and all
38 railroads, telephone and telegraph and other property liable to be injured or
39 damaged by the overflow of the watercourse. The engineer shall file a
40 report, in duplicate, with the city clerk. Upon the approval of engineer's
41 report by the governing body of the city, the city clerk of the city shall
42 immediately cause one copy of the engineer's report to be filed with the
43 chief engineer of the *Kansas department of water and environment*,

1 division of water resources ~~of the Kansas department of agriculture.~~

2 Sec. 34. K.S.A. 2021 Supp. 12-761 is hereby amended to read as
3 follows: 12-761. (a) Any violation of any regulation adopted under the
4 authority of this act shall be a misdemeanor and shall be punishable by a
5 fine of not to exceed \$500 or by imprisonment for not more than six
6 months for each offense or by both such fine and imprisonment. Each
7 day's violation shall constitute a separate offense.

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

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

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

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

31 Sec. 35. K.S.A. 2021 Supp. 12-766 is hereby amended to read as
32 follows: 12-766. (a) The governing body may establish flood plain zones
33 and districts and restrict the use of land therein and may restrict the
34 application thereof to lands, adjacent to watercourses, subject to floods of
35 a lesser magnitude than that having a chance occurrence in any one year of
36 1%. Any flood plain regulations shall comply with the minimum
37 requirements of the national flood insurance act of 1968, as amended ~~(,~~ 42
38 U.S.C. § 4001 et seq.), or any rules and regulations adopted pursuant
39 thereto.

40 (b) Prior to the adoption thereof, the governing body shall submit to
41 the chief engineer of the *Kansas department of water and environment*,
42 division of water resources ~~of the Kansas department of agriculture~~ any
43 ordinance, resolution, regulation or plan that proposes to create or to effect

1 any change in a flood plain zone or district, or that proposes to regulate or
2 restrict the location and use of structures, encroachments, and uses of land
3 within such an area. The chief engineer may require, pursuant to rules and
4 regulations, each submission hereunder to be accompanied by complete
5 maps, plans, profiles, specifications and textual matter. The chief engineer
6 shall approve or disapprove any such ordinance, resolution, regulation or
7 plan or changes thereof within 90 days of the date of receipt of all such
8 data required by the chief engineer as specified in rules and regulations
9 adopted thereby. If the chief engineer fails to approve or disapprove within
10 the 90 day period required by this section, such ordinance, resolution,
11 regulation or plan or change thereof shall be deemed approved. The chief
12 engineer shall provide, in writing, specific reasons for any disapproval.

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

15 Sec. 36. K.S.A. 12-2707 is hereby amended to read as follows: 12-
16 2707. If the governing body of a municipality determines it advisable and
17 necessary to provide a water supply system or to improve the
18 municipality's water supply system by contracting with other
19 municipalities and corporations as provided in this act the governing body
20 shall so declare by resolution. The participating municipalities and
21 corporations forthwith shall have prepared plans and specifications and a
22 detailed estimate of the cost of such improvements and shall file a copy of
23 the plans, specifications and estimate with the clerk of each participating
24 municipality and with the secretary of each participating corporation, if
25 any. Such plans, specifications and estimate shall be presented to the
26 secretary of ~~health~~ *the Kansas department of water* and environment for
27 approval. If approved by the secretary, the plans, specifications and
28 estimate shall be returned to the clerk of each participating municipality,
29 showing such approval. No bonds to pay the cost for any improvement
30 provided for in this act shall be issued by the governing body of any
31 municipality until the plans, specifications and estimate have been
32 approved by the secretary of ~~health and environment~~. The total cost of any
33 improvement provided for in this act shall in no case exceed the total cost
34 of the approved estimate.

35 Sec. 37. K.S.A. 2021 Supp. 12-2713 is hereby amended to read as
36 follows: 12-2713. Nothing contained in this act shall be held to alter or
37 abridge the powers and duties of the secretary of ~~health~~ *the Kansas*
38 *department of water* and environment or of the *Kansas department of*
39 *water and environment*, division of water resources ~~of the Kansas~~
40 ~~department of agriculture~~ over water supply matters.

41 Sec. 38. K.S.A. 19-27a03 is hereby amended to read as follows: 19-
42 27a03. (a) Subject to the provisions of K.S.A. 19-270, *and amendments*
43 *thereto*, the board of county commissioners of any county shall have the

1 power to create a sewer district in the manner hereinafter provided
2 whenever:

3 (1) A petition requesting the creation of a sewer district is filed with
4 the board; or

5 (2) the secretary of ~~health~~ *the Kansas department of water* and
6 environment or the local health officer determines and certifies to the
7 board that unsanitary conditions exist or are expected to develop and
8 ~~which~~ *that* may be removed or prevented by the installation and utilization
9 of sewers.

10 (b) Any petition requesting the creation of a sewer district shall be
11 signed by the owners of at least 51% of the acreage of the land in the
12 proposed district. The petition shall state:

13 ~~(A)~~(1) The boundaries of the improvement district;

14 ~~(B)~~(2) the nature of the improvement;

15 ~~(C)~~(3) the estimated cost of the improvement;

16 ~~(D)~~(4) the proposed method of assessment; and

17 ~~(E)~~(5) the proposed apportionment of cost, if any, between the district
18 and any other sewer district operated and maintained by the governing
19 body.

20 The petition also shall state that if the board of county commissioners
21 determines the improvement project is not feasible that all costs and
22 expenses of the work, including preliminary planning, engineering, legal
23 and other preliminary work of skilled persons employed by the board shall
24 be assessed against the property of persons signing such petition. Any
25 person signing the petition who desires to withdraw such person's name
26 may do so by giving written notice to the county clerk on or before the
27 date of the hearing on the petition. The petition shall be null and void after
28 the board has determined not to create the district or after a period of two
29 years from the date of the first signature on the petition, whichever occurs
30 first.

31 Sec. 39. K.S.A. 19-27a12 is hereby amended to read as follows: 19-
32 27a12. (a) The board of county commissioners may construct, reconstruct,
33 enlarge, extend or otherwise provide for one or more systems of disposal
34 works for the purification of sewage. The board may build, operate and
35 maintain disposal works, pumping stations, pumps or other apparatus
36 necessary to handle and dispose of sewage. The costs and expenses of
37 building the same shall be borne by the various districts then or thereafter
38 using the same. The costs and expenses of constructing, reconstructing,
39 enlarging or extending any sewage treatment or disposal works and
40 facilities may be paid by the issuance and sale of general obligation bonds
41 of the county. The cost of any improvements authorized by this section
42 shall be determined and assessed in the manner provided by K.S.A. 19-
43 27a07, and amendments thereto.

1 (b) Before any system of disposal works or pumping stations are
2 constructed, the plans and specifications therefor shall be submitted to and
3 approved by the secretary of ~~health~~ *the Kansas department of water and*
4 *environment.*

5 Sec. 40. K.S.A. 19-27a17 is hereby amended to read as follows: 19-
6 27a17. (a) The governing body of any sewer district shall from time to
7 time cause an inspection to be made and a certified report and detailed
8 account of the maximum connected load, which is at that time being
9 carried, treated and disposed of by the existing system and facilities,
10 including population totals and trends of the district in relation thereof,
11 together with any data necessary to determine the condition and adequacy
12 of the facilities and improvements to serve the existing and definitely
13 calculable demands of the district. The report and account shall be
14 furnished by a competent consulting engineer and shall include the
15 recommendations the engineer finds are necessary.

16 (b) If it appears from the report, detailed account and
17 recommendations that the collection and treatment system is carrying a
18 connected load in excess of the designed capacity, and if the governing
19 body approves the report and recommendations, ~~it~~ *the governing body*
20 *shall submit to the secretary of ~~health~~ the Kansas department of water and*
21 *environment a complete copy of the engineer's report, detailed account and*
22 *recommendations as to what additional facilities should be provided in*
23 *order to provide adequate capacity for collection and treatment of the then*
24 *connected load, or what reasonably may be expected to be the connected*
25 *load, within a reasonable period of time thereafter. After giving careful*
26 *consideration to all information, the secretary shall either approve or*
27 *disapprove the findings of the engineer and of the governing body. If the*
28 *secretary approves the report, the governing body may assess the cost of*
29 *the improvements against the property benefited in the manner provided*
30 *by K.S.A. 19-27a07, and amendments thereto, and issue general obligation*
31 *bonds of the county in the manner provided by the general bond law in the*
32 *amount necessary to provide the funds ~~with which~~ to make the necessary*
33 *improvements.*

34 Sec. 41. K.S.A. 19-2963 is hereby amended to read as follows: 19-
35 2963. Any county ~~which~~ *that* adopts a resolution under the provisions of
36 this act shall have power to declare the violation thereof a misdemeanor
37 and punishable by a fine not to exceed \$500 for each offense and to
38 provide that each day's violation shall constitute a separate offense. Such
39 counties also shall have the authority to maintain suits or actions in any
40 court of competent jurisdiction for the purpose of enforcing the provisions
41 of such resolution and to abate nuisances maintained in violation thereof.
42 In case any building or structure is or is proposed to be erected,
43 constructed, altered, converted or maintained, or any building, structure or

1 land is or is proposed to be used in violation of any resolution enacted
2 under this act, the county counselor or other appropriate authority of the
3 county, and in the event the violation relates to a provision concerning
4 floodplain zoning, the attorney general and the chief engineer of the
5 *Kansas department of water and environment* division of water resources
6 ~~of the Kansas department of agriculture~~, in addition to other remedies, may
7 institute injunction, mandamus, or other appropriate action or proceeding
8 to prevent such unlawful erection, construction, reconstruction, alteration,
9 conversion, maintenance, use or to correct or abate such violation or to
10 prevent the occupancy of such building, structure or land. Any person,
11 company, corporation, institution, municipality or agency of the state or
12 federal government who violates any provision of a resolution relating to
13 floodplain zoning, shall be subject to the penalties and remedies provided
14 for herein.

15 Sec. 42. K.S.A. 19-3704 is hereby amended to read as follows: 19-
16 3704. Whenever the county commissioners of such a county as set forth in
17 this act deems it necessary to adopt a sanitary code, they shall prepare such
18 sanitary code and submit ~~it~~ *such sanitary code* to the secretary of ~~health~~
19 *the Kansas department of water and environment* for review and approval.
20 After such approval, the county commissioners shall hold at least one
21 public hearing thereon and shall afford interested parties an opportunity to
22 be heard either in favor or in protest of the proposed code. Such public
23 hearing may be continued at the discretion of the county commissioners.
24 Notice of the public hearing, including the date, time, place of the meeting,
25 the purpose of the sanitary code, and in reasonable detail, the boundaries
26 of the areas to be subjected to the code, shall be published in the official
27 county newspaper once a week for three consecutive weeks. The notice
28 also shall state that copies of the proposed sanitary code are available for
29 public inspection at the local health department or at a place designated by
30 the board of county commissioners. The date of the public hearing shall be
31 not less than 10 nor more than 30 days after the date of the last notice
32 published. After the final adjournment of such hearing or hearings, the
33 county commissioners, to adopt the sanitary code, shall by resolution
34 declare such code as necessary for the protection of the health and welfare
35 of the public, and shall publish once in the official county newspaper the
36 resolution, the purpose of the sanitary code, and in reasonable detail the
37 boundaries of the areas to be subjected to the sanitary code. The resolution
38 also shall state that copies of the sanitary code are available for public
39 inspection at the local health department or at a place designated by the
40 board of county commissioners.

41 Sec. 43. K.S.A. 24-407 is hereby amended to read as follows: 24-407.
42 Each drainage district incorporated pursuant to K.S.A. 24-401 et seq., and
43 amendments thereto, shall be a body politic and corporate. Subject to the

1 superior jurisdiction of the United States over navigable waters, the
2 governing body of each drainage district shall have exclusive control of
3 the beds, channels, banks and of all lands the title to which is vested in the
4 state of Kansas lying between the banks at high water mark of all natural
5 watercourses within the district. The board of directors of every drainage
6 district incorporated under the provisions of K.S.A. 24-401 et seq., and
7 amendments thereto, shall have the power:

8 (1) To adopt a seal.

9 (2) To sue and be sued by its corporate name.

10 (3) To purchase, hold, sell and convey real estate and personal
11 property necessary or convenient to carry out the purposes of the district.

12 (4) To take charge of and exercise exclusive control of all natural
13 watercourses within the district, and widen, deepen, establish, regulate and
14 maintain the channels thereof, construct and maintain levees along the
15 banks thereof and detention dams and reservoirs in areas adjacent thereto
16 ~~which~~ *that* are necessary to prevent or restrain overflow or lessen the
17 volume thereof or the injury likely to result therefrom. The board may
18 construct ditches, drains, sewers and canals through lands subject to
19 overflow, and may purchase, install and operate pumps necessary to
20 remove, carry off and prevent water from standing or remaining in pools
21 or ponds and becoming stagnant upon overflowed lands or necessary for
22 sanitary purposes or conducive to the public health, convenience and
23 welfare. The board may alter, change or abandon the channel or any part of
24 the channel of any natural watercourse and relocate or excavate and
25 establish a new channel for such watercourse or any part thereof located
26 within the district. The board may take private property for public use by
27 exercise of the right of eminent domain and may condemn and remove
28 obstructions in such watercourses. The board may acquire by gift,
29 purchase or condemnation lands for the purpose of constructing levees
30 along or widening, deepening, changing or otherwise improving the
31 channels of watercourses or for relocating, excavating and establishing
32 new channels or constructing cutoffs, detention dams and reservoirs in
33 areas adjacent to all such watercourses.

34 (5) To prescribe, regulate and fix the height of the superstructures
35 above the water, the length of all spans and the location of the piers of all
36 bridges across watercourses located within the district.

37 (6) To construct levees across the rights-of-way, roadbeds, tracks and
38 lands of railroad companies and street-railroad companies. The board may
39 condemn and appropriate by the exercise of the right of eminent domain
40 sufficient rights-of-way or other lands of any railroad company or street-
41 railroad company necessary for constructing and maintaining a continuous
42 levee of uniform height across the same.

43 (7) To fix, regulate and change the grade or elevation of all public

1 highways, railroads and street-railroads at points where any levee may
2 cross or intersect the same.

3 (8) To require all railroad companies to elevate their tracks at all
4 points where intersected by any levee so that the tracks will not interfere
5 with the construction or maintenance of the levee as a continuous and
6 effective work of uniform height to prevent the overflow of any natural
7 watercourse.

8 (9) To maintain in any court of competent jurisdiction suits to enforce
9 the reasonable orders of its directors, enjoin the placing or maintenance in
10 any natural watercourse of any unauthorized bridge, embankment, pier or
11 other work or structure constituting to any extent whatever an obstruction
12 to the flow of the water, restrain all other wrongful or unauthorized
13 encroachments upon or interference with the channel of the watercourse
14 and to have all obstructions wrongfully placed in the channel of natural
15 watercourses adjudged public nuisances and abated as such.

16 (10) To maintain actions in any court of competent jurisdiction to
17 recover and hold exclusive possession of all land located between the
18 banks of natural watercourses at high water mark, the title to which is
19 vested in the state of Kansas. If the channel of any watercourse is altered,
20 changed or abandoned, in whole or in part, the governing body may sell,
21 convey and give good title to the land constituting the abandoned channel
22 and apply the proceeds thereof to the cost of a new channel or for other
23 improvement of the watercourse.

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

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

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

40 (13) To issue negotiable bonds to pay the costs of widening,
41 deepening and otherwise improving the channels and constructing
42 embankments, drains, levees and other works along the banks of natural
43 watercourses, to pay the cost of constructing detention dams and reservoirs

1 in areas adjacent to all such watercourses, to pay for the purchase or
2 condemnation of land necessary therefor or to prevent overflow and
3 protect the property located within the district from damage and injury
4 thereby. The bonds shall be payable by general taxation of all property
5 located within the district if it is determined that all property located
6 within the district will be benefited thereby or that such work or
7 improvement is necessary or will be conducive to the public health,
8 convenience or welfare and beneficial to all of the inhabitants of the
9 district. No bonds shall be issued until authorized by a vote of the
10 taxpayers.

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

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

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

37 Sec. 44. K.S.A. 24-418 is hereby amended to read as follows: 24-418.
38 The board of directors may cause any or all natural watercourses within
39 the district to be widened and deepened, walls, embankments and levees to
40 be constructed along the banks, and obstructions and sand bars to be
41 removed from the channel thereof, or such other improvements, including
42 detention dams and reservoirs in areas adjacent to such watercourses, to be
43 made thereto as may be deemed necessary to prevent the overflow of such

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

33 Sec. 45. K.S.A. 24-656 is hereby amended to read as follows: 24-656.
 34 ~~The following terms when As used in this act shall be construed to have~~
 35 ~~the meaning ascribed to them in this section:~~

36 (a) "Person" ~~shall mean~~ *means* any person, firm, partnership,
 37 association or corporation;

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

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

1 (d) "chief engineer"~~shall mean~~ *means* the chief engineer of the
 2 *Kansas department of water and environment*, division of water resources
 3 ~~of the Kansas department of agriculture;~~

4 (e) "board"~~shall mean~~ *means* the board of directors of a joint
 5 drainage district;

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

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

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

18 Sec. 46. K.S.A. 24-659 is hereby amended to read as follows: 24-659.
 19 ~~Said~~ *The petition required by K.S.A. 24-658, and amendments thereto,*
 20 shall set forth: (1) The proposed name of the district, which name shall end
 21 with the words "joint drainage district number _____." It shall be the duty
 22 of the secretary of state to assign a number to each such district in the
 23 order ~~in which~~ *that* petitions for their organization are received ~~in his or~~
 24 ~~her~~ *the secretary's* office.

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

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

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

33 (5) Any other matter deemed essential.

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

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

40 BEFORE THE SECRETARY OF STATE OF THE STATE OF KANSAS

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

43 PETITION

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

11 (List names and addresses.)

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

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

17 That the lands proposed to be included in ~~said~~ *such* district are
 18 described as follows:

19 (Description of lands.)

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

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

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

31 Sec. 47. K.S.A. 24-1202 is hereby amended to read as follows: 24-
 32 1202. ~~The following terms when As used in this act shall be construed to~~
 33 ~~have the meaning ascribed to them in this section:~~

34 (a) "Person" ~~shall mean~~ *means* any person, firm, partnership,
 35 association or corporation;

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

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

42 (d) "chief engineer" ~~shall mean~~ *means* the chief engineer of the
 43 *Kansas department of water and environment*, division of water resources

1 of the Kansas department of agriculture;

2 (e) "board" ~~shall mean~~ *means* the board of directors of a watershed
3 district;

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

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

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

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

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

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

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

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

43 Sec. 48. K.S.A. 24-1204 is hereby amended to read as follows: 24-

1 1204. The petition required by K.S.A. 24-1203, and amendments thereto,
2 shall set forth:

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

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

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

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

19 (5) Any other matter deemed essential.

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

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

26 BEFORE THE SECRETARY OF STATE OF THE STATE OF KANSAS

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

29
30 PETITION

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

41 (List names and addresses.)

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

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

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

6 (Description of lands by subwatersheds.)

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

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

17 Submitted to the secretary of state this _____ day of _____,
 18 _____.

19 Sec. 49. K.S.A. 24-1211 is hereby amended to read as follows: 24-
 20 1211. (a) In not less than 12 months; nor more than 13 months after the
 21 recording of the certificates of incorporation, and annually thereafter, a
 22 meeting shall be held for the election of directors whose terms expire and
 23 also to render a report on the financial condition and activities of the
 24 district including the estimated construction date of all proposed projects
 25 to be initiated within the next five years and the board's determination as to
 26 whether each of these projects is still cost effective and in the current
 27 public interest. Notice of the annual meeting shall be given at least 10 days
 28 prior to the date thereof by one publication in a newspaper of general
 29 circulation in each of the counties ~~of which said~~ *where such* watershed
 30 district is a part. Elections shall be by ballot. Qualified voters in attendance
 31 shall be entitled to vote at any such meeting. The directors shall fill any
 32 vacancy occurring on the board prior to the expiration of the term of any
 33 director by electing a substitute director to serve for the unexpired term.

34 (b) The number of directors of a district or the date of the annual
 35 meeting, or both, may be changed at an annual meeting if notice of the
 36 proposition of making such change or changes is given at the annual
 37 meeting immediately preceding the annual meeting ~~at which~~ *when* such
 38 change or changes are considered. If the number of directors is proposed to
 39 be changed, the proposition shall be introduced in the same manner as
 40 other items of business and shall clearly show the changes in
 41 representation of subwatersheds, if any, and in the length of terms of the
 42 directors. It shall be the duty of the board of directors to include the
 43 proposition in the notice of the annual meeting ~~at which~~ *when* such

1 changes are being considered. If a majority of those voting are favorable,
2 the election of directors shall be in conformance with the adopted proposal
3 and all powers shall be exercised by the newly constituted board beginning
4 immediately after the annual meeting. Copies of the minutes of the annual
5 meeting and report on the financial condition and activities of the district
6 shall be furnished to the Kansas department of ~~agriculture~~ *water and*
7 *environment*, division of *environment and conservation*.

8 Sec. 50. K.S.A. 24-1212 is hereby amended to read as follows: 24-
9 1212. Regular meetings of the board of directors shall be held no less than
10 once each quarter on such day and place as is selected by the board of
11 directors. Notice of such meeting shall be mailed to each director at least
12 five days prior to the date thereof, and special meetings may be held at any
13 time upon waiver of notice of such meeting by all directors or may be
14 called by the president or any two directors at any time. Notice in writing,
15 signed by the persons calling any special meeting, shall be mailed to each
16 director at least two days prior to the time fixed for such special meeting.
17 A majority of the directors shall constitute a quorum for the transaction of
18 business and in the absence of any of the duly elected officers of the
19 district a quorum at any meeting may select a director to act as such officer
20 pro tem. Each meeting of the board, whether regular or special, shall be
21 open to the public. Copies of the minutes of regular and special meetings
22 shall be furnished to the Kansas department of ~~agriculture~~ *water and*
23 *environment*, division of *environment and conservation*.

24 Sec. 51. K.S.A. 32-1152 is hereby amended to read as follows: 32-
25 1152. At such time as adequate on-shore facilities for receiving and
26 treating marine sewage are available, as determined by the secretary of
27 ~~health~~ *of water* and environment, no person shall operate, launch, moor,
28 dock or use any vessel on the waters of the state, except as hereinafter
29 provided, when ~~said~~ *such* vessel has located on or in the vessel a marine
30 toilet designed to or intended to discharge marine sewage to other than an
31 on-shore receiving and treating facility operating under a valid permit as
32 issued under the provisions of K.S.A. 65-165, *and amendments thereto*.

33 Sec. 52. K.S.A. 32-1154 is hereby amended to read as follows: 32-
34 1154. The secretary of ~~health~~ *water* and environment shall adopt such rules
35 and regulations as are necessary to properly administer and enforce the
36 provisions of K.S.A. 32-1152 through 32-1154, ~~inclusive~~ *and amendments*
37 *thereto*. The secretary in adopting rules and regulations shall provide that
38 any vessel having lawful registration from other than the state of Kansas
39 and having marine toilets designed or intended to discharge marine sewage
40 to the waters of the state, may be operated, launched, moored, docked or
41 used on the waters of the state, if such vessel is in compliance with all
42 applicable state and federal marine toilet requirements applicable and
43 associated with the vessel registration. All vessels located on waters of this

1 state may be inspected at any time for the purpose of determining if such
2 vessel is in compliance with this act, and the secretary or the designees of
3 the secretary shall have all powers necessary to properly enforce such rules
4 and regulations.

5 Sec. 53. K.S.A. 32-1403 is hereby amended to read as follows: 32-
6 1403. The division of tourism of the Kansas department of wildlife, parks
7 and tourism is hereby authorized and empowered to:

8 (a) Encourage and promote the traveling public to visit this state by
9 publicizing information as to the recreational, historic and natural
10 advantages of the state and its facilities for transient travel and to contract
11 with organizations for the purpose of promoting tourism within the state;

12 (b) request other state agencies such as, but not limited to, the Kansas
13 ~~water office~~ *department of water and environment, division of water and*
14 *environmental planning* the department of commerce and the department
15 of transportation, for assistance and all such agencies shall coordinate
16 information and their respective efforts with the department to most
17 efficiently and economically carry out the purpose and intent of this
18 subsection; and

19 (c) solicit and receive moneys from any public or private source and
20 administer a program of matching grants to provide assistance to those
21 entities described in K.S.A. 32-1420, and amendments thereto, in the
22 promotion of tourism and the development of quality tourist attractions in
23 this state.

24 Sec. 54. K.S.A. 42-701 is hereby amended to read as follows: 42-701.

25 (a) A majority of the qualified owners of irrigable lands within a proposed
26 irrigation district who shall be three or more persons and who own,
27 collectively, at least 60 acres of land ~~which~~ *that* are susceptible of
28 irrigation, and who own a majority of the irrigable acres in such proposed
29 district, may petition and make application to the chief engineer of the
30 *Kansas department of water and environment, division of water resources*
31 ~~of the Kansas department of agriculture~~, for the organization,
32 establishment and authority to incorporate an irrigation district under the
33 provisions of this act. Qualified owners of irrigable land shall be
34 understood and construed to mean taxpayers of such proposed district
35 owning irrigable land or some interest therein, in such proposed district. A
36 qualified owner of irrigable land who is a tenant in common shall be
37 understood and construed to own the number of acres of land ~~to which~~
38 *that* such person would be entitled *to* in the event that partition were made
39 of such real estate, in kind, upon an acreage basis and not a valuation
40 basis. A qualified owner of irrigable land who is a joint tenant shall be
41 understood and construed to own the number of acres such person would
42 receive in the event that the tract of land involved were divided, in kind,
43 equally among the joint tenants owning such tract, upon an acreage basis

1 and not upon a valuation basis. A corporation incorporated under the
2 provisions of K.S.A. 17-5901, and amendments thereto, trust, association
3 or partnership ~~which~~ *that* legally holds title to such irrigable land shall be a
4 qualified owner of irrigable land under the provisions of this act. Lands to
5 be included in a district need not be contiguous. Irrigation districts may be
6 formed in order to cooperate with the United States under the federal
7 reclamation laws, heretofore or hereafter enacted, or under any act of
8 congress ~~which~~ *that* shall permit the performance by the United States of
9 work in this state for the purpose of construction of irrigation works,
10 including drainage works, or for purchase, extension, operation, or
11 maintenance of constructed works, or for the assumption, as a principal or
12 guarantor, of indebtedness to the United States on account of district
13 works. When organized, irrigation districts shall have the authority and
14 power conferred, or that may hereafter be conferred, by law upon such
15 irrigation districts.

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

43 Sec. 55. K.S.A. 42-725 is hereby amended to read as follows: 42-725.

1 The holders of title, representing ~~one-half~~ ^{1/2} or more of lands, which taken
 2 together constitute one tract of land located adjacent to the boundaries of
 3 an irrigation district or located within the same county as a part of an
 4 irrigation district, may file with the directors of such irrigation districts, a
 5 petition for the changing and extending the boundaries of such district to
 6 include such additional lands. The holders of title to lands located within
 7 the boundaries of an irrigation district may file with the directors of such
 8 irrigation district a petition for the changing of the boundaries of such
 9 district to exclude from the district lands ~~which~~ *that* they own. The petition
 10 shall describe the boundaries of the proposed additional lands or lands to
 11 be excluded, and shall describe the boundaries of the several parcels
 12 respectively owned by each of the petitioners, but such description need
 13 not be more particular than is required by fractional portions of a quarter
 14 section of land. A certified copy of the petition and description of
 15 additional lands, proposed to be included in the district, or a description of
 16 the lands proposed to be excluded shall be filed with the chief engineer of
 17 the *Kansas department of water and environment*, division of water
 18 resources ~~of the Kansas department of agriculture~~. The board of directors
 19 of the irrigation district shall not take action upon such petition without the
 20 approval of ~~said~~ *the* chief engineer. A signer upon such petition shall not
 21 be permitted to withdraw his name as a signer except for fraud, undue
 22 influence or mutual mistake of fact.

23 Sec. 56. K.S.A. 47-1214 is hereby amended to read as follows: 47-
 24 1214. The provisions of this act shall be construed to apply to the
 25 transportation upon public highways of carcasses and refuse, from packing
 26 houses or other points of origin to disposal plants or substations. ~~The term~~
 27 ~~"refuse"~~ As used in K.S.A. 47-1201 ~~to through 47-1220, inclusive, or any~~
 28 ~~and~~ amendments thereto, ~~"refuse" shall include~~ *includes* offal, bones, suet
 29 and meat trimmings. The provisions of this act shall not apply to disposal
 30 plants operating under the supervision of the United States bureau of
 31 animal industry, meat inspection division, or those licensed by the
 32 secretary of ~~health~~ *the Kansas department of water and environment, meat*
 33 ~~inspection~~ *division of environment and conservation*; and processing only
 34 packing house refuse received from a packing house operated by the same
 35 person or group upon contiguous premises.

36 Sec. 57. K.S.A. 47-1511 is hereby amended to read as follows: 47-
 37 1511. Upon request of the animal health commissioner, the secretary of
 38 ~~health~~ *of water and environment* shall make staff engineers available to
 39 assist: (1) An operator of any feedlot in the state of Kansas; and (2) any
 40 person who has applied for a license to operate a feedlot in the state of
 41 Kansas, in the development of plans and in the design for the construction
 42 of facilities for a feedlot in order to control pollution of streams and lakes.
 43 Nothing in this act shall be construed as limiting the authority of the

1 secretary of ~~health and environment~~ in matters of stream and lake pollution
2 as provided for in K.S.A. 65-161 through 65-171h, and amendments
3 thereto.

4 Sec. 58. K.S.A. 2021 Supp. 48-1603 is hereby amended to read as
5 follows: 48-1603. As used in this act:

6 (a) "By-product material" means: (1) Any radioactive material, except
7 special nuclear material, yielded in or made radioactive by exposure to the
8 radiation incident to the process of producing or utilizing special nuclear
9 material;

10 (2) the tailings or wastes produced by the extraction or concentration
11 of uranium or thorium from any ore processed primarily for its source
12 material content;

13 (3) (A) any discrete source of radium-226 that is produced, extracted
14 or converted after extraction for use for a commercial, medical or research
15 activity; or

16 (B) any material that:

17 (i) Has been made radioactive by use of a particle accelerator; and

18 (ii) is produced, extracted or converted after extraction for use for a
19 commercial, medical or research activity; or

20 (4) any discrete source of naturally occurring radioactive material,
21 other than source material, that:

22 (A) The secretary declares by order would pose a threat to the public
23 health and safety or the common defense and security similar to the threat
24 posed by a discrete source of radium-226 after the United States nuclear
25 regulatory commission, or any successor thereto, determines the same
26 *threat*; and

27 (B) is extracted or converted after extraction for use in a commercial,
28 medical or research activity.

29 (b) "Department" means the Kansas department of ~~health~~ *water* and
30 environment.

31 (c) "Civil penalty" means any monetary penalty levied on a licensee
32 or registrant because of violations of statutes, regulations, licenses or
33 registration certificates, but does not include criminal penalties.

34 (d) "Closure" or "site closure" means all activities performed at a
35 waste disposal site, such as stabilization and contouring, to assure that the
36 site is in a stable condition so that only minor custodial care, surveillance
37 and monitoring are necessary at the site following termination of licensed
38 operation.

39 (e) "Decommissioning" means final operational activities at a facility
40 to dismantle site structures, to decontaminate site surfaces and remaining
41 structures, to stabilize and contain residual radioactive material and to
42 carry out any other activities to prepare the site for postoperational care.

43 (f) "Disposal of low-level radioactive waste" means the isolation of

1 such waste from the biosphere.

2 (g) "Electronic product" means any manufactured or assembled: (1)
3 Product ~~which~~ *that*, when in operation, contains or acts as part of an
4 electronic circuit and emits, or in the absence of effective shielding or
5 other controls would emit, electronic product radiation; or (2) article ~~which~~
6 *that* is intended for use as a component part, or accessory of a product
7 described in this subsection and ~~which~~ *when* in operation emits, or in the
8 absence of effective shielding or other controls would emit, such radiation.

9 (h) "Electronic product radiation" means any ionizing or nonionizing,
10 electromagnetic or particulate radiation, or any sonic, infrasonic, or
11 ultrasonic wave, which is emitted from an electronic product as the result
12 of the operation of an electronic circuit in such product.

13 (i) "General license" means a license effective pursuant to rules and
14 regulations promulgated by the secretary ~~of health and environment,~~
15 without the filing of an application to transfer, acquire, own, possess or use
16 quantities of, or devices or equipment utilizing by-product, source, special
17 nuclear materials, or other radioactive material occurring naturally or
18 produced artificially.

19 (j) "High-level radioactive waste" means: (1) Irradiated reactor fuel;
20 (2) liquid wastes resulting from the operation of the first cycle solvent
21 extraction system, or equivalent, and the concentrated wastes from
22 subsequent extraction cycles, or equivalent, in a facility for uranium
23 processing irradiated reactor fuel; and (3) solids ~~into which~~ *that* such
24 liquid wastes have been converted.

25 (k) "Low-level radioactive waste" means radioactive waste not
26 classified as:

27 (1) NORM waste or TENORM waste at concentrations and from
28 sources established in rules and regulations adopted by the secretary on or
29 before July 1, 2016;

30 (2) high-level radioactive waste;

31 (3) transuranic waste;

32 (4) spent nuclear fuel; or

33 (5) by-product material as defined in subsection (a)(2).

34 (l) "Person" means any individual, corporation, partnership, firm,
35 association, trust, estate, public or private institution, group, agency,
36 political subdivision of this state, or any other state or political subdivision
37 or agency thereof, and any legal successor, representative, agency, or
38 agency of the foregoing, other than the United States nuclear regulatory
39 commission, or any successor thereto, and other than federal government
40 agencies licensed by the United States nuclear regulatory commission, or
41 any successor thereto.

42 (m) "Radiation" means: (1) Ionizing radiation including gamma rays,
43 X-rays, alpha particles, beta particles, and including neutrons; (2) any

1 electromagnetic radiation other than ionizing radiation—~~which that~~ is
2 generated during the operation of an electronic product; or (3) any sonic,
3 ultrasonic, or infrasonic wave—~~which that~~ is emitted from an electronic
4 product as a result of the operation of an electronic circuit in such product.

5 (n) "Radioactive material" means any material, solid, liquid or gas,
6 ~~which that~~ emits ionizing radiation spontaneously.—~~It~~ "Radioactive
7 material" includes accelerator produced, by-product, naturally occurring,
8 source and special nuclear materials.

9 (o) "Secretary" means the secretary of the Kansas department of
10 ~~health water~~ and environment.

11 (p) "Source material" means: (1) Uranium, thorium or any other
12 material—~~which that~~ the secretary declares by order to be source material
13 after the United States nuclear regulatory commission, or any successor
14 thereto, has determined the material to be such; or (2) ores containing one
15 or more of the foregoing materials, in such concentration as the secretary
16 declares by order to be source material after the United States nuclear
17 regulatory commission, or any successor thereto, has determined the
18 material in such concentration to be source material.

19 (q) "Source material mill tailings" means the tailings or waste
20 produced by the extraction or concentration of uranium or thorium from
21 any ore processed primarily for its source material content, including
22 discrete surface wastes resulting from underground solution extraction
23 processes but not including underground ore bodies depleted by such
24 solution extraction process.

25 (r) "Source material milling" means any processing of ore, including
26 underground solution extraction of unmined ore, primarily for the purpose
27 of extracting or concentrating uranium or thorium therefrom and—~~which~~
28 ~~that~~ results in the production of source material mill tailings.

29 (s) "Sources of radiation" means, collectively, radioactive material
30 and radiation generating equipment.

31 (t) "Special nuclear material" means: (1) Plutonium, uranium 233,
32 uranium enriched in the isotope 233 or in the isotope 235, and any other
33 material—~~which that~~ the secretary declares by order to be special nuclear
34 material after the United States nuclear regulatory commission, or any
35 successor thereto, has determined the material to be such, but does not
36 include source material; or (2) any material artificially enriched by any of
37 the foregoing, but does not include source material.

38 (u) "Specific license" means a license issued after application, to use,
39 manufacture, produce, transfer, receive, acquire, own or possess quantities
40 of, or devices or equipment utilizing by-product, source, special nuclear
41 materials, or other radioactive material occurring naturally or produced
42 artificially.

43 (v) "Spent nuclear fuel" means irradiated nuclear fuel that has

1 undergone at least one year's decay since being used as a source of energy
2 in a power reactor. Spent nuclear fuel includes the special nuclear material,
3 by-product material, source material and other radioactive material
4 associated with fuel assemblies.

5 (w) "Transuranic waste" means radioactive waste containing alpha
6 emitting transuranic elements, with radioactive half-lives greater than five
7 years, in excess of 10 nanocuries per gram.

8 (x) "Naturally occurring radioactive material" or "NORM" means any
9 nuclide that is radioactive in the nuclide's natural physical state. "NORM"
10 does not include accelerator produced, by-product, source or special
11 nuclear material.

12 (y) "NORM waste" means solid waste as defined in K.S.A. 65-3402,
13 and amendments thereto, that is contaminated with NORM.

14 (z) "Technologically enhanced NORM" or "TENORM" means
15 NORM whose radionuclide concentrations are increased by or as a result
16 of past or present human practices. "TENORM" does not include
17 accelerator produced, by-product, source or special nuclear material.

18 (aa) "TENORM waste" means solid waste as defined in K.S.A. 65-
19 3402, and amendments thereto, that is contaminated with TENORM.

20 Sec. 59. K.S.A. 2021 Supp. 48-1606 is hereby amended to read as
21 follows: 48-1606. (a) The secretary ~~of health and environment~~ shall be
22 responsible for state radiation control.

23 (b) The secretary, for the protection of the public health and safety,
24 shall develop programs for evaluation of hazards associated with use of
25 sources of radiation.

26 (c) The secretary may:

27 (1) Advise, consult and cooperate with other agencies of the state, the
28 federal government, other states and interstate agencies, political
29 subdivisions and with groups concerned with control of sources of
30 radiation;

31 (2) accept and administer grants or gifts, conditional or otherwise, in
32 furtherance of its functions, from the federal government and from other
33 sources, public or private;

34 (3) collect and disseminate information relating to control of sources
35 of radiation;

36 (4) encourage, participate in, or conduct studies, investigations,
37 training, research and demonstrations relating to control of sources of
38 radiation;

39 (5) in accordance with the laws of the state, employ, compensate and
40 prescribe the powers and duties of such individuals as may be necessary to
41 carry out the responsibilities set forth herein;

42 (6) institute training programs for the purpose of qualifying personnel
43 to carry out the provisions of this act, and make personnel available for

1 participation in any program or programs of the federal government, other
2 states or interstate agencies in furtherance of the purposes of this act;

3 (7) fix, charge and collect fees for licenses and registrations, and
4 renewals thereof, issued under the nuclear energy development and
5 radiation control act to cover all or any part of the cost of administering
6 such act; and

7 (8) receive any moneys in the form of grants, gifts, licensing or
8 registration fees, or as paid under an agreement with the secretary or as
9 reimbursement for remedial action costs.

10 (d) Subject to the following limitations, the secretary may assess a fee
11 for the following categories of radiation protection services:

12 **Fee Category:**

13 **1. Special nuclear material**

- 14 A. Licenses for possession and use of special nuclear material in
15 sealed sources contained in devices used in industrial
16 measuring systems
17 Maximum annual fee.....\$950
- 18 B. Any licenses not otherwise specified in this table for
19 possession and use of special nuclear material, except licenses
20 authorizing special nuclear material in unsealed form in
21 combination that would constitute a critical mass
22 Maximum annual fee.....\$2,250

23 **2. Source material**

- 24 A. Licenses that authorize only the possession, use and/or
25 installation of source material for shielding
26 Maximum annual fee.....\$365
- 27 B. All other source material licenses not otherwise specified in
28 this table
29 Maximum annual fee.....\$5,700

30 **3. Radioactive or byproduct material**

- 31 A. Licenses of broad scope for possession and use of radioactive
32 or byproduct material issued for processing or manufacturing
33 of items containing radioactive or byproduct material for
34 commercial distribution
35 Maximum annual fee.....\$10,900
- 36 B. Other licenses for possession and use of radioactive or
37 byproduct material issued for processing or manufacturing of
38 items containing radioactive or byproduct material for
39 commercial distribution
40 Maximum annual fee.....\$3,300
- 41 C. Licenses authorizing the processing or manufacturing and
42 distribution or redistribution of radiopharmaceuticals,
43 generators, reagent kits and/or sources and devices containing

- 1 radioactive or byproduct material. This category also includes
- 2 the possession and use of source material for shielding when
- 3 included on the same license
- 4 Maximum annual fee.....\$5,450
- 5 D. Licenses and approvals authorizing distribution or
- 6 redistribution of radiopharmaceuticals, generators, reagent kits
- 7 and/or sources or devices not involving processing of
- 8 radioactive or byproduct material. This category also includes
- 9 the possession and use of source material for shielding when
- 10 included on the same license
- 11 Maximum annual fee.....\$2,350
- 12 E. Licenses for possession and use of radioactive or byproduct
- 13 material in sealed sources for irradiation of materials in which
- 14 the source is not removed from its shield (self-shielded units)
- 15 Maximum annual fee.....\$1,800
- 16 F. Licenses for possession and use of less than 10,000 curies of
- 17 radioactive or byproduct material in sealed sources for
- 18 irradiation of materials in which the source is exposed for
- 19 irradiation purposes. This category also includes underwater
- 20 irradiators for irradiation of materials in which the source is
- 21 not exposed for irradiation purposes
- 22 Maximum annual fee.....\$3,300
- 23 G. Licenses for possession and use of 10,000 curies or more of
- 24 radioactive or byproduct material in sealed sources for
- 25 irradiation of materials in which the source is exposed for
- 26 irradiation purposes. This category also includes underwater
- 27 irradiators for irradiation of materials in which the source is
- 28 not exposed for irradiation purposes
- 29 Maximum annual fee.....\$12,050
- 30 H. Licenses issued to distribute items containing radioactive or
- 31 byproduct material that require device review to persons
- 32 exempt from licensing, except specific licenses authorizing
- 33 redistribution of items that have been authorized for
- 34 distribution to persons exempt from licensing
- 35 Maximum annual fee.....\$3,000
- 36 I. Licenses issued to distribute items containing radioactive or
- 37 byproduct material or quantities of radioactive or byproduct
- 38 material that do not require device review to persons exempt
- 39 from licensing, except for specific licenses authorizing
- 40 redistribution of items that have been authorized for
- 41 distribution to persons exempt from licensing
- 42 Maximum annual fee.....\$3,050
- 43 J. Licenses issued to distribute items containing radioactive or

- 1 byproduct material that require sealed source and/or device
- 2 review to persons generally licensed, except specific licenses
- 3 authorizing redistribution of items that have been authorized
- 4 for distribution to persons generally licensed
- 5 Maximum annual fee.....\$1,100
- 6 K. Licenses issued to distribute items containing radioactive or
- 7 byproduct material or quantities of radioactive or byproduct
- 8 material that do not require sealed source and/or device review
- 9 to persons generally licensed, except specific licenses
- 10 authorizing redistribution of items that have been authorized
- 11 for distribution to persons generally licensed
- 12 Maximum annual fee.....\$700
- 13 L. Licenses of broad scope for possession and use of radioactive
- 14 or byproduct material issued for research and development that
- 15 do not authorize commercial distribution
- 16 Maximum annual fee.....\$5,900
- 17 M. Other licenses for possession and use of radioactive or
- 18 byproduct material issued for research and development that
- 19 do not authorize commercial distribution
- 20 Maximum annual fee.....\$2,800
- 21 N. Licenses that authorize services for other licensees, except
- 22 (1)Licenses that authorize only calibration and/or leak testing
- 23 services are subject to the fees specified in fee category 3P;
- 24 and (2) licenses that authorize waste disposal services are
- 25 subject to the fees specified in fee categories 4A, 4B and 4C
- 26 Maximum annual fee.....\$3,050
- 27 O. Licenses for possession and use of radioactive or byproduct
- 28 material for industrial radiography operations. This category
- 29 also includes the possession and use of source material for
- 30 shielding when authorized on the same license
- 31 Maximum annual fee.....\$6,100
- 32 P. All other specific radioactive or byproduct material licenses
- 33 not otherwise specified in this table
- 34 Maximum annual fee.....\$1,250
- 35 Q. Registration of generally licensed devices or sources
- 36 Maximum annual fee.....\$225

4. Waste disposal and processing

- 37
- 38 A. Licenses authorizing the possession and use of waste
- 39 radioactive, by-product, source or special nuclear material for a
- 40 commercial low-level radioactive waste disposal facility.
- 41 Maximum annual fee.....Full cost
- 42 i. Amendment to license concerning safety and environmental
- 43 questions

- 1 Maximum amendment fee.....Full cost
- 2 ii. Amendment to license concerning administration questions
- 3 (no safety or environment questions)
- 4 Maximum amendment fee.....Full cost
- 5 B. Licenses specifically authorizing the receipt of waste
- 6 radioactive or byproduct material, source material or special
- 7 nuclear material from other persons for the purpose of
- 8 packaging or repackaging the material. The licensee will
- 9 dispose of the material by transfer to another person authorized
- 10 to receive or dispose of the material
- 11 Maximum annual fee.....\$5,150
- 12 C. Licenses specifically authorizing the receipt of prepackaged
- 13 waste radioactive or byproduct material, source material or
- 14 special nuclear material from other persons. The licensee will
- 15 dispose of the material by transfer to another person authorized
- 16 to receive or dispose of the material
- 17 Maximum annual fee.....\$3,700

5. Well logging

- 19 A. Licenses for possession and use of radioactive or byproduct
- 20 material, source material and/or special nuclear material for
- 21 well logging, well surveys and tracer studies other than field
- 22 flooding tracer studies
- 23 Maximum annual fee.....\$2,350
- 24 B. Licenses for possession and use of radioactive or byproduct
- 25 material for field flooding tracer studies
- 26 Maximum annual fee.....\$2,350

6. Nuclear laundries

- 28 A. Licenses for commercial collection and laundry of items
- 29 contaminated with radioactive or byproduct material, source
- 30 material or special nuclear material
- 31 Maximum annual fee.....\$11,550

7. Medical licenses

- 33 A. Licenses issued for human use of radioactive or byproduct
- 34 material, source material or special nuclear material in sealed
- 35 sources contained in teletherapy devices. This category also
- 36 includes the possession and use of source material for shielding
- 37 when authorized on the same license
- 38 Maximum annual fee.....\$5,500
- 39 B. Licenses of broad scope issued to medical institutions or two
- 40 or more physicians authorizing research and development,
- 41 including human use of radioactive or byproduct material
- 42 except licenses for radioactive or byproduct material, source
- 43 material or special nuclear material in sealed sources contained

- 1 in teletherapy devices. This category also includes the
- 2 possession and use of source material for shielding when
- 3 authorized on the same license. Separate annual fees will not
- 4 be assessed for pacemaker licenses issued to medical
- 5 institutions who also hold nuclear medicine licenses under
- 6 categories 7B or 7C
- 7 Maximum annual fee.....\$12,350
- 8 C. Other license issued for human use of radioactive or byproduct
- 9 material, source material and/or special nuclear material except
- 10 licenses for radioactive or byproduct material, source material
- 11 or special nuclear material in sealed sources contained in
- 12 teletherapy devices. This category also includes the possession
- 13 and use of source material for shielding when authorized on
- 14 the same license. Separate annual fees will not be assessed for
- 15 pacemaker licenses issued to medical institutions who also
- 16 hold nuclear medicine licenses under categories 7B or 7C
- 17 Maximum annual fee.....\$2,300

18 **8. Civil defense**

- 19 A. Licenses for possession and use of radioactive or byproduct
- 20 material, source material or special nuclear material for civil
- 21 defense activities
- 22 Maximum annual fee.....\$650

23 **9. Device, product or sealed source safety evaluation**

- 24 A. Safety evaluation review of devices or products containing
- 25 radioactive or byproduct material, source material or special
- 26 nuclear material, except reactor fuel devices, for commercial
- 27 distribution. This fee shall apply to each device or product
- 28 Maximum annual fee.....\$3,500
- 29 B. Safety evaluation review of devices or products containing
- 30 radioactive or byproduct material, source material or special
- 31 nuclear material manufactured in accordance with the unique
- 32 specifications of, and for use by, a single applicant, except
- 33 reactor fuel devices. This fee shall apply to each device or
- 34 product
- 35 Maximum annual fee.....\$3,500
- 36 C. Safety evaluation of sealed sources containing radioactive or
- 37 byproduct material, source material or special nuclear material,
- 38 except reactor fuel, for commercial distribution. This fee shall
- 39 apply to each device or product
- 40 Maximum annual fee.....\$1,100
- 41 D. Registrations issued for the safety evaluation of sealed sources
- 42 containing radioactive or byproduct material, source material
- 43 or special nuclear material, manufactured in accordance with

1 the unique specifications of, and for use by, a single applicant.
 2 This fee shall apply to each device or product
 3 Maximum annual fee.....\$365

4 **10. Special projects**

5 A. Hourly rate for radiation control program activities for which
 6 there is not an established fee category or for radiation
 7 protection services provided to nonlicensees and nonregistrants
 8 Maximum hourly rate.....\$79

9 **11. Reciprocity**

10 A. Licensees who conduct activities under a reciprocal agreement
 11 Maximum annual fee.....\$750
 12 B. Registrants who conduct activities under a reciprocal
 13 agreement
 14 Maximum annual fee.....\$200

15 **12. X-ray machines**

16 A. Base registration fee per facility
 17 Maximum annual fee.....\$200
 18 B. Registration fee for each x-ray tube at a facility. This fee is in
 19 addition to the base registration fee
 20 Maximum annual fee per x-ray tube.....\$50

21 **13. Accelerators**

22 A. Particle accelerators
 23 Maximum annual fee.....\$300

24 **14. New license and registration applications**

25 A. New license and registration applications. Equal to annual fee
 26 of applicable category

27 For licenses or registrations that authorize more than one activity, an
 28 annual fee shall be assessed for each of the applicable categories.

29 (e) (1) An additional fee up to 50% of the maximum annual fee shall
 30 be assessed for each noncontiguous site where radioactive material is
 31 stored or used under the same license, per category.

32 (2) As used in this subsection, "noncontiguous site" means a location
 33 more than one mile away from the main safety office where licensure
 34 records are maintained.

35 (f) The secretary shall adopt rules and regulations fixing the fees for
 36 the radiation protection services provided under this act and shall
 37 periodically increase or decrease such fees consistent with the need to
 38 cover all or any part of the cost of administering such act.

39 Sec. 60. K.S.A. 2021 Supp. 48-1608 is hereby amended to read as
 40 follows: 48-1608. (a) (1) In any proceeding under this act for the adoption
 41 or amendment of rules and regulations relating to control of sources of
 42 radiation or for granting, suspending, revoking or amending any license,
 43 the secretary shall afford an opportunity for a hearing on the record upon

1 the written request of any person whose interest may be affected by the
2 proceeding and shall admit any such person as a party to such proceeding.

3 (2) In any proceeding for licensing ores processed primarily for their
4 source material content and disposal of by-product material or source
5 material mill tailings or for licensing disposal of low-level radioactive
6 waste, the secretary shall provide an opportunity, after public notice, for
7 written comments and a public hearing, and prior to any such proceeding
8 the secretary shall prepare, for each licensed activity~~which~~ *that* has a
9 significant impact on the human environment, a written analysis of the
10 impact of such licensed activity on the environment. The analysis shall be
11 available to the public before the commencement of any such hearing and
12 shall include an assessment of the radiological and nonradiological
13 impacts to the public health; an assessment of any impact on any waterway
14 and groundwater; consideration of alternatives, including alternative sites
15 and engineering methods, to the activities to be conducted and
16 consideration of the long-term impacts, including decommissioning,
17 decontamination and reclamation of facilities and sites associated with the
18 licensed activities and management of any radioactive materials~~which~~
19 *that* will remain on the site after such decommissioning, decontamination
20 and reclamation.

21 (3) Hearings concerning a license under this act shall be in
22 accordance with the provisions of the Kansas administrative procedure act.
23 Procedure for other hearings authorized in this subsection shall be
24 established by rule and regulation of the secretary.

25 (b) When the secretary, or any of the secretary's duly authorized
26 agents, determines that there are reasonable grounds to believe a violation
27 of the provisions of this act or of the rules and regulations of the secretary
28 has occurred, the secretary shall commence a hearing on the alleged
29 violations or issue an order thereon subject to the right of the person to
30 whom the order is directed to make written request for a hearing within 15
31 days after service of the order. If a hearing is requested, such hearing shall
32 be held within 30 days after the receipt of the request for hearing, at such
33 time and place as is designated by the secretary. The secretary shall make a
34 determination as to whether the act or the rules and regulations of the
35 secretary have been violated. Hearings under this subsection shall be in
36 accordance with the provisions of the Kansas administrative procedure act.

37 (c) Whenever the secretary or the director of the *Kansas department*
38 *of water and environment*, division of environment *and conservation*~~of~~
39 ~~the department~~ finds that an emergency exists requiring immediate action
40 to protect the public health and safety, an emergency order may be issued
41 in accordance with the provisions of K.S.A. 77-536, and amendments
42 thereto. Any person aggrieved by the issuance of any such emergency
43 order shall be entitled to a hearing in the same manner as is provided in

1 subsection (b).

2 (d) Any action of the secretary upon a hearing pursuant to this section
3 is subject to review in accordance with the Kansas judicial review act.

4 Sec. 61. K.S.A. 49-403 is hereby amended to read as follows: 49-403.
5 *As used in the mined-land conservation and reclamation act:*

6 (a) "Minerals" means coal.

7 (b) "Overburden" means all of the earth and other materials ~~which~~
8 *that* lie above a natural deposit of minerals and also means such earth and
9 other material after removal from their natural state in the process of
10 surface types of mining.

11 (c) "Operator" means any person, including any agency of state or
12 local government, or any publicly owned utility or corporation, engaged in
13 surface types of mining who disturbs more than $\frac{1}{4}$ acre or who removes or
14 intends to remove more than 100 tons of minerals or who removes
15 overburden for the purpose of producing minerals, and such person shall
16 be subject to the mined-land conservation and reclamation act and to all
17 the requirements of such act and rules and regulations ~~which~~ *that* may be
18 adopted pursuant thereto for the purpose of qualifying to administer the
19 regulatory programs adopted by the United States department of interior,
20 office of surface mining reclamation and enforcement, pursuant to the
21 national surface mining control and reclamation act of 1977 ~~(~~ public law
22 95-87), and federal rules and regulations adopted pursuant thereto.

23 (d) "Operation" means all of the premises, facilities, roads and
24 equipment used in the process of producing minerals from a designated
25 surface mine area and removing overburden for the purpose of producing
26 minerals.

27 (e) "Method of operation" means the manner by which the surface cut
28 is made, the overburden is placed or handled, water is controlled and other
29 acts are performed by the operator in the process of uncovering and
30 removing minerals.

31 (f) "Person" means an individual, partnership, association, society,
32 joint stock company, firm, company, corporation or other business
33 organization.

34 (g) "Reclamation and conservation" means the reconditioning of the
35 area of land affected by surface types of mining under a plan approved by
36 the secretary.

37 (h) "Secretary" means the secretary of the Kansas department of
38 ~~health water~~ and environment.

39 (i) "Pit" means the place where minerals are being or have been
40 mined by surface mining.

41 (j) "Department" means the Kansas department of ~~health water~~
42 and environment.

43 (k) "Abandoned mines" means mined land where mining operations

1 were completed prior to such mining operations being subject to the
2 provisions of this act or the national surface mining control and
3 reclamation act of 1977-~~(, public law 95-87)~~.

4 (l) "Approximate original contour" means that surface configuration
5 achieved by backfilling and grading of the mined area so that the
6 reclaimed area, including any terracing or access roads closely resembles
7 the general surface configuration of the land prior to mining and blends
8 into and complements the drainage pattern of the surrounding terrain, with
9 all highwalls and spoil piles eliminated; water impoundments may be
10 permitted where the secretary determines that they are in compliance with
11 performance standards of this act.

12 (m) "Imminent danger to the health and safety of the public" means
13 the existence of any condition or practice, or any violation of a permit or
14 other requirement of this act in a surface coal mining and reclamation
15 operation, which condition, practice, or violation could reasonably be
16 expected to cause substantial physical harm to persons outside the permit
17 area before such condition, practice, or violation can be abated. A
18 reasonable expectation of death or serious injury before abatement exists if
19 a rational person, subjected to the same conditions or practices giving rise
20 to the peril, would not expose oneself to the danger during the time
21 necessary for abatement.

22 (n) "Permit" means a permit to conduct surface coal mining and
23 reclamation operations issued by the secretary.

24 (o) "Permit area" means the area of land indicated on the approved
25 map submitted by the operator with the operator's application, which area
26 of land shall be covered by the operator's bond as required by this act and
27 shall be readily identifiable by appropriate markers on the site.

28 (p) ~~The term "Prime farmland" shall have~~ means the same meaning as
29 that previously prescribed by the federal secretary of agriculture on the
30 basis of such factors as moisture availability, temperature regime, chemical
31 balance, permeability, surface layer composition, susceptibility to
32 flooding, and erosion characteristics, and ~~which~~ that historically have been
33 used for intensive agricultural purposes, and as published in the federal
34 register.

35 (q) "Surface coal mining and reclamation operations" means surface
36 mining operations and all activities necessary and incident to the
37 reclamation of such operations after the date of enactment of this act.

38 (r) "Surface coal mining operations" or "surface mining" means:

39 (1) Activities conducted on the surface of lands in connection with a
40 surface coal mine or surface operations and surface impacts incident to an
41 underground coal mine. Such activities include excavation for the purpose
42 of obtaining coal including such common methods as contour, strip, auger,
43 mountaintop removal, box cut, open pit, and area mining, the uses of

1 explosives and blasting, and in situ distillation or retorting, leaching or
 2 other chemical or physical processing, and the cleaning, concentrating, or
 3 other processing or, preparation, loading of coal at or near the mine site.

4 (2) The areas ~~upon which~~ *where* such activities occur or where such
 5 activities disturb the natural land surface. Such areas shall also include any
 6 adjacent land the use of which is incidental to any such activities, all lands
 7 affected by the construction of new roads or the improvement or use of
 8 existing roads to gain access to the site of such activities and for haulage,
 9 and excavations, workings, impoundments, dams, ventilation shafts,
 10 entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks,
 11 culm banks, tailings, holes or depressions, repair areas, storage areas,
 12 processing areas, shipping areas and other areas upon which are sited
 13 structures, facilities, or other property or materials on the surface, resulting
 14 from or incident to such activities.

15 (s) "Unwarranted failure to comply" means the failure of an operator
 16 to prevent the occurrence of any violation of the operator's permit or any
 17 requirement of this act due to indifference, lack of diligence, or lack of
 18 reasonable care, or the failure to abate any violation of such permit or the
 19 act due to indifference, lack of diligence, or lack of reasonable care.

20 (t) "Geologist" means a person engaged in the practice of geology
 21 who is a graduate of an institution of higher education accredited by a
 22 regional or national accrediting agency, who has a minimum of 30
 23 semester or 45 quarter hours of undergraduate or graduate work in geology
 24 and whose post-baccalaureate training has been in geology.

25 (u) "Geology" means the science ~~which that~~ *that* treats ~~of~~ the earth in
 26 general, the earth's processes and ~~its~~ history; ~~which that~~ *that* investigates the
 27 earth's crust and the rocks and other materials ~~which that~~ *that* compose ~~it;~~ *the*
 28 *earth* and the applied science of utilizing knowledge of the earth's history,
 29 processes, constituent rocks, minerals, liquids, gasses and other materials
 30 for the use of ~~mankind~~ *humankind*.

31 Sec. 62. K.S.A. 2021 Supp. 49-511 is hereby amended to read as
 32 follows: 49-511. As used in this act:

33 (a) "Affected community" means a community; located in Cherokee
 34 county and within the boundaries of a superfund site, ~~which that~~ *that*
 35 the secretary of ~~health~~ *water* and environment determines has lost a substantial
 36 portion of the infrastructure necessary for individuals to live within the
 37 community due to government financed programs of relocation of
 38 individuals, businesses and nonprofit organizations within such superfund
 39 site. "Affected community" includes any area surrounding such
 40 community where residents of the area have lost essential services due to
 41 the community's loss of infrastructure.

42 (b) "Infrastructure" means basic facilities, services and installations
 43 needed for the functioning of a community, including, but not limited to,

1 water service, fire protection, law enforcement services and retail
2 establishments—~~which~~ *that* sell groceries, toiletries and other basic
3 necessities.

4 (c) "Person" means an individual or other legal entity.

5 (d) "Superfund site" means property—~~which~~ *that* is listed on the
6 national priorities list of superfund sites established under the
7 comprehensive environmental response, compensation, and liability act
8 (CERCLA), 42 U.S.C.A. § 9601 et seq., as amended *on* October 17, 1986.

9 (e) "Trust" means the trust created by K.S.A. 2021 Supp. 49-512, and
10 amendments thereto.

11 Sec. 63. K.S.A. 2021 Supp. 49-512 is hereby amended to read as
12 follows: 49-512. (a) A state public trust shall be created to administer
13 relocation assistance pursuant to this act and to acquire, hold and dispose
14 of property as specified in this act.

15 (b) The trust shall have five trustees appointed by the governor,
16 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and
17 amendments thereto. Except as provided by K.S.A. 46-2601, and
18 amendments thereto, no person appointed as trustee shall exercise any
19 power, duty or function as a trustee until confirmed by the senate. The
20 terms of trustees first appointed shall be as follows: One trustee shall serve
21 for a term expiring the first March 15 following appointment, one for a
22 term expiring the second March 15 following appointment, one for a term
23 expiring the third March 15 following appointment and two for terms
24 expiring the fourth March 15 following appointment. Thereafter, trustees
25 shall be appointed for terms of four years and until their successors are
26 appointed and confirmed. Whenever a vacancy on the trust occurs, the
27 governor shall fill the vacancy by appointment and the appointee shall
28 hold office for the unexpired term. Each trustee shall hold office until a
29 successor has been appointed and confirmed. A trustee may be removed
30 only for cause.

31 (c) The trustees, who shall be deemed public officers, shall be paid
32 amounts from funds of the trust for per diem compensation as provided in
33 K.S.A. 75-3212, and amendments thereto, for members of the legislature,
34 for each day of actual attendance at any meeting of the trust.

35 (d) Every person becoming a trustee first shall take the oath of office
36 required of a state elected official. The oath of office shall be administered
37 by a person authorized to administer oaths in the state of Kansas and shall
38 be filed with the secretary of state.

39 (e) Every officer and employee who handles funds of the trust shall
40 furnish bond or other good and sufficient security in an amount and upon
41 such terms as established by the state committee on surety bonds and
42 insurance pursuant to K.S.A. 75-4101 et seq., and amendments thereto, but
43 in no event shall any bond or other security be required of a trustee. The

1 cost of the bond shall be paid from funds of the trust.

2 (f) The trustees shall adopt bylaws for the administration and
3 regulation of the affairs of the trust. All such bylaws shall be submitted in
4 writing to the governor and ~~must~~ shall be approved by the governor before
5 taking effect.

6 (g) The trustees shall cause an audit to be made of the financial
7 statements of the trust within 30 days after the close of each fiscal year of
8 the trust. The expense of the audit shall be paid from funds of the trust.
9 The trust annually shall file with the governor and the legislature copies of
10 financial documents and reports sufficient to demonstrate the fiscal
11 activity of the trust, including, but not limited to, budgets, financial reports
12 and audits. Amendments to the adopted budget shall be approved by the
13 trustees of the trust and recorded as such in the official minutes of the
14 trust.

15 (h) Meetings of the trustees shall be subject to the open meetings law.
16 Records of the trust and minutes of meetings of the trust shall be written
17 and kept in a place, the location of which shall be recorded in the office of
18 the secretary of state, and shall be subject to the Kansas open records act.
19 The trust shall file a monthly report of all expenditures with the governor,
20 the speaker of the house of representatives and the president of the senate.

21 (i) Any real or personal property may be acquired and held in the
22 name of the trust. When acquired, any conveyance, assignment or other
23 transfer shall be made in the name of the trust by the chairperson of the
24 trust, attested by the secretary of the trust, with the seal of the trust affixed
25 thereto.

26 (j) Any conveyance, assignment or other transfer of any estate in real
27 property, executed by a trust, must be acknowledged by the president or
28 chairperson of the trust subscribing the name of the trust thereto, which
29 acknowledgment shall be in substantially the form provided in the revised
30 uniform law on notarial acts. Any instrument of conveyance, assignment
31 or other transfer executed in the name of the trust pursuant to this act and
32 bearing a signature ~~which~~ that purports to be the signature of the
33 chairperson of the trust, shall be deemed prima facie evidence that the
34 conveyance, assignment or other transfer is the act of the trust and the
35 trustees thereof, that it was duly executed and signed by the chairperson of
36 the trust who was a trustee of the trust and that the instrument conforms in
37 all respects to the requirements of law, and such conveyance, assignment
38 or other transfer shall be admissible in evidence without further proof of
39 execution.

40 (k) The trust shall not engage in any activity or transaction that is not
41 expressly authorized by this act.

42 (l) No trustee shall be charged personally with any liability
43 whatsoever by reason of any act or omission in the performance of the

1 trust or in the operation of the trust property but any act, liability for any
2 omission or obligation of a trustee or trustees, in the execution of the trust,
3 or in the operation of the trust property, shall extend to the whole of the
4 trust, or so much thereof as may be necessary to discharge such liability or
5 obligation, and not otherwise.

6 (m) Moneys from grants made to the trust pursuant to this act shall be
7 used only for the purposes provided by this act, including payment of the
8 costs of the *Kansas* department of ~~health~~ *water* and environment in
9 implementing and administering this act.

10 (n) On July 1, 2014, or on the date that all of the rights and title to all
11 real and personal property acquired by the trust have been conveyed,
12 assigned or otherwise transferred in the name of the trust pursuant to
13 K.S.A. 2021 Supp. 49-511 through 49-517, and amendments thereto, and
14 the instruments of conveyance, assignment or other transfer have been
15 finally executed, whichever date occurs first, the trust is hereby abolished
16 and the office of each member of the trust is hereby abolished.

17 Sec. 64. K.S.A. 2021 Supp. 49-513 is hereby amended to read as
18 follows: 49-513. The secretary of ~~health~~ *of water* and environment is
19 hereby authorized to make grants to the trust to be used to provide
20 relocation assistance and to purchase property as provided in K.S.A. 2021
21 Supp. 49-514, and amendments thereto, to persons relocating from an
22 affected community and assistance to public school districts as provided in
23 K.S.A. 2021 Supp. 49-515, and amendments thereto.

24 Sec. 65. K.S.A. 2021 Supp. 49-517 is hereby amended to read as
25 follows: 49-517. (a) Nothing in this act shall create any property right or
26 right in action. The courts shall have no jurisdiction to entertain any action
27 against the trust, the secretary *of water and environment* or *the Kansas*
28 department of ~~health~~ *water* and environment or the state of Kansas, or any
29 officer or agent thereof, founded on a claim that the claimant should have
30 received different or better treatment pursuant to this act.

31 (b) Determinations made by the trust pursuant to the assistance
32 program provided for by this act, including, but not limited to,
33 determinations as to what constitutes the average rental cost of comparable
34 housing, the average cost of comparable properties, the eligibility of any
35 person for assistance and the determination of the proper amount of such
36 assistance, if any, shall be committed to the sole discretion of the trust
37 based on the information available to ~~it~~ *the trust* and shall not be subject to
38 judicial review.

39 Sec. 66. K.S.A. 2021 Supp. 49-603 is hereby amended to read as
40 follows: 49-603. As used in this act:

41 (a) "Director" means the ~~executive~~ director of the division or a
42 designee.

43 (b) "Affected land" means the area of land ~~from which~~ *where*

1 overburden has been removed or ~~upon which~~ *where* overburden has been
2 deposited, or both, but shall not include crushing areas, stockpile areas or
3 roads.

4 (c) "Commission" means the conservation program policy board
5 created in K.S.A. 2-1904, and amendments thereto, including the state
6 conservation commission continued in existence by K.S.A. 74-5,128, and
7 amendments thereto.

8 (d) "Mine" means any underground or surface mine developed and
9 operated for the purpose of extracting rocks, minerals and industrial
10 materials, other than coal, oil and gas. Mine does not include borrow areas
11 created for construction purposes.

12 (e) "Operator" means any person who engages in surface mining or
13 operation of an underground mine or mines.

14 (f) "Overburden" means all of the earth and other materials that lie
15 above the natural deposits of material being mined or to be mined.

16 (g) "Peak" means a projecting point of overburden removed from its
17 natural position and deposited elsewhere in the process of surface mining.

18 (h) "Pit" means a tract of land ~~from which~~ *where* overburden has been
19 or is being removed for the purpose of surface mining.

20 (i) "Ridge" means a lengthened elevation of overburden removed
21 from its natural position and deposited elsewhere in the process of surface
22 mining.

23 (j) (1) "Surface mining" means the mining of material, except for
24 coal, oil and gas, for sale or for processing or for consumption in the
25 regular operation of a business by removing the overburden lying above
26 natural deposits and mining directly from the natural deposits exposed, or
27 by mining directly from deposits lying exposed in their natural state, or the
28 surface effects of underground mining. Surface mining shall include
29 dredge operations lying outside the high banks of streams and rivers.

30 (2) Removal of overburden and mining of limited amounts of any
31 materials shall not be considered surface mining when done only for the
32 purpose and to the extent necessary to determine the location, quantity or
33 quality of the natural deposit, if the materials removed during exploratory
34 excavation or mining are not sold, processed for sale or consumed in the
35 regular operation of a business.

36 (k) "Topsoil" means the natural medium located at the land surface
37 with favorable characteristics for growth of vegetation, which is normally
38 the A or B, or both, soil horizon layers of the four soil horizons.

39 (l) "Active site" means a site where surface mining is being
40 conducted.

41 (m) "Inactive site" means a site where surface mining is not being
42 conducted but where overburden has been disturbed in the past for the
43 purpose of conducting surface mining and an operator anticipates

1 conducting further surface mining operations in the future.

2 (n) "Materials" means natural deposits of gypsum, clay, stone,
3 sandstone, sand, shale, silt, gravel, volcanic ash or any other minerals of
4 commercial value found on or in the earth with the exception of coal, oil
5 and gas and those located within cut and fill portions of road rights-of-
6 way.

7 (o) "Reclamation" means the reconditioning of the area of land
8 affected by surface mining to a usable condition for agricultural,
9 recreational or other use.

10 (p) "Stockpile" means the finished products of the mining of gypsum,
11 clay, shale, stone, sandstone, sand, silt, gravel, volcanic ash or other
12 minerals and removal from its natural position and deposited elsewhere for
13 future use in the normal operation as a business.

14 (q) "Underground mining" means the extraction of rocks, minerals
15 and industrial materials, other than coal, oil and gas, from the earth by
16 developing entries or shafts from the surface to the seam or deposit before
17 recovering the product by underground extraction methods.

18 (r) "Person" means any individual, firm, partnership, corporation,
19 government or other entity.

20 (s) "Division" means the *Kansas department of water and*
21 *environment*, division of *environment and conservation* established ~~within~~
22 ~~the Kansas department of agriculture in K.S.A. 74-5,126 section 4,~~ and
23 amendments thereto.

24 (t) "Secretary" means the Kansas secretary of ~~agriculture~~ *the Kansas*
25 *department of water and environment*.

26 Sec. 67. K.S.A. 2021 Supp. 49-618 is hereby amended to read as
27 follows: 49-618. (a) The director or the director's designee, when
28 accompanied by the operator or operator's designee during regular
29 business hours, may inspect any lands ~~on which~~ *where* any operator is
30 authorized to operate a mine for the purpose of determining whether the
31 operator is or has been complying with the provisions of this act.

32 (b) The director shall give written notice to any operator who violates
33 any of the provisions of this act or any rules and regulations adopted by
34 the ~~director~~ *secretary* pursuant to this act.

35 (c) If corrective measures approved by the director are not
36 commenced within 90 days, the secretary shall, at the request of the
37 director, issue a written order stating the nature of the violation, the
38 penalty to be imposed and the right of the person to appeal to the secretary
39 pursuant to K.S.A. 49-621, and amendments thereto.

40 Sec. 68. K.S.A. 2021 Supp. 49-623 is hereby amended to read as
41 follows: 49-623. (a) The secretary, with the approval of the commission,
42 shall adopt such rules and regulations as necessary to administer and
43 enforce the provisions of this act.

1 (b) The director shall determine annually the amount necessary to
2 carry out and enforce the provisions of this act for the next ensuing fiscal
3 year and shall recommend to the secretary such license renewal,
4 registration application, registration and registration renewal fees as the
5 director determines necessary for that purpose. ~~The director~~ *secretary* shall
6 adopt such fees by rules and regulations.

7 (c) Before ~~the director~~ *secretary* submits any such proposed rules and
8 regulations to the director of the budget, the secretary of administration
9 and the attorney general in accordance with the rules and regulations filing
10 act, K.S.A. 77-415 et seq., and amendments thereto:

11 (1) ~~The director~~ *secretary* shall submit such rules and regulations to
12 the commission; and

13 (2) the commission shall review and make recommendations to ~~the~~
14 ~~director and~~ the secretary regarding such proposed rules and regulations.

15 (d) Fees for license renewal, registration and registration renewal
16 shall be based on an operator's acres of affected land or the tonnage of
17 materials extracted by the operator during the preceding license year, or a
18 combination thereof.

19 (e) Political subdivisions of the state shall be exempt from all fees
20 imposed under this act.

21 Sec. 69. K.S.A. 2021 Supp. 55-153 is hereby amended to read as
22 follows: 55-153. There is hereby established the advisory committee on
23 regulation of oil and gas activities to be composed of 12 members. One
24 member shall be appointed by each of the following associations: Kansas
25 petroleum council, Kansas independent oil and gas association and eastern
26 Kansas oil and gas association. One member shall be appointed jointly by
27 the Kansas farm bureau and Kansas livestock association and such person
28 shall be an owner of a surface interest. One member shall be appointed
29 jointly by the southwest Kansas royalty owners association and the eastern
30 Kansas royalty owners association and such person shall be an owner of a
31 mineral interest. One member shall be appointed by the governor from the
32 general public. One member shall represent groundwater management
33 districts and shall be appointed jointly by the presidents of each
34 groundwater management district. All such appointees shall serve at the
35 pleasure of the appointing authority. The following state agencies shall
36 designate a person as a member of such committee: The commission, the
37 department of health and environment, the Kansas geological survey, the
38 ~~Kansas water office~~ *department of water and environment, division of*
39 *water and environmental planning* and the *Kansas department of water*
40 *and environment, division of water resources* ~~of the Kansas department of~~
41 ~~agriculture~~. The designated person of the commission shall be the
42 chairperson of the advisory committee. The committee shall meet at least
43 once each quarter calendar year and upon the call of the chairperson. The

1 committee shall review and make recommendations on oil and gas
2 activities, including but not limited to current drilling methods, geologic
3 formation standards, plugging techniques, casing and cementing standards
4 and materials and all matters pertaining to the protection of waters of the
5 state from pollution relating to oil and gas activities.

6 Sec. 70. K.S.A. 2021 Supp. 55-1,117 is hereby amended to read as
7 follows: 55-1,117. (a) As used in this section, K.S.A. 65-171d and ~~K.S.A.~~
8 55-1,118 through 55-1,122, and amendments thereto:

9 (1) "Company or operator" means any form of legal entity including,
10 but not limited to, a corporation, limited liability company and limited or
11 general partnerships.

12 (2) "Secretary" means the secretary of ~~health~~ *water* and environment.

13 (3) "Underground porosity storage" means the storage of
14 hydrocarbons in underground, porous and permeable geological strata
15 ~~which~~ *that* have been converted to hydrocarbon storage.

16 (b) For the purposes of protecting the health, safety and property of
17 the people of the state, and preventing surface and subsurface water
18 pollution and soil pollution detrimental to public health or to the plant,
19 animal and aquatic life of the state, the secretary ~~of health and~~
20 ~~environment~~ shall adopt separate and specific rules and regulations
21 establishing requirements, procedures and standards for the following:

22 (1) Salt solution mining;

23 (2) the safe and secure underground storage of liquid petroleum gas
24 and hydrocarbons, other than natural gas in underground porosity storage;
25 and

26 (3) the safe and secure underground storage of natural gas in bedded
27 salt.

28 (c) Such rules and regulations shall include, but not be limited to:

29 (1) Site selection criteria;

30 (2) design and development criteria;

31 (3) operation criteria;

32 (4) casing requirements;

33 (5) monitoring and measurement requirements;

34 (6) safety requirements, including public notification;

35 (7) closure and abandonment requirements, including the financial
36 requirements of subsection (f); and

37 (8) long term monitoring.

38 (d) (1) The secretary may adopt rules and regulations establishing
39 fees for the following services:

40 (A) Permitting, monitoring and inspecting salt solution mining
41 operators;

42 (B) permitting, monitoring and inspecting underground storage of
43 liquid petroleum gas and hydrocarbons, other than natural gas in

1 underground porosity storage; and

2 (C) permitting, monitoring and inspecting underground storage of
3 natural gas in bedded salt.

4 (2) The fees collected under this section by the secretary shall be
5 remitted by the secretary to the state treasurer in accordance with the
6 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
7 each such remittance, the state treasurer shall deposit the entire amount in
8 the state treasury to the credit of the subsurface hydrocarbon storage fund.

9 (e) The secretary or the secretary's duly authorized representative
10 may impose on any holder of a permit issued pursuant to this section such
11 requirements relating to inspecting, monitoring, investigating, recording
12 and reporting as the secretary or representative deems necessary to
13 administer the provisions of this section and rules and regulations adopted
14 hereunder.

15 (f) Any company or operator receiving a permit under the provisions
16 of this act shall demonstrate annually to the *Kansas* department of ~~health~~
17 *water* and environment evidence, satisfactory to the department, that such
18 permit holders have financial ability to cover the cost of closure of such
19 permitted facility as required by the department.

20 (g) The secretary may enter into contracts for services from
21 consultants and other experts for the purposes of assisting in the drafting
22 of rules and regulations pursuant to this section.

23 (h) (1) For a period of two years from July 1, 2001, or until the rules
24 and regulations provided for in subsection (b)(3) are adopted, the injection
25 of working natural gas into underground storage in bedded salt is
26 prohibited, except that cushion gas may be injected into existing
27 underground storage in bedded salt. Natural gas currently stored in such
28 underground storage may be extracted.

29 (2) Any existing underground storage of natural gas in bedded salt
30 shall comply with the rules and regulations adopted under this section
31 prior to the commencement of injection of working natural gas into such
32 underground storage.

33 (3) Rules and regulations adopted under subsection (b)(3) shall be
34 adopted on or before July 1, 2003.

35 (i) No hydrocarbon storage shall be allowed in any underground
36 formation if water within the formation contains less than 5,000
37 milligrams per liter chlorides.

38 Sec. 71. K.S.A. 2021 Supp. 55-1,117a is hereby amended to read as
39 follows: 55-1,117a. ~~Not later than January 1, 2009, The secretary of health~~
40 ~~and environment~~ shall adopt, pursuant to K.S.A. 55-1,117, and
41 amendments thereto, rules and regulations governing underground crude
42 oil storage. The secretary, pursuant to K.S.A. 75-5616, and amendments
43 thereto, shall appoint an advisory committee to consult with and advise the

1 secretary on the promulgation of such rules and regulations. The advisory
2 committee shall consist of five members who represent persons
3 knowledgeable and experienced in areas related to crude oil storage.

4 Sec. 72. K.S.A. 2021 Supp. 55-1,119 is hereby amended to read as
5 follows: 55-1,119. (a) The secretary or the director of the *Kansas*
6 *department of water and environment*, division of environment *and*
7 *conservation*, if designated by the secretary, upon a finding that a person
8 has violated any provision of K.S.A. 55-1,117, and amendments thereto, or
9 rules and regulations adopted thereunder, may impose a penalty not to
10 exceed \$10,000 per violation ~~which~~ that shall constitute an economic
11 deterrent to the violation for which it is assessed and, in the case of a
12 continuing violation, every day such violation continues shall be deemed a
13 separate violation.

14 (b) No penalty shall be imposed pursuant to this section except after
15 an opportunity for hearing upon the written order of the secretary or the
16 director of the division of environment *and conservation*, if designated by
17 the secretary, to the person who committed the violation. The order shall
18 state the violation, the penalty to be imposed and, in the case of an order of
19 the director of the division of environment, the right to appeal to the
20 secretary for a hearing thereon. Any person may appeal an order of the
21 director of the division of environment by making a written request to the
22 secretary for a hearing within 15 days of service of such order. Hearings
23 under this subsection shall be conducted in accordance with the provisions
24 of the Kansas administrative procedure act.

25 (c) Whenever the secretary or the secretary's duly authorized agents
26 find that the soil or waters of the state are not being protected from
27 pollution resulting from underground storage of liquid petroleum gas and
28 hydrocarbons, other than natural gas in underground porosity storage, the
29 secretary or the secretary's duly authorized agents shall issue an order
30 prohibiting such underground storage. Any person aggrieved by such order
31 may request in writing, within 15 days after service of the order, a hearing
32 on the order. Upon receipt of a timely request, a hearing shall be conducted
33 in accordance with the provisions of the Kansas administrative procedure
34 act.

35 (d) Any action of the secretary pursuant to this section is subject to
36 review in accordance with the Kansas judicial review act.

37 Sec. 73. K.S.A. 55-527 is hereby amended to read as follows: 55-527.
38 (a) As used in this section, terms have the meanings provided by K.S.A.
39 79-3401, and amendments thereto.

40 (b) Subject to the provisions of subsection (h), ~~on and after July 1,~~
41 ~~2004,~~ no person shall sell or deliver to any distributor within Kansas or
42 import into Kansas for sale in this state any motor-vehicle fuel containing
43 methyl tertiary-butyl ether (MTBE) in quantities greater than 0.5% by

1 volume.

2 (c) ~~On and after July 1, 2003,~~ The distributor shall be provided, at the
 3 time of delivery of motor-vehicle fuel, on an invoice, bill of lading,
 4 shipping paper or other documentation, a declaration of the MTBE
 5 content, by volume percent, in the motor-vehicle fuel delivered.

6 (d) Determination of the volume percentage of MTBE in motor-
 7 vehicle fuel shall be by one or more test methods approved by the
 8 secretary of ~~agriculture~~ *water and environment*.

9 (e) In no event shall the provisions of this section be interpreted to
 10 authorize quantities of MTBE in motor-vehicle fuels to exceed those
 11 specified in any applicable Kansas or federal statute.

12 (f) The secretary of ~~health~~ *water and environment* or the director of
 13 the *Kansas department of water and environment*, division of environment
 14 *and conservation*, upon a finding that a person knowingly and willfully
 15 has violated this section, may impose a penalty not to exceed \$10,000
 16 ~~which that~~ shall constitute an actual and substantial economic deterrent to
 17 the violation for which it is assessed. In the case of a continuing violation,
 18 every day such violation continues shall be deemed a separate violation.
 19 No such penalty shall be imposed except after notice of violation and
 20 opportunity for hearing upon the written order of the secretary or the
 21 director of the division of environment *and conservation* issued to the
 22 person who committed the violation. The order shall state the violation,
 23 the penalty to be imposed and the right to request a hearing thereon. The
 24 request for hearing shall be in writing, directed to the secretary and filed
 25 with the secretary within 15 days after service of the order. The hearings
 26 shall be conducted in accordance with the Kansas administrative procedure
 27 act.

28 (g) Nothing in this section shall be construed to abridge, limit or
 29 otherwise impair the right of any person to damages or other relief on
 30 account of injury to persons or property and to maintain any action or
 31 other appropriate proceeding therefor.

32 (h) ~~The provisions of this section shall not take effect until the United~~
 33 ~~States environmental protection agency grants a waiver allowing the state~~
 34 ~~of Kansas to control or prohibit the use of MTBE in motor-vehicle fuels.~~
 35 ~~The secretary of health and environment shall apply for such waiver in a~~
 36 ~~timely manner in order to obtain such waiver prior to July 1, 2004.~~

37 Sec. 74. K.S.A. 65-153f is hereby amended to read as follows: 65-
 38 153f. Each physician or other person attending a pregnant woman in this
 39 state during gestation, with the consent of such woman, shall take or cause
 40 to be taken a sample of blood of such woman within 14 days after
 41 diagnosis of pregnancy is made. Such sample shall be submitted for
 42 serological tests ~~which that~~ meet the standards recognized by the United
 43 States public health service for the detection of syphilis and hepatitis b to a

1 laboratory approved by the secretary of ~~health~~ *the Kansas department of*
2 *water* and environment for such serological tests. Any state, United States
3 public health service, or United States army, navy or air force laboratory or
4 any laboratory approved by the state health agency of the state ~~in which~~
5 *where* the laboratory is operated shall be considered approved for the
6 purposes of this act. Any laboratory in this state, performing the tests
7 required by this section shall make a report to the secretary of ~~health and~~
8 ~~environment~~ of all positive or reactive tests on forms provided by the
9 secretary of ~~health and environment~~ and also shall make a report of the test
10 results to the submitting physician or person attending the woman.
11 Laboratory statements, reports, files and records prepared pursuant to this
12 section shall be confidential and shall not be divulged to or open to
13 inspection by any person other than state or local health officers or their
14 duly authorized representatives, except by written consent of the woman.

15 Sec. 75. K.S.A. 65-156 is hereby amended to read as follows: 65-156.
16 The secretary of ~~health~~ *of water* and environment shall make rules and
17 regulations for the collection of samples and analysis of water, either
18 natural or treated, furnished by municipalities, corporations, companies or
19 individuals to the public, and shall fix the fees for any services rendered
20 under ~~said~~ *such* rules and regulations to cover the cost of the services.

21 Sec. 76. K.S.A. 65-157 is hereby amended to read as follows: 65-157.
22 The analysis of all waters required in the rules and regulations shall be
23 made by the office of laboratory services of the *Kansas* department of
24 ~~health~~ *water* and environment, *division of environment and conservation*
25 and the fees collected under the provisions of this act by the secretary of
26 ~~health~~ *of water* and environment shall be remitted by the secretary to the
27 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
28 amendments thereto. Upon receipt of each such remittance, the state
29 treasurer shall deposit the entire amount in the state treasury to the credit
30 of the office of laboratory services operating fund.

31 Sec. 77. K.S.A. 65-159 is hereby amended to read as follows: 65-159.
32 The secretary of ~~health~~ *water* and environment and the county or joint
33 boards of health shall have the power and authority to examine into all
34 nuisances, sources of filth and causes of sickness that in their opinion may
35 be injurious to the health of the inhabitants within any county or
36 municipality in this state. Whenever any such nuisance, source of filth or
37 cause of sickness shall be found to exist on any private property or upon
38 any watercourse in this state, the secretary of ~~health and environment~~
39 or county or joint boards of health shall have the power and authority to
40 order, in writing, the owner or occupant thereof at ~~his or her~~ *such owner's*
41 *or occupant's* own expense to remove the nuisance, source of filth or cause
42 of sickness within ~~twenty-four~~ (24) hours, or within such reasonable time
43 thereafter as such secretary or such county or joint board may order; and if

1 the owner or occupant shall fail to obey such order, such owner or
2 occupant upon conviction shall be fined not less than ~~ten dollars~~ (\$10) nor
3 more than ~~one hundred dollars~~ (\$100), and each day's continuance of such
4 nuisance, source of filth or cause of sickness, after the owner or occupant
5 thereof shall have been notified to remove the nuisance, source of filth or
6 cause of sickness, shall be a separate offense.

7 Sec. 78. K.S.A. 65-162a is hereby amended to read as follows: 65-
8 162a. As used in K.S.A. 65-163 ~~and~~, 65-163a; and ~~in K.S.A. 65-171m to~~
9 ~~through 65-171t, inclusive and amendments thereto~~, unless the context
10 clearly requires otherwise, the following words and phrases shall have the
11 meanings respectively ascribed to them in this section:

12 (a) "Person" means an individual, corporation, company, association,
13 partnership, state, municipality or federal agency.

14 (b) "Public water supply system" means a system for the provision to
15 the public of piped water for human consumption, if such system has at
16 least ~~ten~~ (10) service connections or regularly serves an average of at least
17 ~~twenty-five~~ (25) individuals daily at least ~~sixty~~ (60) days out of the year.
18 Such term includes any source, treatment, storage or distribution facilities
19 under control of the operator of the system and used primarily in
20 connection with the system, and any source, treatment, storage or
21 distribution facilities not under such control but ~~which~~ are used in
22 connection with such system.

23 (c) "Secretary" means the secretary of ~~health~~ *the Kansas department*
24 *of water and environment*.

25 (d) "Supplier of water" means any person who owns or operates a
26 public water supply system.

27 Sec. 79. K.S.A. 65-163 is hereby amended to read as follows: 65-163.

28 (a) (1) No person shall operate a public water supply system within the
29 state without a public water supply system permit from the secretary. An
30 application for a public water supply system permit shall be submitted for
31 review and approval prior to construction and shall include: (A) A copy of
32 the plans and specifications for the construction of the public water supply
33 system or the extension thereof; (B) a description of the source from which
34 the water supply is to be derived; (C) the proposed manner of storage,
35 purification or treatment for the supply; and (D) such other data and
36 information as required by the secretary ~~of health and environment~~. No
37 source of water supply in substitution for or in addition to the source
38 described in the application, or in any subsequent application ~~for which~~
39 *that* a public water supply system permit is issued *for*; shall be used by a
40 public water supply system, nor shall any change be made in the manner
41 of storage, purification or treatment of the water supply without an
42 additional public water supply system permit obtained in a manner similar
43 to that prescribed by this section from the secretary.

1 (2) Whenever application is made to the secretary for a public water
2 supply system permit under the provisions of this section, it shall be the
3 duty of the secretary to examine the application without delay and, as soon
4 as possible thereafter, to grant or deny the public water supply system
5 permit subject to any conditions—~~which~~ *that* may be imposed by the
6 secretary to protect the public health and welfare.

7 (3) The secretary may adopt rules and regulations establishing a
8 program of annual certification by public water supply systems that have
9 staff qualified to approve the extension of distribution systems without the
10 necessity of securing an additional permit for the extension provided the
11 plans for the extension are prepared by a professional engineer as defined
12 by K.S.A. 74-7003, and amendments thereto.

13 (b) (1) Whenever a complaint is made to the secretary by any city of
14 the state, by a local health officer, or by a county or joint board of health
15 concerning the sanitary quality of any water supplied to the public within
16 the county—~~in which~~ *where* the city, local health officer or county or joint
17 board of health is located, the secretary shall investigate the public water
18 supply system about which the complaint is made. Whenever the secretary
19 has reason to believe that a public water supply system within the state is
20 being operated in violation of an applicable state law or an applicable rule
21 and regulation of the secretary, the secretary may investigate the public
22 water supply system.

23 (2) Whenever an investigation of any public water supply system is
24 undertaken by the secretary, it shall be the duty of the supplier of water
25 under investigation to furnish to the secretary information to determine the
26 sanitary quality of the water supplied to the public and to determine
27 compliance with applicable state laws and rules and regulations. The
28 secretary may issue an order requiring changes in the source or sources of
29 the public water supply system or in the manner of storage, purification or
30 treatment utilized by the public water supply system before delivery to
31 consumers, or distribution facilities, collectively or individually, as may in
32 the secretary's judgment be necessary to safeguard the sanitary quality of
33 the water and bring about compliance with applicable state law and rules
34 and regulations. The supplier of water shall comply with the order of the
35 secretary.

36 (c) (1) As used in this subsection—~~(e)~~, "municipal water treatment
37 residues" means any solid, semisolid or liquid residue generated during the
38 treatment of water in a public water supply system treatment works.

39 (2) A public water supply system may place or store municipal water
40 treatment residues resulting from sedimentation, coagulation or softening
41 treatment processes in basins on land under the ownership and control of
42 the public water supply system operator provided that such storage or
43 placement is approved and permitted by the secretary under this section as

1 part of the public water supply system.

2 (3) The secretary shall adopt uniform and comprehensive rules and
3 regulations for the location, design and operation of such basins. Such
4 rules and regulations shall require permit applications by the public water
5 suppliers for such basins to include a copy of the plans and specifications
6 for the location and construction of each basin, the means of conveyance
7 of the treatment residues to such basins, the content of treatment residues,
8 the proposed method of basin operation and closure, the method of any
9 anticipated expansion and any other data and information required by the
10 secretary.

11 (4) Whenever complaint is made to the secretary by the mayor of any
12 city of the state, by a local health officer or by a county or joint board of
13 health, or whenever an investigation is undertaken at the initiative of the
14 secretary, relating to any alleged violation of the provisions of the permit
15 for placement or storage of municipal water treatment residues in such
16 basins, the public water supply system operator shall furnish all
17 information the secretary requires. If the secretary finds that there is any
18 violation of the terms of the permit, that the means of placement and
19 storage exceed the terms of the permit or that any other condition exists by
20 reason of the means of placement and storage that may be detrimental to
21 the health of any inhabitants of the state or to the environment, the
22 secretary shall have the authority to issue an order amending the permit or
23 otherwise requiring the operator to perform remedial measures to curtail or
24 prevent such detrimental conditions.

25 (d) Orders of the secretary under this section, and hearings thereon,
26 shall be subject to the provisions of the Kansas administrative procedure
27 act. Any action of the secretary pursuant to this section is subject to review
28 in accordance with the Kansas judicial review act. The court on review
29 shall hear the case without delay.

30 (e) The secretary shall establish by rule and regulation a system of
31 fees for the inspection and regulation of public water supplies. No such fee
32 shall exceed \$.002 per 1,000 gallons of water sold at retail by a public
33 water supply system. All such fees shall be paid quarterly in the manner
34 provided for fees imposed on retail sales by public water supply systems
35 pursuant to K.S.A. 82a-954, and amendments thereto. The secretary shall
36 remit all moneys collected for such fees to the state treasurer in accordance
37 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
38 receipt of each such remittance, the state treasurer shall deposit the entire
39 amount in the state treasury to the credit of the public water supply fee
40 fund created by K.S.A. 65-163c, and amendments thereto.

41 (f) There is hereby created an advisory committee to make
42 recommendations regarding: (1) Fees to be adopted by the secretary under
43 subsection (e); (2) means of strengthening on-site technical assistance to

1 public water supply systems; (3) standards for on-site and classroom water
2 treatment operator certification programs; (4) other matters concerning
3 public water supplies; and (5) to advise the secretary regarding
4 expenditure of moneys in the public water supply fee fund created by
5 K.S.A. 65-163c, and amendments thereto. Such advisory committee shall
6 consist of one member appointed by the secretary to represent the *Kansas*
7 department of ~~health~~ *water* and environment, one member appointed by
8 the director of the ~~Kansas water office~~ *department of water and*
9 *environment, division of water and environmental planning* to represent
10 such office and two members appointed by the secretary as follows: One
11 from three nominations submitted by the Kansas section of the American
12 waterworks association, and one from three nominations submitted by the
13 Kansas rural water association. Members of the advisory committee shall
14 serve without compensation or reimbursement of expenses. The advisory
15 committee shall meet at least four times each year on call of the secretary
16 or a majority of the members of the committee.

17 Sec. 80. K.S.A. 65-163c is hereby amended to read as follows: 65-
18 163c. (a) There is hereby established in the state treasury the public water
19 supply fee fund. Revenue from the following sources shall be deposited in
20 the state treasury and credited to the fund:

21 (1) Fees collected under K.S.A. 65-163, and amendments thereto; and
22 (2) interest attributable to investment of moneys in the fund.

23 (b) Moneys deposited in the public water supply fee fund shall be
24 expended only to: (1) inspect and regulate public water supplies and (2)
25 provide training, assistance and technical guidance to public water supply
26 systems, including on-site technical assistance by the department or by a
27 contractor contracting with the department in complying with the federal
28 safe drinking water act~~(, 42 U.S.C. 300f et seq.)~~, and regulations adopted
29 under such act. The advisory committee established by K.S.A. 65-163, and
30 amendments thereto, shall advise the secretary regarding expenditures
31 from the fund.

32 (c) On or before the 10th of each month, the director of accounts and
33 reports shall transfer from the state general fund to the public water supply
34 fee fund interest earnings based on:

35 (1) The average daily balance of moneys in the public water supply
36 fee fund for the preceding month; and

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

39 (d) All expenditures from the public water supply fee fund shall be
40 made in accordance with appropriation acts upon warrants of the director
41 of accounts and reports issued pursuant to vouchers approved by the
42 secretary of ~~health~~ *the Kansas department of water* and environment for
43 the purposes set forth in this section.

1 Sec. 81. K.S.A. 65-163d is hereby amended to read as follows: 65-
2 163d. As used in K.S.A. 65-163d through 65-163u, and amendments
3 thereto:

4 (a) "Fund" means the public water supply loan fund established by
5 K.S.A. 65-163e, and amendments thereto.

6 (b) "Municipality" means: (1) Any political or taxing subdivision
7 authorized by law to construct, operate and maintain a public water supply
8 system, including water districts; (2) two or more such subdivisions jointly
9 constructing, operating or maintaining a public water supply system; or (3)
10 the Kansas rural water finance authority.

11 (c) "Project" means any acquisition, construction, reconstruction,
12 improvement, equipping, rehabilitation or extension of all or any part of a
13 public water supply system. "Project" does not include any project related
14 to the diversion or transportation of water acquired through a water
15 transfer, as defined by K.S.A. 82a-1501, and amendments thereto.

16 (d) "Project costs" means all costs or expenses—~~which that~~ are
17 necessary or incident to a project and—~~which that~~ are directly attributable
18 thereto.

19 (e) "Public water supply system" ~~has the meaning provided by~~ means
20 *the same as defined in* K.S.A. 65-162a, and amendments thereto.

21 (f) "Secretary" means the secretary of ~~health~~ *the Kansas department*
22 *of water and environment*.

23 Sec. 82. K.S.A. 65-163g is hereby amended to read as follows: 65-
24 163g. (a) The secretary shall develop a priority system for projects,
25 establish ranking criteria therefor, review applications of municipalities for
26 loans and prepare an annual project priority list. The priority list shall
27 include a description of each project; the purpose, cost and schedule
28 therefor; and the municipality applying for the loan. After preparation of
29 the priority list, the secretary shall select from such list the projects for
30 which loans will be made available.

31 (b) In performing the functions and duties required by subsection (a),
32 the secretary shall:

33 (1) Exclude from the priority list any project of a municipality—~~which~~
34 *that* has not adopted and implemented conservation plans and practices
35 that are consistent with the guidelines developed and maintained by the
36 ~~Kansas water office~~ *department of water and environment, division of*
37 *water and environmental planning* pursuant to K.S.A. 74-2608, and
38 amendments thereto;

39 (2) in consultation with the ~~Kansas water office~~ *division of water and*
40 *environmental planning*, encourage regional cooperative public water
41 supply projects in accordance with the public water supply regionalization
42 strategy of the state water plan; and

43 (3) ensure that a fair proportion, at least but not limited to 20%, of the

1 total dollar amount of loans to be made available from the fund in each
2 year will be made available for projects of municipalities having
3 populations of 5,000 or less, except that, if such municipalities are unable
4 to utilize the total amount made available under this subsection, the
5 secretary is authorized to make the unused amount available for other
6 projects on the priority list.

7 Sec. 83. K.S.A. 65-164 is hereby amended to read as follows: 65-164.

8 (a) No person, company, corporation, institution or municipality shall
9 place or permit to be placed or discharge or permit to flow into any of the
10 waters of the state any sewage, except as hereinafter provided. This act
11 shall not prevent the discharge of sewage from any public sewer system
12 owned and maintained by a municipality or sewerage company, if such
13 sewer system was in operation and was discharging sewage into the waters
14 of the state on March 20, 1907, but this exception shall not permit the
15 discharge of sewage from any sewer system that has been extended
16 subsequent to such date, nor shall it permit the discharge of any sewage
17 ~~which~~ *that*, upon investigation by the secretary of ~~health of water~~ and
18 environment as hereinafter provided, is found to be polluting the waters of
19 the state in a manner prejudicial to the health of the inhabitants thereof.

20 (b) For the purposes of this act, "sewage" means any substance that
21 contains any of the waste products or excrementitious or other discharges
22 from the bodies of human beings or animals, or chemical or other wastes
23 from domestic, manufacturing or other forms of industry.

24 (c) Whenever a complaint is made to the secretary of ~~health of water~~
25 and environment by the mayor of any city of the state, by a local health
26 officer or by a county or joint board of health, complaining of the pollution
27 or of the polluted condition of any of the waters of the state situated within
28 the county ~~within which~~ *where* the city, local health officer or county or
29 joint board of health is located, it shall be the duty of the secretary ~~of~~
30 ~~health and environment~~ to cause an investigation of the pollution or the
31 polluted condition complained of. Also, whenever the secretary ~~of~~
32 ~~health and environment~~ otherwise has reason to believe that any of the waters of
33 the state are being polluted in a manner prejudicial to the health of any of
34 the inhabitants of the state, the secretary may initiate an investigation of
35 such pollution.

36 (d) Whenever an investigation is undertaken by the secretary of
37 ~~health water~~ and environment, under subsection (c), it shall be the duty of
38 any person, company, corporation, institution or municipality concerned in
39 such pollution to furnish, on demand, to the secretary ~~of~~
40 ~~health and environment~~ such information as required relative to the amount and
41 character of the polluting material discharged into the waters by such
42 person, company, corporation, institution or municipality. If the secretary
43 ~~of health and environment~~ finds that any of the waters of the state have

1 been or are being polluted in a manner prejudicial to the health of any of
2 the inhabitants of the state, the secretary ~~of health and environment~~ shall
3 have the authority to make an order requiring: (1) Such pollution to cease
4 within a reasonable time; (2) requiring such manner of treatment or of
5 disposition of the sewage or other polluting material as, in the secretary's
6 judgment, is necessary to prevent the future pollution of such waters; or
7 (3) both. It shall be the duty of the person, company, corporation,
8 institution or municipality to whom such order is directed to fully comply
9 with the order of the secretary ~~of health and environment~~.

10 (e) Any person, company, corporation, institution or municipality
11 upon whom an order has been imposed pursuant to subsection (d) may
12 appeal to the secretary within 30 days after service of the order. If
13 appealed, a hearing shall be conducted in accordance with the provisions
14 of the Kansas administrative procedure act.

15 Sec. 84. K.S.A. 65-165 is hereby amended to read as follows: 65-165.

16 (a) Upon application made to the secretary ~~of health~~ *the Kansas*
17 *department of water* and environment by the public authorities having by
18 law the charge of the sewer system of any municipality, township, county
19 or legally constituted sewer district, or any person, company, corporation,
20 institution, municipality or federal agency, the secretary ~~of health and~~
21 ~~environment~~ shall consider the case of a sewage discharge or sewer
22 system, otherwise prohibited by this act from discharging sewage into any
23 of the waters of the state, or the extension of a sewer system. The secretary
24 shall issue a permit for the extension of the sewer system or for the
25 discharge of sewage, or both, if the secretary determines that: (1) The
26 general interests of the public health would be served thereby or the
27 discharge of such sewage would not detract from the quality of the waters
28 of the state for their beneficial uses for domestic or public water supply,
29 agricultural needs, industrial needs, recreational needs or other beneficial
30 use; and (2) such discharge meets or will meet all applicable state water
31 quality standards and applicable federal water quality and effluent
32 standards under the provisions of the federal water pollution control act,
33 and amendments thereto, as in effect on January 1, 1998. The secretary
34 shall stipulate in the permit the conditions ~~on which~~ *that* such discharge
35 will be permitted and shall require such treatment of the sewage as
36 determined necessary to protect beneficial uses of the waters of the state in
37 accordance with the statutes and rules and regulations defining the quality
38 of the water affected by such discharge and may require treatment of the
39 sewage in accordance with rules and regulations predicated upon
40 technologically based effluent limitations. Indirect dischargers shall
41 comply with all applicable pretreatment regulations and water quality
42 standards.

43 (b) The secretary ~~of health~~ *water* and environment may establish, by

1 rules and regulations, a program of annual certification of public sanitary
2 sewer systems to approve, without the necessity of securing an additional
3 permit from the secretary, sewer extensions ~~for which~~ when the plans: (1)
4 Are prepared by a professional engineer, as defined by K.S.A. 74-7003,
5 and amendments thereto; and (2) conform to the minimum standards of
6 design for water pollution control facilities published by the secretary. A
7 public sanitary sewer system shall qualify for such certification only if the
8 secretary determines that the system has staff, or persons under contract,
9 qualified to approve sewer extensions and the system complies with any
10 conditions that the secretary establishes to effectively monitor and control
11 the certification process, including but not limited to such periodic
12 reporting of sewer extensions approved or sewer connection permits
13 issued, or both, as the secretary may require.

14 (c) If, in the opinion of the secretary of ~~health water~~ and
15 environment, issuance of general permits is more appropriate than
16 issuance of individual permits, the secretary may establish, by rule and
17 regulation, procedures for issuance of general permits to the following
18 sources and facilities if such sources and facilities involve similar types of
19 operations, discharge the same types of wastes or engage in the same types
20 of sludge use or disposal practices, require similar monitoring
21 requirements or require the same effluent limitations, operating conditions,
22 or standards for sewage sludge use or disposal: (1) A category of point and
23 nonpoint sources of sewage such as storm water; (2) other categories of
24 point and nonpoint sources of sewage; or (3) categories of facilities
25 treating domestic sewage. Availability of general permits shall be limited
26 to areas defined by geographical or political boundaries such as, but not
27 limited to, city, county or state boundaries, state or county roads and
28 highways or natural boundaries such as drainage basins. The secretary may
29 establish, by rule and regulation, procedures for the issuance, revocation,
30 modification and change, reissuance or termination of general permits in
31 the manner provided by law.

32 (d) Any permit application may be denied and every permit for the
33 discharge of sewage shall be revocable, or subject to modification and
34 change, by the secretary of ~~health water~~ and environment, upon notice
35 having been served on the public authorities having, by law, the charge of
36 the sewer system any municipality, township, county or legally constituted
37 sewer district or on the person, company, corporation, institution,
38 municipality or federal agency owning, maintaining or using the sewage
39 system. The length of time after receipt of the notice ~~within which~~ when
40 the discharge of sewage shall be discontinued may be stated in the permit,
41 but in no case shall it be less than 30 days or exceed two years; if the
42 length of time is not specified in the permit, it shall be 30 days. On the
43 expiration of the period of time prescribed, after the service of notice of

1 denial, revocation, modification or change from the secretary of ~~health and~~
2 ~~environment~~, the right to discharge sewage into any of the waters of the
3 state shall cease and terminate, and the prohibition of this act against such
4 discharge shall be in full force, as though no permit had been granted, but
5 a new permit may thereafter again be granted, as hereinbefore provided.

6 (e) Any permittee or permit applicant upon whom notice of denial,
7 revocation, modification or change has been served pursuant to subsection
8 (d) may appeal to the secretary of *water and environment* within 30 days
9 after service of the notice. All permit applications and requests for appeal
10 are subject to the provisions of the Kansas administrative procedure act.

11 Sec. 85. K.S.A. 65-166 is hereby amended to read as follows: 65-166.
12 It is required of public authorities having by law the charge of the sewer
13 system of any municipality, township, county, or legally constituted sewer
14 district, and of each and every person, company, corporation, institution,
15 municipality, or federal agency, that upon making application for a permit
16 to discharge sewage into any waters of the state, or the extension of any
17 sewer system, the application shall be accompanied by plans and
18 specifications for the construction of the sewage collection systems and/or
19 sewage treatment or disposal facilities, and any additional facts and
20 information as the secretary of ~~health~~ *water* and environment may require
21 to determine adequate protection of the public health of the state and the
22 beneficial uses of waters of the state.

23 Sec. 86. K.S.A. 65-166a is hereby amended to read as follows: 65-
24 166a. (a) The secretary of ~~health~~ *water* and environment is authorized and
25 directed to establish by duly adopted rules or regulations a schedule of fees
26 to defray all or any part of the costs of administering the water pollution
27 control permit system established by K.S.A. 65-165 and 65-166, and
28 amendments thereto. The amount of the fees so established shall be based
29 upon the quantity of raw wastes or treated wastes to be discharged, units of
30 design capacity of treatment facilities or structures, numbers of potential
31 pollution units, physical or chemical characteristics of discharges and staff
32 time necessary for review and evaluation of proposed projects. In
33 establishing the fee schedule, the secretary of ~~health and environment~~ shall
34 not assess fees for permits required in the extension of a sewage collection
35 system, but such fees shall be assessed for all treatment devices, facilities
36 or discharges where a permit is required by law and is issued by the
37 secretary of ~~health and environment~~ or the secretary's designated
38 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~~ *water* and
41 environment may issue permits pursuant to K.S.A. 65-165, and
42 amendments thereto, for terms of less than five years, if the secretary
43 determines valid cause exists for issuance of the permit with a term of less

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

9 (c) A permit shall be required for:

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

13 (2) any confined feeding facility with an animal unit capacity of
14 1,000 or more.

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

17 (1) \$25 for facilities with an animal unit capacity of not more than
18 999;

19 (2) \$100 for facilities with an animal unit capacity of 1,000 to 4,999;

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

22 (4) \$400 for facilities with an animal unit capacity of 10,000 or more.

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

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

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

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

31 (f) The secretary of ~~health~~ *water* and environment shall remit all
32 moneys received from the fees established pursuant to this act to the state
33 treasurer in accordance with the provisions of K.S.A. 75-4215, and
34 amendments thereto. Upon receipt of each such remittance, the state
35 treasurer shall deposit the entire amount in the state treasury to the credit
36 of the water program management fund created in K.S.A. 65-166b, and
37 amendments thereto.

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

42 (h) Any confined feeding facility not otherwise required to obtain a
43 permit or certification may obtain a permit or certification from the

1 secretary of water and environment. Any such facility obtaining a permit
2 shall pay an annual permit fee of not more than \$25.

3 Sec. 87. K.S.A. 65-166b is hereby amended to read as follows: 65-
4 166b. (a) There is hereby created in the state treasury the water program
5 management fund. The secretary of water and environment shall remit to
6 the state treasurer, in accordance with the provisions of K.S.A. 75-4215,
7 and amendments thereto, all moneys collected or received by the secretary
8 from the following sources:

9 (1) Water pollution control permit system fees imposed pursuant to
10 K.S.A. 65-166a, and amendments thereto;

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

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

16 (4) any other moneys provided by law.

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

20 (b) Moneys in the water program management fund shall be
21 expended for the following purposes:

22 (1) Monitoring and investigating the quality of waters of the state;

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

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

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

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

36 (c) Expenditures from the water program management fund shall be
37 made in accordance with appropriation acts upon warrants of the director
38 of accounts and reports issued pursuant to vouchers approved by the
39 secretary of water and environment or a person designated by the
40 secretary.

41 (d) On or before the 10th of each month, the director of accounts and
42 reports shall transfer from the state general fund to the water program
43 management fund interest earnings based on:

1 (1) The average daily balance of moneys in the water program
2 management fund for the preceding month; and

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

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

11 (f) The secretary of *water and environment* shall prepare and deliver
12 to the legislature on or before the first day of each regular legislative
13 session, a report ~~which~~ *that* summarizes all expenditures from the water
14 program management fund, fund revenues and recommendations
15 regarding the adequacy of the fund to support necessary water program
16 management programs.

17 Sec. 88. K.S.A. 65-167 is hereby amended to read as follows: 65-167.
18 Upon conviction, the penalty for the willful or negligent discharge of
19 sewage into or from the sewer system of any municipality, township,
20 county or legally constituted sewer district by the public authorities
21 having, by law, charge thereof or by any person, company, corporation,
22 institution, municipality or federal agency, into any of the waters of the
23 state without a permit, as required by this act, or in violation of any term or
24 condition of a permit issued by the secretary of ~~health water~~ and
25 environment, or in violation of any requirements made pursuant to K.S.A.
26 65-164, 65-165 or 65-166, and amendments thereto, shall be not less than
27 \$2,500 and not more than \$25,000, and a further penalty of not more than
28 \$25,000 per day for each day the offense is maintained. The penalty for the
29 discharge of sewage into or from any sewage system into any waters of the
30 state without filing a report, in any case ~~in which~~ *when* a report is required
31 by this act to be filed shall be not less than \$1,000 and not more than
32 \$10,000 per day for each day the offense is maintained.

33 Sec. 89. K.S.A. 65-169 is hereby amended to read as follows: 65-169.
34 Any person, company, corporation, institution or municipality who shall
35 fail to furnish, on demand, to the secretary of ~~health water~~ and
36 environment such information as may be required by ~~said~~ *the* secretary
37 under the provisions of this act shall be deemed guilty of a misdemeanor,
38 and upon conviction shall be punished by a fine of not less than ~~fifty~~
39 ~~dollars~~ (\$50) and not more than ~~five hundred dollars~~ (\$500). Any person,
40 company, corporation, institution or municipality who shall fail to fully
41 comply with the requirements of the secretary of ~~health and environment~~
42 herein authorized to be made shall be deemed guilty of a misdemeanor,
43 and upon conviction shall be punished by a fine of not less than ~~twenty-~~

1 ~~five dollars (\$25) and not more than one hundred dollars (\$100) for each~~
2 offense. The failure to comply with such requirements in each day ~~in~~
3 ~~which~~ when such failure is made shall be considered to constitute a
4 separate offense.

5 Sec. 90. K.S.A. 65-170 is hereby amended to read as follows: 65-170.

6 (a) For the purpose of carrying out the provisions of this act it shall be the
7 duty of the director of the *Kansas department of water and environment*,
8 division of environment *and conservation* to investigate and report upon
9 all matters relating to water supply and sewerage and the pollution of the
10 waters of the state that may come before the secretary of ~~health of water~~
11 and environment for investigation or action, and to make such
12 recommendations in relation thereto as the director may deem wise and
13 proper, and to make such special investigations in relation to methods of
14 sewage disposal and to public water supply and the purification of water as
15 may be necessary in order to make proper recommendations in regard
16 thereto, or as may be required by the secretary of ~~health and environment~~.

17 (b) Suits under the provisions of this act shall be brought in the name
18 of the state of Kansas by the attorney general of the state in any court of
19 competent jurisdiction, and the penalties and fines recoverable under the
20 provisions of this act shall be paid to the state treasurer as provided in
21 K.S.A. 20-2801, and amendments thereto.

22 Sec. 91. K.S.A. 65-170b is hereby amended to read as follows: 65-

23 170b. (a) In performing investigations or administrative functions relating
24 to water pollution or a public water supply system as provided by K.S.A.
25 65-161 ~~to through 65-171j, inclusive, or any~~ and amendments thereto, the
26 secretary of ~~health of water~~ and environment or the secretary's duly
27 authorized representatives upon presenting appropriate credentials, may
28 enter any property or facility which is subject to the provisions of K.S.A.
29 65-161 ~~to through 65-171j, inclusive, or any~~ and amendments thereto, for
30 the purpose of observing, monitoring, collecting samples, examining
31 records and facilities to determine compliance or noncompliance with state
32 laws and rules and regulations relating to water pollution or public water
33 supply.

34 (b) The secretary of ~~health of water~~ and environment or the
35 secretary's duly authorized representative shall make such requirements as
36 they deem necessary relating to the inspection, monitoring, recording and
37 reporting by any holder of a sewage discharge permit issued under K.S.A.
38 65-165, *and amendments thereto*, or any holder of a public water supply
39 system permit issued under K.S.A. 65-163, *and amendments thereto*.

40 Sec. 92. K.S.A. 65-170d is hereby amended to read as follows: 65-

41 170d. (a) Any person who violates: (1) Any term or condition of any
42 sewage discharge permit issued pursuant to K.S.A. 65-165, and
43 amendments thereto; (2) any effluent standard or limitation or any water

1 quality standard or other rule or regulation promulgated pursuant to K.S.A.
2 65-171d, and amendments thereto; (3) any filing requirement made
3 pursuant to K.S.A. 65-164 or 65-166, and amendments thereto; (4) any
4 reporting, inspection or monitoring requirement made pursuant to this act
5 or K.S.A. 65-166, and amendments thereto; or (5) any lawful order or
6 requirement of the secretary of ~~health~~ *of water* and environment shall
7 incur, in addition to any other penalty provided by law, a civil penalty in
8 an amount of up to \$10,000 for every such violation. In the case of a
9 continuing violation, every day such violation continues shall, for the
10 purpose of this act, be deemed a separate violation.

11 (b) The director of the *Kansas department of water and environment*,
12 division of environment *and conservation*, upon a finding that a person has
13 violated any provision of subsection (a), may impose a penalty within the
14 limits provided in this section, ~~which~~ *and such* penalty shall constitute an
15 actual and substantial economic deterrent to the violation for which it is
16 assessed.

17 (c) No such penalty shall be imposed except upon the written order of
18 the director of the division of environment *and conservation* to such
19 person stating the violation, the penalty to be imposed and the right of
20 such person to appeal to the secretary of ~~health~~ *water* and environment.
21 Any such person may, within 15 days after service of the order make
22 written request to the secretary of ~~health and environment~~ for a hearing
23 thereon. The secretary of ~~health and environment~~ shall hear such person or
24 persons in accordance with the provisions of the Kansas administrative
25 procedure act within 30 days after receipt of such request.

26 (d) Any action of the secretary of *water and environment* pursuant to
27 this section is subject to review in accordance with the Kansas judicial
28 review act.

29 Sec. 93. K.S.A. 65-170e is hereby amended to read as follows: 65-
30 170e. (a) The attorney general, upon the request of the secretary of ~~health~~
31 *water* and environment, may bring an action in the name of the state of
32 Kansas in the district court of the county ~~in which~~ *where* any person who
33 violates any of the provisions of this act may do business, to recover
34 penalties or damages as provided by this act.

35 (b) Any person having an identifiable interest ~~which~~ *that* is affected
36 shall have the right to intervene in any civil actions brought under this
37 section or K.S.A. 65-171b, and amendments thereto, or in administrative
38 actions subsequent to the issuance of an administrative order by the agency
39 pursuant to K.S.A. 65-164, 65-170d or 65-171d, and amendments thereto,
40 or article 6 of chapter 77 of the Kansas Statutes Annotated, *and*
41 *amendments thereto*, to enforce the provisions of the national pollutant
42 discharge elimination system program as approved by the administrator of
43 the United States environmental protection agency pursuant to sections

1 318, 402 and 405 of the clean water act, as in effect on January 1, 1989,
2 ~~which that~~ seek:

3 (1) Restraint of persons from engaging in unauthorized activity-~~which~~
4 ~~that~~ is endangering or causing damage to public health or the environment;

5 (2) injunction of threatened or continuing violations of this act, rules
6 and regulations promulgated thereunder and permit conditions;

7 (3) assessment of civil penalties for violations of this act, rules and
8 regulations promulgated thereunder, permit conditions or orders of the
9 *Kansas department of water and environment*, director of environment
10 *and conservation* or secretary of ~~health~~ *of water* and environment.

11 Sec. 94. K.S.A. 65-170g is hereby amended to read as follows: 65-
12 170g. Records, reports, data or other information obtained relative to or
13 from sources or potential sources of discharges of water pollutants shall be
14 available to the public except that upon a showing satisfactory to the
15 secretary of ~~health~~ *of water* and environment by any person that such
16 records, reports, data or other information would divulge methods or
17 processes entitled to protection as trade secrets under the uniform trade
18 secrets act-~~(~~ K.S.A. 60-3320 et seq., and amendments thereto), then the
19 secretary ~~of health and environment~~ shall consider such records, reports,
20 data, or other information as confidential. Nothing in this act shall be
21 construed to make confidential any effluent data, including records, reports
22 or information and permits, draft permits and permit applications. Any
23 such records, reports, data, or other information considered confidential
24 may be made available to other officers, employees or authorized
25 representatives of the federal, state and local government with
26 responsibilities in water pollution control and additionally may be utilized
27 in any proceeding whether civil or criminal.

28 Sec. 95. K.S.A. 65-171a is hereby amended to read as follows: 65-
29 171a. The authority of the secretary of ~~health~~ *water* and environment in
30 matters of stream pollution is hereby supplemented to include stream
31 pollution found to be detrimental to public health or detrimental to the
32 animal or aquatic life of the state.

33 Sec. 96. K.S.A. 65-171b is hereby amended to read as follows: 65-
34 171b. It shall be the duty of the attorney general, on presentation by the
35 secretary of ~~health~~ *water* and environment of evidence of abatable
36 pollution of the surface waters detrimental to the animal or aquatic life in
37 the state, to take such action as may be necessary to secure the abatement
38 of such pollution.

39 Sec. 97. K.S.A. 65-171c is hereby amended to read as follows: 65-
40 171c. The secretary of ~~health~~ *water* and environment shall have authority
41 to appoint or employ such technical advisers as may be necessary in order
42 to carry out the provisions of this act.

43 Sec. 98. K.S.A. 65-171d is hereby amended to read as follows: 65-

1 171d. (a) For the purpose of preventing surface and subsurface water
2 pollution and soil pollution detrimental to public health or to the plant,
3 animal and aquatic life of the state, and to protect designated uses of the
4 waters of the state and to require the treatment of sewage predicated upon
5 technologically based effluent limitations, the secretary of ~~health~~ *of water*
6 and environment shall make such rules and regulations, including
7 registration of potential sources of pollution, as may in the secretary's
8 judgment be necessary to: (1) Protect the soil and waters of the state from
9 pollution resulting from underground storage of liquid petroleum gas and
10 hydrocarbons, other than underground porosity storage of natural gas; (2)
11 control the disposal, discharge or escape of sewage as defined in K.S.A.
12 65-164, and amendments thereto, by or from municipalities, corporations,
13 companies, institutions, state agencies, federal agencies or individuals and
14 any plants, works or facilities owned or operated, or both, by them; and (3)
15 establish water quality standards for the waters of the state to protect their
16 designated uses, including establishment of water quality standards
17 variances that may apply to specified pollutants, permittees, or waterbody
18 segments that reflect the highest attainable condition during the specified
19 time period for the variance. In no event shall the secretary's authority be
20 interpreted to include authority over the beneficial use of water, water
21 quantity allocations, protection against water use impairment of a
22 beneficial use, or any other function or authority under the jurisdiction of
23 the Kansas water appropriation act, K.S.A. 82a-701, and amendments
24 thereto.

25 (b) The secretary of ~~health~~ *of water* and environment may adopt by
26 reference any regulation relating to water quality and effluent standards
27 promulgated by the federal government pursuant to the provisions of the
28 federal clean water act, ~~and amendments thereto~~, as in effect on January 1,
29 1989, which the secretary is otherwise authorized by law to adopt.

30 (c) For the purposes of this act, including K.S.A. 65-161 through 65-
31 171h and ~~K.S.A.~~ 65-1,178 through 65-1,198, and amendments thereto, and
32 rules and regulations adopted pursuant thereto:

33 (1) "Pollution" means: (A) Such contamination or other alteration of
34 the physical, chemical or biological properties of any waters of the state as
35 will or is likely to create a nuisance or render such waters harmful,
36 detrimental or injurious to public health, safety or welfare, or to the plant,
37 animal or aquatic life of the state or to other designated uses; or (B) such
38 discharge as will or is likely to exceed state effluent standards predicated
39 upon technologically based effluent limitations.

40 (2) "Confined feeding facility" means any building, lot, pen, pool or
41 pond: (A) That is used for the confined feeding of animals or fowl for
42 food, fur or pleasure purposes; (B) that is not normally used for raising
43 crops; and (C) ~~in which~~ *where* no vegetation intended for animal food is

1 growing.

2 (3) (A) "Animal unit" means a unit of measurement calculated by
3 adding the following numbers: The number of beef cattle weighing more
4 than 700 pounds multiplied by 1.0; plus the number of cattle weighing less
5 than 700 pounds multiplied by 0.5; plus the number of mature dairy cattle
6 multiplied by 1.4; plus the number of swine weighing more than 55
7 pounds multiplied by 0.4; plus the number of swine weighing 55 pounds or
8 less multiplied by 0.1; plus the number of sheep or lambs multiplied by
9 0.1; plus the number of horses multiplied by 2.0; plus the number of
10 turkeys multiplied by 0.018; plus the number of laying hens or broilers, if
11 the facility has continuous overflow watering, multiplied by 0.01; plus the
12 number of laying hens or broilers, if the facility has a liquid manure
13 system, multiplied by 0.033; plus the number of laying hens or broilers, if
14 the facility has a dry manure system, multiplied by 0.003; plus the number
15 of ducks multiplied by 0.2. However, each head of cattle will be counted
16 as one full animal unit for the purpose of determining the need for a
17 federal permit. A chicken facility using a dry manure system shall obtain a
18 federal permit if 125,000 or more broilers, or 82,000 or more laying hens,
19 are confined.

20 (B) "Animal unit" also includes the number of swine weighing 55
21 pounds or less multiplied by 0.1 for the purpose of determining applicable
22 requirements for new construction of a confined feeding facility for which
23 a permit or registration has not been issued before January 1, 1998, and for
24 which an application for a permit or registration and plans have not been
25 filed with the secretary of ~~health~~ water and environment before January 1,
26 1998, or for the purpose of determining applicable requirements for
27 expansion of such facility.

28 (C) Except as otherwise provided, animal units for public livestock
29 markets shall be determined by using the average annual animal units sold
30 by the market during the past five calendar years divided by 365. Such
31 animal unit determination may be adjusted by the department if the public
32 livestock market submits documentation that demonstrates that such
33 adjustment is appropriate based on the amount of time in 24-hour
34 increments or partials thereof that animals are at the market.

35 (4) "Animal unit capacity" means the maximum number of animal
36 units that a confined feeding facility is designed to accommodate at any
37 one time.

38 (5) "Habitable structure" means any of the following structures that
39 are occupied or maintained in a condition that may be occupied and, in the
40 case of a confined feeding facility for swine, are owned by a person other
41 than the operator of such facility: A dwelling, church, school, adult care
42 home, medical care facility, child care facility, library, community center,
43 public building, office building or licensed food service or lodging

1 establishment.

2 (6) "Wildlife refuge" means Cheyenne Bottoms wildlife management
3 area, Cheyenne Bottoms preserve and Flint Hills, Quivera, Marais des
4 Cygnes and Kirwin national wildlife refuges.

5 (d) In adopting rules and regulations, the secretary of ~~health~~ *water*
6 and environment, taking into account the varying conditions that are
7 probable for each source of sewage and its possible place of disposal,
8 discharge or escape, may provide for varying the control measures
9 required in each case to those the secretary finds to be necessary to prevent
10 pollution. If a freshwater reservoir or farm pond is privately owned and
11 where complete ownership of land bordering the reservoir or pond is under
12 common private ownership, such freshwater reservoir or farm pond shall
13 be exempt from water quality standards except as it relates to water
14 discharge or seepage from the reservoir or pond to waters of the state,
15 either surface or groundwater, or as it relates to the public health of
16 persons using the reservoir or pond or waters therefrom.

17 (e) (1) Whenever the secretary of ~~health~~ *water* and environment or
18 the secretary's duly authorized agents find that storage or disposal of salt
19 water not regulated by the state corporation commission or refuse in any
20 surface pond not regulated by the state corporation commission is causing
21 or is likely to cause pollution of soil or waters of the state, the secretary or
22 the secretary's duly authorized agents shall issue an order prohibiting such
23 storage or disposal of salt water or refuse. Any person aggrieved by such
24 order may within 15 days of service of the order request in writing a
25 hearing on the order.

26 (2) Upon receipt of a timely request, a hearing shall be conducted in
27 accordance with the provisions of the Kansas administrative procedure act.

28 (3) Any action of the secretary pursuant to this subsection is subject
29 to review in accordance with the Kansas judicial review act.

30 (f) The secretary of *water and environment* may adopt rules and
31 regulations establishing fees for plan approval, monitoring and inspecting
32 underground or buried petroleum products storage tanks, ~~for which~~. The
33 annual fee shall not exceed \$5 for each tank in place.

34 (g) (1) Prior to any new construction of a confined feeding facility
35 with an animal unit capacity of 300 or more, such facility shall register
36 with the secretary of ~~health~~ *of water* and environment. Such registration
37 shall be accompanied by a \$25 fee. The secretary shall acknowledge the
38 receipt of the registration in a form as designated by the secretary and
39 publish a notice of such receipt.

40 (2) Such registration shall indicate that the proposed construction will
41 occur within the prescribed tract of land and that the separation distances
42 from the tract boundaries or proposed facility footprint comply with the
43 requirements described in subsections (j), (l) and (m) or exceptions

1 described in (k).

2 (3) Within 30 days of receipt of such registration, the *Kansas*
3 department of ~~health~~ *water* and environment shall identify any significant
4 water pollution potential or separation distance violations pursuant to
5 subsection (j).

6 (A) (i) If the proposed facility has an animal unit capacity of 1,000 or
7 more, or if a significant water pollution potential is identified for a facility
8 of less than 1,000 but more than 300, such facility shall be required to
9 obtain a permit from the secretary.

10 (ii) If there is no identified water pollution potential posed by a
11 facility with an animal unit capacity of 300 or more but less than 1,000,
12 the secretary shall certify that no permit is required.

13 (B) If the secretary certifies that no permit is necessary pursuant to
14 subsection (g)(3)(A)(ii), the secretary shall take the following action in
15 regard to separation distances of such facility:

16 (i) If the separation distances comply with the requirements for
17 separation distances, the secretary shall certify the registration; or

18 (ii) if the separation distances do not comply with the requirements
19 for separation distances, the secretary:

20 (a) May reduce the separation distance requirements pursuant to
21 subsection (k) and certify the registration based on such reduction of
22 separation distances; or

23 (b) shall report the conditions necessary to receive certification to the
24 registrant.

25 (h) (1) Facilities with a capacity of less than 300 animal units may
26 register with the secretary of ~~health~~ *water* and environment. Such
27 registration shall be accompanied by a \$25 fee.

28 (2) Within 30 days of receipt of such registration, the *Kansas*
29 department of ~~health~~ *water* and environment shall identify any significant
30 water pollution potential. If there is identified a significant water pollution
31 potential, such facility shall be required to obtain a permit from the
32 secretary. If there is no water pollution potential posed by such facility, the
33 secretary may certify that no permit is required.

34 (i) (1) If a facility requires a permit pursuant to subsection (g)(3) or
35 (h)(2), the registrant shall submit an application for such permit not later
36 than 18 months after the date of receipt of registration or the registration
37 shall expire.

38 (2) Upon petition by the registrant, the secretary of *water and*
39 *environment* may extend the application period; by ~~no~~ *not* more than an
40 additional 18 months, if the secretary believes such an extension is
41 reasonable under the circumstances.

42 (3) Within 30 days of receipt of an application, the secretary shall
43 notify the registrant of whether the application is complete or incomplete.

1 If the application is incomplete, such notice shall state the reasons why
2 such application is incomplete. Once such registrant submits an
3 application properly addressing each reason listed as a basis for the
4 determination that the application is incomplete, the secretary shall issue
5 an acknowledgment of receipt of the completed application within 30 days
6 of properly addressing such reasons.

7 (4) Upon expiration of the application period or any extension
8 thereof, the secretary shall not accept any further registrations pertaining to
9 the same location for a period of not less than 180 days.

10 (j) (1) Any new construction or new expansion of a confined feeding
11 facility, other than a confined feeding facility for swine, shall meet or
12 exceed the following requirements in separation distances from any
13 habitable structure in existence when the registration is received:

14 (A) 1,320 feet for facilities with an animal unit capacity of 300 to
15 999; and

16 (B) 4,000 feet for facilities with an animal unit capacity of 1,000 or
17 more.

18 (2) A confined feeding facility for swine shall meet or exceed the
19 following requirements in separation distances from any habitable
20 structure or city, county, state or federal park in existence when the
21 registration is received:

22 (A) 1,320 feet for facilities with an animal unit capacity of 300 to
23 999;

24 (B) 4,000 feet for facilities with an animal unit capacity of 1,000 to
25 3,724;

26 (C) 4,000 feet for expansion of existing facilities to an animal unit
27 capacity of 3,725 or more if such expansion is within the perimeter from
28 which separation distances are determined pursuant to subsection (m) for
29 the existing facility; and

30 (D) 5,000 feet for: (i) Construction of new facilities with an animal
31 unit capacity of 3,725 or more; or (ii) expansion of existing facilities to an
32 animal unit capacity of 3,725 or more if such expansion extends outside
33 the perimeter from which separation distances are determined pursuant to
34 subsection (m) for the existing facility.

35 (3) Any construction of new confined feeding facilities for swine
36 shall meet or exceed the following requirements in separation distances
37 from any wildlife refuge:

38 (A) 10,000 feet for facilities with an animal unit capacity of 1,000 to
39 3,724; and

40 (B) 16,000 feet for facilities with an animal unit capacity of 3,725 or
41 more.

42 (k) (1) The separation distance requirements of subsections (j)(1) and
43 (2) shall not apply if the registrant obtains a written agreement from all

1 owners of habitable structures that are within the separation distance
2 stating such owners are aware of the construction or expansion and have
3 no objections to such construction or expansion. The written agreement
4 shall be filed in the register of deeds office of the county ~~in which~~ where
5 the habitable structure is located.

6 (2) (A) The secretary *of water and environment* may reduce the
7 separation distance requirements of subsection (j)(1) if: (i) No substantial
8 objection from owners of habitable structures within the separation
9 distance is received in response to public notice; or (ii) the board of county
10 commissioners of the county where the confined feeding facility is located
11 submits a written request seeking a reduction of separation distances.

12 (B) The secretary may reduce the separation distance requirements of
13 subsection (j)(2)(A) or (B) if: (i) No substantial objection from owners of
14 habitable structures within the separation distance is received in response
15 to notice given in accordance with subsection (n); (ii) the board of county
16 commissioners of the county where the confined feeding facility is located
17 submits a written request seeking a reduction of separation distances; or
18 (iii) the secretary determines that technology exists that meets or exceeds
19 the effect of the required separation distance and the facility will be using
20 such technology.

21 (C) The secretary may reduce the separation distance requirements of
22 subsection (j)(2)(C) or (D) if: (i) No substantial objection from owners of
23 habitable structures within the separation distance is received in response
24 to notice given in accordance with subsection (l); or (ii) the secretary
25 determines that technology exists that meets or exceeds the effect of the
26 required separation distance and the facility will be using such technology.

27 (l) (1) The separation distances required pursuant to subsection (j)(1)
28 shall not apply to:

29 (A) Confined feeding facilities that were permitted or certified by the
30 secretary *of the Kansas department of health and environment* on July 1,
31 1994;

32 (B) confined feeding facilities that existed on July 1, 1994, and
33 registered with the secretary before July 1, 1996; or

34 (C) expansion of a confined feeding facility, including any expansion
35 for which an application was pending on July 1, 1994, if: (i) In the case of
36 a facility with an animal unit capacity of 1,000 or more prior to July 1,
37 1994, the expansion is located at a distance not less than the distance
38 between the facility and the nearest habitable structure prior to the
39 expansion; or (ii) in the case of a facility with an animal unit capacity of
40 less than 1,000 prior to July 1, 1994, the expansion is located at a distance
41 not less than the distance between the facility and the nearest habitable
42 structure prior to the expansion and the animal unit capacity of the facility
43 after expansion does not exceed 2,000.

1 (2) The separation distances required pursuant to subsections (j)(2)
2 (A) and (B) shall not apply to:

3 (A) Confined feeding facilities for swine ~~which~~ *that* were permitted
4 or certified by the secretary on July 1, 1994;

5 (B) confined feeding facilities for swine ~~which~~ *that* existed on July 1,
6 1994, and registered with the secretary before July 1, 1996; or

7 (C) expansion of a confined feeding facility ~~which~~ *that* existed on
8 July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of
9 1,000 or more prior to July 1, 1994, the expansion is located at a distance
10 not less than the distance between the facility and the nearest habitable
11 structure prior to the expansion; or (ii) in the case of a facility with an
12 animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion
13 is located at a distance not less than the distance between the facility and
14 the nearest habitable structure prior to the expansion and the animal unit
15 capacity of the facility after expansion does not exceed 2,000.

16 (3) The separation distances required pursuant to subsections (j)(2)
17 (C) and (D) and (h)(3) shall not apply to the following, as determined in
18 accordance with subsections K.S.A. 65-1,178(a), (e) and (f), and
19 amendments thereto:

20 (A) Expansion of an existing confined feeding facility for swine if an
21 application for such expansion has been received by the department before
22 March 1, 1998; and

23 (B) construction of a new confined feeding facility for swine if an
24 application for such facility has been received by the *Kansas* department
25 *of health and environment* before March 1, 1998.

26 (m) The separation distances required by this section for confined
27 feeding facilities for swine shall be determined from the exterior perimeter
28 of any buildings utilized for housing swine, any lots containing swine, any
29 swine waste retention lagoons or ponds or other manure or wastewater
30 storage structures and any additional areas designated by the registrant for
31 future expansion. Such separation distances shall not apply to offices,
32 dwellings and feed production facilities of a confined feeding facility for
33 swine.

34 (n) The registrant shall give the notice required by subsections (k)(2)
35 (B) and (C) by certified mail, return receipt requested, to all owners of
36 habitable structures within the separation distance. The registrant shall
37 submit to the *Kansas* department *of water and environment* evidence,
38 satisfactory to the department, that such notice has been given.

39 (o) All plans and specifications submitted to the *Kansas* department
40 *of water and environment* for new construction or new expansion of
41 confined feeding facilities may be, but are not required to be, prepared by
42 a professional engineer or a consultant, as approved by the department.
43 Before approval by the department, any consultant preparing such plans

1 and specifications shall submit to the department evidence, satisfactory to
2 the department, of adequate general commercial liability insurance
3 coverage.

4 Sec. 99. K.S.A. 65-171e is hereby amended to read as follows: 65-
5 171e. All investigations, services and orders rendered, issued or
6 promulgated under the provisions of K.S.A. 65-171d, and amendments
7 thereto, shall be made by such agency, section or division of the *Kansas*
8 department of ~~health~~ *water* and environment, or any of them, as may be
9 designated by the secretary of ~~health~~ *water* and environment, and all fees
10 collected shall be remitted by the secretary to the state treasurer in
11 accordance with the provisions of K.S.A. 75-4215, and amendments
12 thereto. Upon receipt of each such remittance, the state treasurer shall
13 deposit the entire amount in the state treasury to the credit of the state
14 general fund.

15 Sec. 100. K.S.A. 65-171f is hereby amended to read as follows: 65-
16 171f. Every public authority having by law the charge of the sewer system
17 of any municipality, township, county or legally constituted sewer district
18 or any person, company, corporation, institution, municipality or federal
19 agency that shall willfully or negligently, fail to comply with the rules,
20 regulations and orders of the secretary of ~~health~~ *of water* and environment
21 authorized by K.S.A. 65-171d, ~~as amended and amendments thereto~~, shall
22 be punished upon conviction by a fine of not less than ~~twenty-five dollars~~
23 (\$25) and not more than ~~ten thousand dollars~~ (\$10,000). Each day in which
24 *that* the failure to comply with such requirements and orders continues
25 shall constitute a separate offense.

26 Sec. 101. K.S.A. 65-171h is hereby amended to read as follows: 65-
27 171h. The secretary of ~~health~~ *of water* and environment in ~~pursuance of his~~
28 *exercising the secretary's* general power of supervision over the interests
29 of the health and life of the citizens of this state, and the sanitary
30 conditions under which they live and in order to protect the quality of the
31 waters of the state for beneficial uses is hereby authorized and empowered
32 to develop, assemble, compile, approve and publish minimum standards of
33 design, construction, and maintenance of sanitary water and sewage
34 systems, and shall publish and make available such approved minimum
35 standards to municipalities, communities and citizens of this state, and
36 shall from time to time make recommendations to the appropriate
37 committees of the legislature, for any legislation that may be required to
38 adequately protect air in enclosed spaces, and water supply from
39 contamination.

40 Sec. 102. K.S.A. 65-171i is hereby amended to read as follows: 65-
41 171i. Whenever any water sample analysis is required by the secretary of
42 ~~health~~ *water* and environment for the purposes of any permit or application
43 for a permit under K.S.A. 65-163, 65-165 or 65-171d, or any amendments

1 thereto, such water sample analysis shall be performed by a laboratory
2 ~~which that~~ has been certified and approved by the secretary ~~of health and~~
3 ~~environment~~ pursuant to this act and any rules and regulations adopted
4 hereunder.

5 Sec. 103. K.S.A. 65-171m is hereby amended to read as follows: 65-
6 171m. ~~(a)~~ The secretary ~~of health and environment~~ shall adopt rules and
7 regulations for the implementation of this act. In addition to procedural
8 rules and regulations, the secretary may adopt rules and regulations
9 ~~providing for but not limited to that:~~ ~~(a)~~ (1) *Provide for* primary drinking
10 water standards applicable to all public water supply systems in the state.
11 The primary drinking water standards may: ~~(1)~~ (A) identify contaminants
12 ~~which that~~ may have an adverse effect on the health of persons; ~~(2)~~ (B)
13 specify for each contaminant either a maximum contaminant level that is
14 acceptable in water for human consumption, if it is economically and
15 technologically feasible to ascertain the level of such contaminant in water
16 in public water supply systems; or (C) the treatment techniques or methods
17 ~~which that~~ lead to a reduction of the level of the contaminant sufficient to
18 protect the public health, if it is not economically or technologically
19 feasible to ascertain the level of the contaminant in the water in the public
20 water supply system; ~~and (b)~~ (2) establish the requirements for adequate
21 monitoring, maintenance of records and submission of reports, sampling
22 and analysis of water, citing criteria and review and inspections to insure
23 compliance with the contaminant levels or methods of treatment and to
24 insure proper operation and maintenance of the public water supply
25 system; ~~and (e)~~ (3) *provide* the definition of different categories of public
26 water supply systems such as community water supply systems and
27 noncommunity water supply systems and may provide for varying
28 requirements for monitoring, maintenance of records and reporting,
29 sampling and analysis of water, citing criteria, and review and inspections
30 based on numbers of persons served, source of supply whether surface or
31 groundwater or other conditions as the secretary may determine to be in
32 the interest of public health and welfare and economic benefits.

33 (b) The standards established under this section shall be at least as
34 stringent as the national primary drinking water regulations adopted under
35 public law 93-523. No primary drinking water standard or rule and
36 regulation may require the addition of fluorides to public water supplies.

37 Sec. 104. K.S.A. 65-171n is hereby amended to read as follows: 65-
38 171n. The secretary ~~of health and environment~~ shall develop plans for
39 emergency conditions and situations that may endanger the public health
40 or welfare by contamination of drinking water. The plans shall identify
41 potential sources of contaminants, situations or conditions that could place
42 the contaminants in the public drinking water, techniques and methods to
43 be used by public water supply systems to reduce or eliminate the dangers

1 to public health caused by the emergency situations or conditions, methods
2 and times for analysis or testing during emergency situations or conditions,
3 alternate sources of water available to public water supply systems and
4 methods of supplying drinking water to consumers if a public water supply
5 system cannot supply the water.

6 Sec. 105. K.S.A. 65-171o is hereby amended to read as follows: 65-
7 171o. ~~(a) The secretary of health and environment~~ may require a supplier
8 of water to give notice to the persons served by the public water supply
9 system and to the ~~secretary of health and environment~~ whenever the public
10 water supply system:

11 ~~(a)(1)~~ Is not in compliance with an applicable maximum contaminant
12 level or treatment technique requirement of, or a testing procedure
13 prescribed by, a primary drinking water standard adopted under K.S.A. 65-
14 171m, and amendments thereto; or

15 ~~(b)(2)~~ fails to perform monitoring, testing, analyzing or sampling as
16 required; or

17 ~~(c)(3)~~ is subject to a variance or exception; or

18 ~~(d)(4)~~ is not in compliance with the requirements prescribed by a
19 variance or exemption; or

20 ~~(e)(5)~~ is subject to potential lead contamination from either or both of
21 the following: ~~(1)(A)~~ The lead content in the construction materials of the
22 public water distribution system; ~~(2)(B)~~ corrosivity of the water supply
23 sufficient to cause leaching of lead.

24 ~~(b)~~ The ~~secretary of health and environment~~ shall by rule and
25 regulation prescribe the form and manner for giving such notice.

26 Sec. 106. K.S.A. 65-171p is hereby amended to read as follows: 65-
27 171p. (a) The ~~secretary of health and environment~~ may grant a variance
28 from an applicable primary drinking water standard to a public water
29 supply system where the variance will not result in an unreasonable risk to
30 the public health and where, because of the characteristics of the raw water
31 sources reasonably available to the public water supply system, the public
32 water supply system cannot meet the maximum contaminant levels of the
33 primary drinking water standards despite application of the best
34 technology, treatment techniques or other means ~~which~~ *that* the secretary
35 finds are generally available, taking costs into consideration.

36 (b) Prior to granting a variance, the secretary shall provide notice in a
37 newspaper of general circulation serving the area served by the public
38 water supply system of the proposed variance and that interested persons
39 may request a public hearing on the proposed variance. If a public hearing
40 is requested the secretary shall set a time and place for the hearing. The
41 hearing shall be conducted in accordance with the provisions of the Kansas
42 administrative procedure act. Frivolous or insubstantial requests for a
43 hearing may be denied by the secretary.

1 (c) A variance shall be conditioned on monitoring, testing, analyzing
2 or other requirements to insure the protection of the public health. A
3 variance granted shall include a schedule of compliance under which the
4 public water supply system is required to meet each contaminant level for
5 which a variance is granted within a reasonable time as specified by the
6 secretary.

7 Sec. 107. K.S.A. 65-171q is hereby amended to read as follows: 65-
8 171q. (a) The secretary of ~~health and environment~~ may grant an exemption
9 from any requirement relating to a maximum contaminant level or from
10 any treatment technique requirement, or from both, of an applicable
11 primary drinking water standard to a public water supply system upon a
12 finding that: (1) The exemption will not result in an unreasonable risk to
13 the public health; (2) the public water supply system is unable to comply
14 with the contaminant level or treatment technique requirement due to
15 compelling factors, which may include economic factors; and (3) the
16 public water supply system was in operation on the effective date of the
17 contaminant level or treatment technique requirement.

18 (b) Prior to granting an exemption, the secretary shall provide notice
19 in a newspaper of general circulation serving the area served by the public
20 water supply system of the proposed exemption and that interested persons
21 may request a public hearing on the proposed exemption.

22 (c) If a public hearing is requested the secretary shall set a time and
23 place for the hearing. Frivolous and insubstantial requests for a hearing
24 may be denied by the secretary. An exemption shall be conditioned on
25 monitoring, testing, analyzing or other requirements to insure the
26 protection of the public health. An exemption granted shall include a
27 schedule of compliance under which the public water supply system is
28 required to meet each contaminant level or treatment technique
29 requirement for which an exemption is granted within a reasonable time as
30 specified by the secretary.

31 Sec. 108. K.S.A. 65-171r is hereby amended to read as follows: 65-
32 171r. The following acts are prohibited:

33 (a) The operation of a public water supply system without first
34 obtaining a valid public water supply system permit under K.S.A. 65-163,
35 and amendments thereto;

36 (b) the operation of a public water supply system in violation of the
37 conditions of the public water supply system permit under K.S.A. 65-163,
38 and amendments thereto;

39 (c) the failure of a supplier of water under investigation to furnish
40 information to the secretary under K.S.A. 65-163, and amendments
41 thereto;

42 (d) the failure of a supplier of water to comply with any final order of
43 the secretary issued under the provisions of K.S.A. 65-163 or 65-163a,

1 and amendments thereto;

2 (e) the failure of a supplier of water to comply with a primary
3 drinking water standard established under K.S.A. 65-171m, and
4 amendments thereto, and rules and regulations adopted pursuant thereto
5 unless a variance or exception has been granted;

6 (f) the failure of a supplier of water to comply with the rules and
7 regulations of the secretary for monitoring, maintenance of records and
8 submission of reports, sampling and analysis of water and inspections
9 adopted under K.S.A. 65-171m, and amendments thereto;

10 (g) the failure of a supplier of water to give notice as required under
11 K.S.A. 65-171o, and amendments thereto, and rules and regulations
12 adopted pursuant thereto;

13 (h) using any pipe, solder or flux in the installation or repair of any
14 public water supply system or any plumbing in a residential or
15 nonresidential facility providing water for human consumption, which is
16 not lead-free, except that this paragraph shall not apply to leaded joints
17 necessary for the repair of cast iron pipes. As used in this paragraph, "lead-
18 free" means: (1) With respect to its usage in conjunction with solder and
19 flux, solder and flux containing not more than .2% lead, and (2) with
20 respect to its usage in conjunction with pipes and pipe fittings, pipes and
21 pipe fittings containing not more than 8% lead;

22 (i) the sale of unmarked lead solders and fluxes. A seller of lead
23 solders and fluxes in Kansas shall not sell any solder or flux containing
24 more than .2% lead unless the seller displays a sign and a label is affixed
25 to such product ~~which that~~ states: "Contains lead: Kansas law and federal
26 law prohibits the use of this product in any plumbing installation providing
27 water for human consumption.";

28 (j) the application of fertilizers, pesticides or other chemicals by any
29 person through any lawn irrigation system connected to a public water
30 supply system except that in areas where the public water supply system
31 has adopted a program for the detection and elimination of cross
32 connections and prevention of backflow and backsiphonage ~~which that~~
33 has been approved by the secretary ~~of health and environment~~, such
34 application may be permitted by the public water supply system upon its
35 periodic inspection and current approval of the installed air gap or reduced
36 pressure zone backflow prevention device ~~which that~~ isolates the irrigation
37 system; and

38 (k) the use by any person of a public water supply system as a source
39 of make-up water for bulk chemical application tanks except that: (1) In
40 areas where the public water supply system has adopted a program for the
41 detection and elimination of cross connections and prevention of backflow
42 and backsiphonage ~~which that~~ has been approved by the secretary ~~of~~
43 ~~health and environment~~, such use may be permitted by the public water

1 supply system upon its periodic inspection and current approval of an air
2 gap or reduced pressure zone backflow prevention device to protect the
3 public water supply; and (2) in areas where the public water supply system
4 has not adopted a program approved by the secretary ~~of health and~~
5 ~~environment~~, such use shall be permitted if an air gap or reduced pressure
6 zone backflow prevention device is used and such device meets nationally
7 recognized standards, as determined by the secretary ~~of health and~~
8 ~~environment~~.

9 Sec. 109. K.S.A. 65-171t is hereby amended to read as follows: 65-
10 171t. The attorney general, upon the request of the secretary ~~of health and~~
11 ~~environment~~, shall bring an action in the name of the state of Kansas to
12 seek injunctive relief to prevent the violation, or to enjoin any continuing
13 violation, of any provision of this act or any rule and regulation adopted
14 pursuant to the provisions of this act.

15 Sec. 110. K.S.A. 65-171u is hereby amended to read as follows: 65-
16 171u. As used in this act, "person" means any individual, company,
17 corporation, institution, municipality, township, county, federal agency or
18 legally constituted sewer district. Any person who violates any of the
19 provisions of K.S.A. 65-161 ~~to through 65-171, inclusive and amendments~~
20 ~~thereto~~, or any duty imposed therein or who violates an order or other
21 determination of the secretary ~~of health water~~ and environment or
22 authorized representatives of such secretary made pursuant to the
23 provisions of such sections, including the stipulations of conditions of a
24 permit to discharge sewage, and, in the course thereof, causes the death of,
25 or injury to, fish, animals, vegetation or other resources of the state
26 whether natural or structural, or otherwise causes a reduction in the quality
27 of the waters of the state below the standards set by the secretary ~~of health~~
28 ~~and environment~~, thereby damaging the same, shall be liable to pay the
29 state damages in an amount equal to the sum of money necessary to
30 restock such waters, replenish or replace such resources and otherwise
31 restore the stream, lake or other water source to its condition prior to the
32 injury, as such condition is determined by the *Kansas department of water*
33 *and environment*, division of environment ~~of the department of health and~~
34 ~~environment and conservation~~. Such damages shall not include damages
35 to private rights or persons or damages to such person. If the person
36 responsible for damage to resources fails to promptly submit payment for
37 damages to resources of the state when notified in reasonable detail, then
38 such damages shall be recoverable in an action brought by the attorney
39 general on behalf of the people of the state of Kansas in the district court
40 of the county ~~in which~~ *where* such damages occurred. If damages occurred
41 in more than one county the attorney general may bring action in any of
42 the counties where the damages occurred. Any money so recovered by the
43 attorney general shall be transferred to the agency of the state having

1 jurisdiction over the resource damaged and for which ~~said~~ *such* moneys
 2 were recovered, as appropriate. The agency receiving such money shall
 3 utilize the same on activities or projects to remedy the resources damaged.
 4 No action shall be authorized under this section against any person
 5 operating in compliance with the conditions of a waste discharge permit
 6 issued pursuant to K.S.A. 65-165, *and amendments thereto*.

7 Sec. 111. K.S.A. 2021 Supp. 65-171v is hereby amended to read as
 8 follows: 65-171v. (a) As used in this section:

9 (1) "Cleanup" means all actions necessary to contain, collect, control,
 10 identify, analyze, treat, disperse, remove or dispose of a pollutant
 11 necessary to restore the environment to the extent practicable and
 12 minimize the harmful effects from the release;

13 (2) "cleanup costs" means all costs incurred by the state during a
 14 cleanup of a release of a pollutant, including costs necessary for regulator
 15 oversight of the cleanup;

16 (3) "*department*" means the Kansas department of water and
 17 environment;

18 (4) "emergency" means any release that poses an imminent risk to
 19 public health or the environment;

20 ~~(4)~~(5) "person" means any individual, owner, operator, corporation,
 21 limited liability company, partnership, association, municipality, interstate
 22 agency, state agency or federal agency;

23 ~~(5)~~(6) "pollutant" means any substance that alters the natural
 24 physical, chemical or biological properties of any waters or soils of the
 25 state so as to render such waters or soils harmful, detrimental or injurious
 26 to public health, or to the plant, animal or aquatic life of the state or to
 27 other designated uses. "Pollutant" does not include any animal or crop
 28 waste or manure on an agricultural operation or in an agricultural facility;
 29 ~~and~~

30 ~~(6)~~(7) "release" means any threatened or real emission, discharge,
 31 spillage, leakage, pumping, pouring, emptying, escape or dumping of a
 32 pollutant into or onto the waters or soil of the state, except when done in
 33 compliance with the conditions of a federal or state permit or in
 34 accordance with the product label or as part of normal agricultural
 35 activities; *and*

36 (8) "*secretary*" means the secretary of the Kansas department of
 37 water and environment.

38 (b) For the purpose of preventing water and soil pollution detrimental
 39 to public health or the environment, the secretary ~~of health and~~
 40 ~~environment~~ shall:

41 (1) Adopt rules and regulations that, in the secretary's judgment, are
 42 necessary to respond to and report the release of a pollutant;

43 (2) designate a 24-hour statewide telephone number whereby the

1 notice of any release of a pollutant may be made;

2 (3) provide minimum reportable quantities;

3 (4) order a person responsible for the release of a pollutant to perform
4 a cleanup of the release; and

5 (5) take necessary action to perform a cleanup of a release if the
6 person responsible for the release cannot be identified within a reasonable
7 period of time.

8 (c) The secretary may:

9 (1) Provide technical guidance, oversight and assistance to other state
10 agencies, political subdivisions of the state and other persons for the
11 cleanup of and response to the release of a pollutant;

12 (2) take necessary action to perform a cleanup of a release of a
13 pollutant if a person responsible for the release fails to take reasonable
14 actions required by the secretary to perform a cleanup of the release; and

15 (3) perform a cleanup of a release of a pollutant if the release poses
16 an emergency.

17 (d) (1) Whenever a pollutant is released intentionally, accidentally or
18 inadvertently, the person responsible for the release shall be responsible
19 for the cleanup of the release.

20 (2) The person responsible for the release of any pollutant, regardless
21 of phase or physical state, shall give notice to the department of health and
22 environment when the release exceeds reportable quantities.

23 (3) The person responsible for the release shall be responsible for
24 repayment of the cleanup costs incurred by the department upon
25 reasonably detailed notice by the secretary or the secretary's designee. If
26 the responsible party fails to submit payment for costs of the cleanup
27 operations promptly after giving notice, repayment costs shall be
28 recoverable in an action brought by the attorney general in the district
29 court of the county where such costs were incurred.

30 (e) (1) Upon a finding that a person has violated any provision of this
31 section or rules and regulations or orders adopted hereunder, the secretary
32 may impose a penalty not to exceed \$5,000. In the case of a continuing
33 violation, the maximum penalty shall not exceed \$15,000.

34 (2) Any moneys recovered under this section shall be remitted to the
35 state treasurer in accordance with K.S.A. 75-4215, and amendments
36 thereto. Upon each such remittance, the state treasurer shall deposit the
37 entire amount in the state treasury to the credit of the emergency response
38 activities account in the natural resources damages trust fund established
39 pursuant to K.S.A. 75-5672(f), and amendments thereto.

40 (3) No penalty shall be imposed except after notice of the violation
41 and an opportunity for a hearing upon the written order of the secretary
42 issued to the person who committed the violation. The order shall state the
43 violation, the penalty to be imposed and the right to request a hearing. The

1 request for a hearing shall be in writing, directed to the secretary and filed
2 with the secretary within 15 calendar days after service of such order.
3 Hearings under this subsection shall be conducted in accordance with the
4 Kansas administrative procedure act.

5 Sec. 112. K.S.A. 2021 Supp. 65-180 is hereby amended to read as
6 follows: 65-180. The secretary of ~~health~~ *of water* and environment shall:

7 (a) Institute and carry on an intensive educational program among
8 physicians, hospitals, public health nurses and the public concerning
9 congenital hypothyroidism, galactosemia, phenylketonuria and other
10 genetic diseases detectable with the same specimen. This educational
11 program shall include information about the nature of such conditions and
12 examinations for the detection thereof in early infancy in order that
13 measures may be taken to prevent intellectual disability or morbidity
14 resulting from such conditions.

15 (b) Provide recognized screening tests for phenylketonuria,
16 galactosemia, hypothyroidism and such other diseases as may be
17 appropriately detected with the same specimen. The initial laboratory
18 screening tests for these diseases shall be performed by the *Kansas*
19 department of ~~health~~ *water* and environment or its designee for all infants
20 born in the state. Such services shall be performed without charge.

21 (c) Provide a follow-up program by providing test results and other
22 information to identified physicians; locate infants with abnormal newborn
23 screening test results; with parental consent, monitor infants to assure
24 appropriate testing to either confirm or not confirm the disease suggested
25 by the screening test results; with parental consent, monitor therapy and
26 treatment for infants with confirmed diagnosis of congenital
27 hypothyroidism, galactosemia, phenylketonuria or other genetic diseases
28 being screened under this statute; and establish ongoing education and
29 support activities for individuals with confirmed diagnosis of congenital
30 hypothyroidism, galactosemia, phenylketonuria and other genetic diseases
31 being screened under this statute and for the families of such individuals.

32 (d) Maintain a registry of cases including information of importance
33 for the purpose of follow-up services to prevent intellectual disability or
34 morbidity.

35 (e) Provide, within the limits of appropriations available therefor, the
36 necessary treatment product for diagnosed cases for as long as medically
37 indicated, when the product is not available through other state agencies.
38 In addition to diagnosed cases under this section, diagnosed cases of maple
39 syrup urine disease shall be included as a diagnosed case under this
40 subsection. Where the applicable income of the person or persons who
41 have legal responsibility for the diagnosed individual meets medicaid
42 eligibility, such individuals' needs shall be covered under the medicaid
43 state plan. Where the applicable income of the person or persons who have

1 legal responsibility for the diagnosed individual is not medicaid eligible,
2 but is below 300% of the federal poverty level established under the most
3 recent poverty guidelines issued by the United States department of health
4 and human services, the *Kansas* department of ~~health~~ *water* and
5 environment shall provide reimbursement of between 50% to 100% of the
6 product cost in accordance with rules and regulations adopted by the
7 secretary of ~~health~~ *of water* and environment. Where the applicable
8 income of the person or persons who have legal responsibility for the
9 diagnosed individual exceeds 300% of the federal poverty level
10 established under the most recent poverty guidelines issued by the United
11 States department of health and human services, the *Kansas* department of
12 ~~health~~ *water* and environment shall provide reimbursement of an amount
13 not to exceed 50% of the product cost in accordance with rules and
14 regulations adopted by the secretary of ~~health and environment~~.

15 (f) Provide state assistance to an applicant pursuant to subsection (e)
16 only after it has been shown that the applicant has exhausted all benefits
17 from private third-party payers, medicare, medicaid and other government
18 assistance programs and after consideration of the applicant's income and
19 assets. The secretary of ~~health~~ *the Kansas department of water* and
20 environment shall adopt rules and regulations establishing standards for
21 determining eligibility for state assistance under this section.

22 (g) (1) Except for treatment products provided under subsection (e), if
23 the medically necessary food treatment product for diagnosed cases must
24 be purchased, the purchaser shall be reimbursed by the *Kansas* department
25 of ~~health~~ *water* and environment for costs incurred up to \$1,500 per year
26 per diagnosed child age 18 or younger at 100% of the product cost upon
27 submission of a receipt of purchase identifying the company from which
28 the product was purchased. For a purchaser to be eligible for
29 reimbursement under this subsection, the applicable income of the person
30 or persons who have legal responsibility for the diagnosed child shall not
31 exceed 300% of the poverty level established under the most recent
32 poverty guidelines issued by the federal department of health and human
33 services.

34 (2) As an option to reimbursement authorized under subsection (g)
35 (1), the department of ~~health and environment~~ may purchase food
36 treatment products for distribution to diagnosed children in an amount not
37 to exceed \$1,500 per year per diagnosed child age 18 or younger. For a
38 diagnosed child to be eligible for the distribution of food treatment
39 products under this subsection, the applicable income of the person or
40 persons who have legal responsibility for the diagnosed child shall not
41 exceed 300% of the poverty level established under the most recent
42 poverty guidelines issued by the federal department of health and human
43 services.

1 (3) In addition to diagnosed cases under this section, diagnosed cases
2 of maple syrup urine disease shall be included as a diagnosed case under
3 this subsection.

4 (h) The *Kansas* department of ~~health~~ *water* and environment shall
5 continue to receive orders for both necessary treatment products and
6 necessary food treatment products, purchase such products, and shall
7 deliver the products to an address prescribed by the diagnosed individual.
8 The department of ~~health and environment~~ shall bill the person or persons
9 who have legal responsibility for the diagnosed patient for a pro-rata share
10 of the total costs, in accordance with the rules and regulations adopted
11 pursuant to this section.

12 (i) The secretary of ~~health~~ *of water* and environment shall adopt rules
13 and regulations as needed to require, to the extent of available funding,
14 newborn screening tests to screen for treatable disorders listed in the core
15 uniform panel of newborn screening conditions recommended in the 2005
16 report by the American college of medical genetics entitled "newborn
17 screening: toward a uniform screening panel and system" or another report
18 determined by the *Kansas* department of ~~health~~ *water* and environment to
19 provide more appropriate newborn screening guidelines to protect the
20 health and welfare of newborns for treatable disorders.

21 (j) In performing the duties under subsection (i), the secretary of
22 ~~health~~ *of water* and environment shall appoint an advisory council to
23 advise the department of ~~health and environment~~ on implementation of
24 subsection (i).

25 (k) The *Kansas* department of ~~health~~ *water* and environment shall
26 periodically review the newborn screening program to determine the
27 efficacy and cost effectiveness of the program and determine whether
28 adjustments to the program are necessary to protect the health and welfare
29 of newborns and to maximize the number of newborn screenings that may
30 be conducted with the funding available for the screening program.

31 (l) There is hereby established in the state treasury the *Kansas*
32 newborn screening fund that shall be administered by the secretary of
33 ~~health~~ *of water* and environment. All expenditures from the fund shall be
34 for the newborn screening program. All expenditures from the fund shall
35 be made in accordance with appropriation acts upon warrants of the
36 director of accounts and reports issued pursuant to vouchers approved by
37 the secretary of ~~health and environment~~ or the secretary's designee. On
38 July 1 of each year, the director of accounts and reports shall determine the
39 amount credited to the medical assistance fee fund pursuant to K.S.A. 40-
40 3213, and amendments thereto, and shall transfer the estimated portion of
41 such amount that is necessary to fund the newborn screening program for
42 the ensuing fiscal year as certified by the secretary of ~~health and~~
43 ~~environment~~ or the secretary's designee to the *Kansas* newborn screening

1 fund. Such amount shall not exceed \$2,500,000 in any one fiscal year,
2 except that such amount shall not exceed \$5,000,000 in fiscal years 2021
3 and 2022.

4 Sec. 113. K.S.A. 65-1,107 is hereby amended to read as follows: 65-
5 1,107. The secretary of ~~health~~ *water* and environment may adopt rules and
6 regulations establishing:

7 (a) The procedures, testing protocols and qualifications of authorized
8 personnel, instruments and methods used in laboratories performing tests
9 for the presence of controlled substances included in schedule I or II of the
10 uniform controlled substances act or metabolites thereof;

11 (b) the procedures, testing protocols, qualifications of personnel and
12 standards of performance in the testing of human breath for law
13 enforcement purposes, including procedures for the periodic inspection of
14 apparatus, equipment and devices, other than preliminary screening
15 devices, approved by the secretary of ~~health~~ *of water* and environment for
16 the testing of human breath for law enforcement purposes;

17 (c) the requirements for the training, certification and periodic testing
18 of persons who operate apparatus, equipment or devices, other than
19 preliminary screening devices, for the testing of human breath for law
20 enforcement purposes;

21 (d) criteria for preliminary screening devices for testing of breath for
22 law enforcement purposes, based on health and performance
23 considerations; and

24 (e) a list of preliminary screening devices ~~which~~ *that* are approved for
25 testing of breath for law enforcement purposes and ~~which~~ *that* law
26 enforcement agencies may purchase and train officers to use as aids in
27 determining: (1) Probable cause to arrest and grounds for requiring testing
28 pursuant to K.S.A. 8-1001, and amendments thereto; and (2) violations of
29 K.S.A. 41-727, and amendments thereto.

30 Sec. 114. K.S.A. 65-1,178 is hereby amended to read as follows: 65-
31 1,178. As used in K.S.A. 65-1,178 through 65-1,198, and amendments
32 thereto, except as the context otherwise requires:

33 (a) "Application" means:

34 (1) The applicable fee, all properly completed and executed
35 documents furnished by the department and any additional required
36 documents or information necessary for obtaining a permit, including but
37 not limited to a registration, construction plans, specifications and any
38 required manure management, nutrient utilization, emergency response,
39 odor control, facility closure and dead swine handling plans; or

40 (2) registration with the department before July 1, 1996, which has
41 not been acted on by the department before March 1, 1998.

42 (b) "Best available technology for swine facilities" means the best
43 available technology for swine facilities, as determined by the department

1 in consultation with Kansas state university, owners and operators of
2 permitted swine facilities and other appropriate persons, entities and state
3 and federal agencies.

4 (c) "Best management practices for swine facilities" means those
5 schedules of activities, maintenance procedures and other management
6 practices of a swine facility that are designed to minimize or prevent
7 pollution of the air, water or soil or to control odor, flies, rodents and other
8 pests, as determined by the department in consultation with Kansas state
9 university, owners and operators of permitted swine facilities and other
10 appropriate persons, entities and state and federal agencies.

11 (d) "Department" means the *Kansas* department of ~~health~~ water and
12 environment.

13 (e) "Existing swine facility" means any swine facility in existence and
14 registered with or permitted by the secretary before the effective date of
15 this act.

16 (f) "In existence" means constructed or in place and capable of
17 confining, feeding and maintaining swine. If the department has taken
18 final formal administrative action requiring abandonment of a swine
19 facility or cessation of a swine facility operation for reasons other than
20 separation distances, the department shall conclude the past facility or
21 operation was illegal and not eligible to continue previously legal acts. A
22 facility for which the department has taken such an action shall be
23 considered a new swine facility for the purpose of separation distance
24 requirements.

25 (g) "Permit" means a water pollution control permit for a swine
26 facility pursuant to K.S.A. 65-166a and 65-171d, and amendments thereto.

27 (h) "Secretary" means the secretary of ~~health~~ *the Kansas department*
28 *of water* and environment.

29 (i) "Significant water pollution potential" means any significant
30 potential for pollution of groundwater or surface waters as defined by rules
31 and regulations adopted by the secretary.

32 (j) "Swine facility" means a confined feeding facility for swine.

33 (k) "Swine waste management system" means all constructed,
34 excavated or natural receptacles used for the collection, conveyance,
35 storage or treatment of manure or wastewater, or both, from a swine
36 facility, including swine containment buildings.

37 (l) "Swine waste retention lagoon or pond" means an excavated or
38 diked structure, or a natural depression, provided for or used by a swine
39 facility for the purpose of containing or detaining swine wastes or other
40 wastes generated in the production of swine.

41 Sec. 115. K.S.A. 65-1,182 is hereby amended to read as follows: 65-
42 1,182. (a) The department of ~~health and environment~~ shall not issue or
43 renew a permit for any swine facility that has an animal unit capacity of

1 1,000 or more and that applies manure or wastewater to land unless:

2 (1) The land application process complies with the applicable
3 requirements of this section; and

4 (2) the nutrient utilization plan required by this section is approved by
5 the ~~secretary of health and environment~~ as specified by K.S.A. 2021 Supp.
6 2-3318, and amendments thereto.

7 (b) (1) If the manure management plan prepared pursuant to K.S.A.
8 65-1,181, and amendments thereto, provides for land application of
9 manure or wastewater:

10 (A) The applicant for a permit for construction of a new swine facility
11 or for expansion of an existing swine facility shall submit with the
12 application for a permit a nutrient utilization plan on a form prescribed by
13 the ~~secretary of health and environment~~ as applicable and shall comply
14 with the plan when the permit is issued by the ~~department of health and~~
15 ~~environment~~; and

16 (B) the operator of an existing swine facility shall submit to the
17 ~~department of health and environment~~, within six months after the rules
18 and regulations implementing this act are adopted, a nutrient utilization
19 plan on a form prescribed by the ~~secretary of health and environment~~, for
20 approval by the ~~secretary of health and environment~~ and shall comply with
21 the plan by a date established by the ~~secretary of health and environment~~.

22 (2) Each nutrient utilization plan shall address site-specific conditions
23 for land application of manure, wastewater and other nutrient sources,
24 comply with the requirements of this section and contain, at minimum, the
25 following:

26 (A) A site map of all land application areas, including section,
27 township and range;

28 (B) crop rotations on the land application areas;

29 (C) annual records of soil tests, manure nutrient analyses, and
30 calculations required by subsection (c);

31 (D) nutrient budgets for the land application areas;

32 (E) rates, methods, frequency and timing of application of manure,
33 wastewater and other nutrient sources to the land application areas;

34 (F) the amounts of nitrogen and phosphorus applied to the land
35 application areas;

36 (G) precipitation records and the amounts of irrigation and other
37 water applied;

38 (H) records of inspections and preventive maintenance of equipment
39 required by subsection (f)(6);

40 (I) copies of all landowner agreements for land that is not owned by
41 the swine facility and is scheduled to receive manure or wastewater;

42 (J) names of employees and contractors whom the operator of the
43 swine facility has identified pursuant to subsection (f)(7) to supervise the

1 process of transferring manure or wastewater to land application
2 equipment and the process of land application;

3 (K) records of training of all personnel who supervise and conduct
4 the land application of manure or wastewater, as required by subsection (f)
5 (7); and

6 (L) any other information required by the secretary ~~of health and~~
7 ~~environment~~ to facilitate approval.

8 (3) (A) A swine facility that is required to have a nutrient utilization
9 plan shall amend such plan whenever warranted by changes in the facility,
10 soil test results or other conditions affecting the facility.

11 (B) Amendments to the nutrient utilization plan ~~must~~ shall be
12 approved by the secretary ~~of health and environment~~.

13 (4) A swine facility that is required to have a nutrient utilization plan
14 shall maintain such plan in accordance with K.S.A. 65-1,185, and
15 amendments thereto.

16 (c) (1) Each swine facility that has a manure management plan that
17 includes land application of manure or wastewater shall:

18 (A) Conduct soil tests, including but not limited to tests for nitrogen,
19 phosphate, chloride, copper and zinc, on the land application areas prior to
20 preparation of the nutrient utilization plan and at least annually thereafter,
21 or as often as required by best available soil science and standards relative
22 to the soils of, and crops to be grown on, the land application areas or as
23 required by the secretary ~~of health and environment~~; and

24 (B) include the results of such tests in its nutrient utilization plan.

25 (2) Each swine facility that has a manure management plan that
26 includes land application of manure or wastewater or sells or gives manure
27 or wastewater to third persons pursuant to ~~subsection (h)~~ of K.S.A. 65-
28 1,181(h), and amendments thereto, shall:

29 (A) Conduct manure nutrient analyses of its manure and wastewater
30 prior to preparation of its nutrient utilization plan and at least every two
31 years thereafter; and

32 (B) include the results of such analyses in its nutrient utilization plan.

33 (3) Each swine facility that has a manure management plan that
34 includes land application of manure or wastewater shall:

35 (A) Compare the manure nutrient analyses required by subsection (c)
36 (2) with the soil tests required by subsection (c)(1) to calculate needed
37 fertility and application rates for pasture production and crop target yields
38 on the land application areas prior to the preparation of the nutrient
39 utilization plan and each time thereafter when new soil tests or manure
40 nutrient analyses are conducted; and

41 (B) include such calculations in the nutrient utilization plan.

42 (d) If a swine facility is required to have a nutrient utilization plan
43 and finds that the soil tests required pursuant to this act indicate that the

1 phosphorus holding capacity for any soils in the facility's land application
2 areas may be exceeded within five years, the facility shall promptly initiate
3 the process to obtain access to the additional land application areas
4 needed, or make other adjustments, to achieve the capability to apply
5 manure or wastewater at appropriate agronomic rates.

6 (e) ~~The Kansas department of health and environment~~ may require a
7 swine facility that is required to have a nutrient utilization plan to apply
8 manure or wastewater on all or a portion of the facility's land application
9 areas at a rate within the agronomic phosphorus needs of the crops or
10 pasture, or the soil phosphorus holding capacity, in less than the time
11 originally allowed in the approved nutrient utilization plan if the
12 ~~department of health and environment~~ finds that the land application
13 actions of the facility are contributing to the impairment of groundwater or
14 surface water.

15 (f) (1) Each swine facility that is required to have a nutrient
16 utilization plan shall include in such plan, and thereafter comply with, the
17 requirements that manure or wastewater shall not be applied on bare
18 ground by any process, other than incorporation into the soil during the
19 same day, within 1,000 feet of any habitable structure, wildlife refuge or
20 city, county, state or federal park, unless:

21 (A) The manure or wastewater has been subjected to physical,
22 biological or biochemical treatment or other treatment method for odor
23 reduction approved by the ~~department of health and environment~~;

24 (B) the manure or wastewater is applied with innovative treatment or
25 application that is best available technology for swine facilities and best
26 management practices for swine facilities or other technology approved by
27 the ~~department of health and environment~~; or

28 (C) the owner of the habitable structure has provided a written waiver
29 to the facility.

30 (2) The separation distance requirements of subsection (f)(1) shall not
31 apply to any structure constructed or park designated as a city, county,
32 state or federal park after the effective date of this act, for swine facilities
33 in existence on the effective date of this act, or any structure constructed or
34 park designated as a city, county, state or federal park after submission of
35 an application for a permit for a new swine facility or expansion of an
36 existing swine facility.

37 (3) Swine facilities that are required to have a nutrient utilization plan
38 shall not apply manure or wastewater:

39 (A) To lands classified as highly erodible according to the
40 conservation compliance provisions of the federal food security act of
41 1985, as in effect on the effective date of this act, and classified as highly
42 erodible on the basis of erosion resulting from water runoff, except where
43 soil conservation practices to control erosion and runoff in compliance

1 with the requirements of this section are identified in the facility's nutrient
2 utilization plan and are followed by the facility;

3 (B) during rain storms, except where soil conservation practices to
4 control erosion and runoff in compliance with the requirements of this
5 section are identified in the facility's nutrient utilization plan and are
6 followed by the facility;

7 (C) to frozen or saturated soil, except where soil conservation
8 practices to control runoff in compliance with the requirements of this
9 section are identified in the facility's nutrient utilization plan and are
10 followed by the facility; and

11 (D) to any areas ~~to which~~ *where* the separation distance requirements
12 of subsection (f) apply.

13 (4) Swine facilities that are required to have a nutrient utilization plan
14 shall follow procedures and precautions in the land application of manure
15 or wastewater to prevent discharge of manure or wastewater to surface
16 water and groundwater due to excess infiltration, penetration of drainage
17 tile lines, introduction into tile inlets or surface runoff, including
18 appropriate soil conservation practices to protect surface water from runoff
19 carrying eroded soil and manure particles.

20 (5) Swine facilities that are required to have a nutrient utilization plan
21 and that conduct wastewater irrigation shall:

22 (A) Employ measures to irrigate under conditions that reasonably
23 prevent surface runoff; and

24 (B) use reasonable procedures and precautions to avoid spray drift
25 from the land ~~to which~~ *where* it is applied.

26 (6) Each swine facility that is required to have a nutrient utilization
27 plan and that land applies manure or wastewater shall ensure that any
28 equipment used in the land application process is properly maintained and
29 calibrated and monitor the use of the equipment so that any malfunction
30 that develops during the land application process is detected and the
31 process ceases until the malfunction is corrected.

32 (7) The operator of each swine facility that is required to have a
33 nutrient utilization plan and that land applies manure or wastewater shall:

34 (A) Identify, train and keep current the training of each employee and
35 contractor who supervises the transfer of manure or wastewater to land
36 application equipment and the conducting of land application activities;
37 and

38 (B) train, and keep current the training of, all employees and
39 contractors who conduct land application activities.

40 (g) Each swine facility that is required to have a nutrient utilization
41 plan shall amend such plan whenever warranted by changes in conditions.
42 The operator of the facility shall file such plan and any amendments to
43 such plan with the department ~~of health and environment~~.

1 (h) The secretary ~~of health and environment~~ shall make a
2 determination to approve or disapprove a nutrient utilization plan not later
3 than 45 days after the plan is received ~~from~~ by the department ~~of health~~
4 ~~and environment~~.

5 Sec. 116. K.S.A. 65-1,201 is hereby amended to read as follows: 65-
6 1,201. As used in the residential childhood lead poisoning prevention act:

7 (a) "Abatement" means any measure or set of measures designed to
8 permanently eliminate lead-based paint hazards as defined in the federal
9 program.

10 (b) "Accredited training program" means a training program that has
11 been accredited by the federal program or the secretary to present training
12 courses to individuals engaged in lead-based paint activities.

13 (c) "Business entity" means a company, partnership, corporation, sole
14 proprietorship, association, or other business concern.

15 (d) "Certificate" means an authorization issued by the secretary
16 permitting an individual to engage in lead-based paint activities.

17 (e) "Federal program" means subpart L, lead-based paint activities of
18 40 C.F.R. part 745, as in effect on the effective date of this act.

19 (f) "Lead-based paint" means paint or other surface coatings that
20 contain lead equal to or in excess of one milligram per square centimeter
21 or more than 0.5% by weight.

22 (g) "Lead-based paint activities" means the inspection, assessment
23 and abatement of lead-based paint, including the disposal of waste
24 generated therefrom.

25 (h) "License" means an authorization issued by the secretary
26 permitting a business entity to engage in lead-based paint activities.

27 (i) "Public agency" means any state agency or political or taxing
28 subdivision of the state and those federal departments, agencies or
29 instrumentalities thereof ~~which~~ that are not subject to preemption.

30 (j) "Secretary" means the secretary ~~of health~~ *the Kansas department*
31 *of water* and environment.

32 (k) "Residential dwelling" means a detached single family dwelling
33 or a single family dwelling unit in a structure that contains more than one
34 separate residential dwelling unit used as a place of residence for
35 habitation by an individual or the individual's immediate family, or both.

36 (l) "Habitation" means a place of abode or residence constructed
37 before 1978 where individuals eat, sleep and reside.

38 (m) "Immediate family" means spouse, parent, stepparent, child,
39 stepchild or sibling.

40 Sec. 117. K.S.A. 65-1,222 is hereby amended to read as follows: 65-
41 1,222. As used in this act:

42 (a) "Department" means the Kansas department ~~of health~~ *water* and
43 environment.

1 (b) "Environmental use control" means an institutional or
2 administrative control, a restriction, prohibition or control of one or more
3 uses of, or activities on, a specific property, as requested by the property
4 owner at the time of issuance, to ensure future protection of public health
5 and the environment when environmental contamination—~~which that~~
6 exceeds department standards for unrestricted use remains on the property
7 following the appropriate assessment and/or remedial activities as directed
8 by the department pursuant to the secretary's authority. For the purposes of
9 this act, "environmental contamination" does not mean animal or process
10 waste from a confined feeding facility as defined in K.S.A. 65-171d, and
11 amendments thereto, livestock operations or the application of livestock
12 waste for use as a plant nutrient. Any environmental use control created
13 pursuant to this act runs with the property and is binding on the owner and
14 subsequent owners, lessees and other users of the land.

15 (c) "Owner" means any owner of record of property, and any person
16 or entity with written authorization from the owner to make decisions
17 regarding the transfer of the subject property or placement of
18 encumbrances on the subject property, other than by the exercise of
19 eminent domain.

20 (d) "Person" means any individual, trust, firm, joint stock company,
21 public or private corporation, limited liability company or partnership; the
22 federal government or any agency or instrumentality thereof; any state, or
23 any agency, instrumentality or political or taxing subdivision thereof; or
24 any interstate body.

25 (e) "Protective structure" means an engineered physical structure
26 implemented as part of the remedial action to control or respond to a
27 release or threat of release of environmental contamination. Protective
28 structure includes capping, fencing, berming, diking, drainage structures
29 and other structures that may control migration or other releases of
30 environmental contamination.

31 (f) "Property" means real property.

32 (g) "Remedial activity" means any site cleanup, soil or groundwater
33 monitoring associated with a contaminated property, remedial action,
34 corrective action, emergency action, removal action or other action
35 necessary or appropriate to respond to a release or threat of release of
36 environmental contamination.

37 (h) "Secretary" means the secretary of ~~health~~ *the Kansas department*
38 *of water* and environment.

39 Sec. 118. K.S.A. 65-1629 is hereby amended to read as follows: 65-
40 1629. The board and its duly authorized agents and employees may inspect
41 in a lawful manner the drugs kept for sale, offered for sale or for
42 dispensing, or sold in the state of Kansas by any pharmacist, or kept in
43 stock by any duly licensed practitioner or institutional drug room in the

1 state, or when such inspection is required by the secretary of ~~health of~~
2 *water* and environment the drugs kept in stock by any medical care
3 facility; and for this purpose shall have the right to enter and inspect
4 during business hours any institutional drug room or any pharmacy or any
5 other place in the state of Kansas where drugs are manufactured, packed,
6 packaged, made, sold, offered for sale or kept for sale and may collect
7 samples of such drugs upon payment therefor. The samples thus collected
8 may be submitted for analysis to the office of laboratory services of the
9 *Kansas* department of ~~health~~ *water* and environment and the results of the
10 analysis may be published by the ~~state~~ *Kansas* department of ~~health~~ *water*
11 and environment.

12 Sec. 119. K.S.A. 65-3002 is hereby amended to read as follows: 65-
13 3002. As used in this act, unless the context clearly requires otherwise:

14 (a) "Air contaminant" means dust, fumes, smoke, other particulate
15 matter, vapor, gas, odorous substances, or any combination thereof, but not
16 including water vapor or steam condensate.

17 (b) "Air contamination" means the presence in the outdoor
18 atmosphere of one or more air contaminants.

19 (c) "Air pollution" means the presence in the outdoor atmosphere of
20 one or more air contaminants in such quantities and duration as is, or tends
21 significantly to be, injurious to human health or welfare, animal or plant
22 life, or property, or would unreasonably interfere with the enjoyment of
23 life or property, or would contribute to the formation of regional haze.

24 (d) "Alter" means any physical change in, or change in the method of
25 operation of, an air contaminant emission stationary source ~~which that~~
26 increases the amount of any regulated air pollutant emitted by such source
27 or ~~which that~~ results in the emission of any regulated air pollutant not
28 previously emitted.

29 (e) "Emission" means a release into the outdoor atmosphere of air
30 contaminants.

31 (f) "Deciview" means an atmospheric haze index that expresses
32 changes in visibility conditions as defined in 40 C.F.R. § 51.301 as in
33 effect on July 1, 2005.

34 (g) "Facility" means any building, structure, machine, equipment,
35 device or installation (or group of buildings, structures, machines,
36 equipment, devices or installations), whether temporary or permanent,
37 located on one or more contiguous or adjacent properties and under
38 common control of the same person (or persons under common control).
39 Such term shall not include locomotives, diesel trucks or truck tractors
40 unless otherwise required by the federal clean air act, as amended in
41 November 1990.

42 (h) "Modify" or "modification," when used in conjunction with an
43 approval or permit action, means an amendment to an existing approval or

1 permit initiated by the permittee. When used to describe a change in any
 2 air contaminant emission stationary source, "modify" shall have the same
 3 meaning as the term "alter."

4 (i) "Permittee" means the holder of an approval or the holder of a
 5 permit and includes both the owner and the operator of any approved or
 6 permitted air contaminant emission source.

7 (j) "Person" means any individual, partnership, firm, association,
 8 municipality, public or private corporation, subdivision or agency of the
 9 state or federal government, trust, estate or any other legal entity.

10 (k) "Regional haze" means visibility impairment, measured in
 11 deciviews, occurring over a large geographic area caused by the
 12 cumulative emissions of gaseous and particulate air contaminants from
 13 numerous sources.

14 (l) "Reopen" means to seek an amendment to an existing approval or
 15 permit initiated by any person other than the permittee.

16 (m) "Secretary" means the secretary of ~~health~~ *the Kansas department*
 17 *of water and environment.*

18 (n) "Stationary source" means any building, structure, facility or
 19 installation ~~which~~ *that* emits or may emit any air contaminant.

20 Sec. 120. K.S.A. 65-3003 is hereby amended to read as follows: 65-
 21 3003. The responsibility for air quality conservation and control of air
 22 pollution is hereby placed with the secretary ~~of health and environment.~~
 23 The secretary shall administer this act through the *Kansas department of*
 24 *water and environment, division of environment and conservation.*

25 Sec. 121. K.S.A. 65-3005 is hereby amended to read as follows: 65-
 26 3005. (a) The secretary shall have the power to:

27 (1) Adopt, amend and repeal rules and regulations implementing and
 28 consistent with this act.

29 (2) Hold hearings relating to any aspect of or matter in the
 30 administration of this act concerning air quality control, and in connection
 31 therewith, compel the attendance of witnesses and the production of
 32 evidence.

33 (3) Issue such orders, permits and approvals as may be necessary to
 34 effectuate the purposes of this act and enforce the same by all appropriate
 35 administrative and judicial proceedings.

36 (4) Require access to records relating to emissions ~~which~~ *that* cause
 37 or contribute to air pollution.

38 (5) Prepare and develop a comprehensive plan or plans for the
 39 prevention, abatement and control of air pollution originating in Kansas
 40 that affects air quality in Kansas or in other states or both.

41 (6) Adopt rules and regulations governing such public notification
 42 and comment procedures as authorized by this act.

43 (7) Encourage voluntary cooperation by persons or affected groups to

1 achieve the purposes of this act.

2 (8) (A) Encourage local units of government to handle air pollution
3 problems within their respective jurisdictions and on a cooperative basis;
4 (B) provide technical and consultative assistance therefor; and (C) enter
5 into agreements with local units of government to administer all or part of
6 the provisions of the Kansas air quality act in the units' respective
7 jurisdictions.

8 (9) Encourage and conduct studies, investigations and research
9 relating to air contamination and air pollution and their causes, effects,
10 prevention, abatement and control.

11 (10) Encourage air contaminant emission sources to voluntarily
12 implement strategies, including the development and use of innovative
13 technologies, market-based principles and other private initiatives to
14 reduce or prevent pollution.

15 (11) Determine by means of field studies and sampling the degree of
16 air contamination and air pollution in the state and the several parts
17 thereof.

18 (12) Establish ambient air quality standards for the state as a whole or
19 for any part thereof.

20 (13) Collect and disseminate information and conduct educational
21 and training programs relating to air contamination and air pollution.

22 (14) Advise, consult and cooperate with other agencies of the state,
23 local governments, industries, other states, interstate or interlocal agencies,
24 and the federal government, and with interested persons or groups.

25 (15) Accept, receive and administer grants or other funds or gifts
26 from public and private entities, including the federal government, for the
27 purpose of carrying out any of the functions of this act. Such funds
28 received by the secretary pursuant to this section shall be deposited in the
29 state treasury to the account of the *Kansas* department of ~~health~~ water and
30 environment.

31 (16) Enter into contracts and agreements with other state agencies or
32 subdivisions, local governments, other states, interstate agencies, the
33 federal government or its agencies or private entities as is necessary to
34 accomplish the purposes of the Kansas air quality act.

35 (17) Conduct or participate in intrastate or interstate emissions
36 trading programs or other programs that demonstrate equivalent air quality
37 benefits for the prevention, abatement and control of air pollution in
38 Kansas or in other states or both.

39 (18) Prepare and adopt a regional haze plan as may be necessary to
40 prevent, abate and control air pollution originating in Kansas that affects
41 air quality in Kansas or in other states or both. Any regional haze plan
42 prepared by the secretary shall be no more stringent than is required by 42
43 U.S.C. § 7491.

1 (19) Participate in the activities of any visibility transport commission
2 established under 42 U.S.C. § 7492. The secretary shall report to the
3 governor and the legislature on the activities of any such visibility
4 transport commission annually.

5 (b) It is a policy of the state to regulate the air quality of the state and
6 implement laws and regulations that are applied equally and uniformly
7 throughout the state and consistent with those of the federal government.

8 (1) The secretary shall have the authority to promulgate rules and
9 regulations to establish standards to ensure that the state is in compliance
10 with the provisions of the federal clean air act, as amended (42 U.S.C.
11 section 7401 et seq.). The standards so established shall not be any more
12 stringent, restrictive or expansive than those required under the federal
13 clean air act, as amended, nor shall the rules and regulations be enforced in
14 any area of the state prior to the time required by the federal clean air act.
15 If the secretary determines that more stringent, restrictive or expansive
16 rules and regulations are necessary, the secretary may implement the rules
17 and regulations only after approval by an act of the legislature. The
18 restrictions of this subsection shall not apply to the parts of the state
19 implementation plan developed by the secretary to bring a nonattainment
20 area into compliance when needed to have a United States environmental
21 protection agency approved state implementation plan.

22 (2) For any application for a permit required by federal or state law,
23 the secretary shall not deny or delay the issuance of such permit when the
24 requirements of this act have been met.

25 Sec. 122. K.S.A. 65-3011 is hereby amended to read as follows: 65-
26 3011. (a) If the secretary or the director of the *Kansas department of water*
27 *and environment*, division of environment *and conservation* finds that any
28 person has violated any provision of any approval, permit or compliance
29 plan or any provision of this act or any rule and regulation promulgated
30 under this act, the secretary may issue an order finding such person in
31 violation of the act and directing the person to take such action as
32 necessary to correct the violation. Any order issued shall specify the length
33 of time after receipt of the order during which the person must correct the
34 violations.

35 (b) Any person to whom an order is issued pursuant to subsection (a)
36 may request a hearing within 15 days after service of the order. Hearings
37 before the secretary shall be conducted in accordance with the Kansas
38 administrative procedure act.

39 Sec. 123. K.S.A. 65-3018 is hereby amended to read as follows: 65-
40 3018. (a) The secretary or the director of the *Kansas department of water*
41 *and environment*, division of environment *and conservation*, upon a
42 finding that a person has violated any provision of K.S.A. 65-3025 and
43 amendments thereto, may impose a penalty not to exceed \$10,000 ~~which~~.

1 *Such penalty* shall constitute an actual and substantial economic deterrent
2 to the violation for which it is assessed. In the case of a continuing
3 violation, every day such violation continues shall be deemed a separate
4 violation.

5 (b) No penalty shall be imposed pursuant to this section except after
6 notice of violation and opportunity for hearing upon the written order of
7 the secretary or the director of the division of environment *and*
8 *conservation* issued to the person who committed the violation. The order
9 shall state the violation, the penalty to be imposed and the right to request
10 a hearing thereon. The request for hearing shall be in writing, directed to
11 the secretary and filed with the secretary within 15 days after service of the
12 order. Hearings under this section shall be conducted in accordance with
13 the Kansas administrative procedure act.

14 (c) Nothing in this act shall be construed to abridge, limit or
15 otherwise impair the right of any person to damages or other relief on
16 account of injury to persons or property and to maintain any action or
17 other appropriate proceeding therefor.

18 Sec. 124. K.S.A. 65-3022 is hereby amended to read as follows: 65-
19 3022. In order to defray costs in determining and monitoring the
20 environmental impact of power generation facilities with respect to air
21 quality and, in the case of nuclear powered generation facilities, the overall
22 radiological impact thereof, the secretary is authorized and directed to
23 adopt rules and regulations to provide for the establishment of fees and for
24 the collection thereof from each such facility. Such fees shall be
25 determined and collected annually, and such determination shall be based
26 upon the size and type of such facilities. In establishing programs for
27 determining and monitoring environmental impact, the secretary shall take
28 into consideration monitoring programs conducted by other persons and
29 where possible avoid duplication of effort and expense. The secretary may
30 also provide for quality review and evaluation of monitoring conducted by
31 other persons in order to further the objectives of this act and to determine
32 the extent and necessity of monitoring programs to be conducted by the
33 *Kansas department of health water and environment*.

34 Sec. 125. K.S.A. 65-3027 is hereby amended to read as follows: 65-
35 3027. (a) There is hereby created the small business stationary source
36 technical and environmental compliance assistance program, to be
37 administered by the secretary. The program shall include each of the
38 following:

39 (1) Adequate mechanisms for developing, collecting and coordinating
40 information concerning compliance methods and technologies for small
41 business stationary sources and programs to encourage lawful cooperation
42 among such sources and other persons to further compliance with this act.

43 (2) Adequate mechanisms for assisting small business stationary

1 sources with pollution prevention and accidental release detection and
2 prevention, including providing information concerning alternative
3 technologies, process changes, products and methods of operation that
4 help reduce air pollution.

5 (3) A designated office within the Kansas department of ~~health water~~
6 and environment, reporting directly to the secretary, to serve as
7 ombudsman for small business stationary sources in connection with
8 implementation of this act.

9 (4) A compliance assistance program for small business stationary
10 sources ~~which~~ *that* assists small business stationary sources in determining
11 applicable requirements and in receiving permits under this act in a timely
12 and efficient manner.

13 (5) Adequate mechanisms to assure that small business stationary
14 sources receive notice of their rights under this act in such manner and
15 form as to assure reasonably adequate time for such sources to evaluate
16 compliance methods and any relevant or applicable proposed or final rule
17 and regulation or standard adopted under this act.

18 (6) Adequate mechanisms for informing small business stationary
19 sources of their obligations under this act, including mechanisms for
20 referring such sources to qualified auditors or for providing audits of the
21 operations of such sources to determine compliance with this act.

22 (7) Procedures for consideration of requests from a small business
23 stationary source for modification of: (A) Any work practice or
24 technological method of compliance; or (B) the schedule of milestones for
25 implementing such work practice or method of compliance preceding any
26 applicable compliance date, based on the technological and financial
27 capability of any such small business stationary source. No such
28 modification may be granted unless it is in compliance with the applicable
29 requirement of this act and rules and regulations promulgated hereunder.

30 (b) "Small business stationary source" means a stationary air
31 contaminant emission source that:

32 (1) Is owned or operated by a person that employs 100 or fewer
33 individuals;

34 (2) is a small business concern as defined in the federal small
35 business act;

36 (3) is not a major stationary source;

37 (4) does not emit 50 tons or more per year of any regulated air
38 contaminant; and

39 (5) emits less than 75 tons per year of all regulated air contaminants.

40 (c) Upon petition by a source, the secretary, after notice and
41 opportunity for public comment, may include as a small business
42 stationary source for purposes of this section any stationary source ~~which~~
43 *that* does not meet the criteria of subsection (b)(3), (4) or (5) but ~~which~~

1 does not emit more than 100 tons per year of all regulated air
2 contaminants.

3 (d) The secretary may exclude from the small business stationary
4 source definition any category or subcategory of sources that the
5 administrator of the United States environmental protection agency
6 determines to have sufficient technical and financial capabilities to meet
7 the requirements of the federal clean air act without the application of this
8 program, as provided by section 507(c)(3)(A) of the 1990 amendments to
9 the federal clean air act.

10 (e) The secretary, in consultation with the administrator of the United
11 States environmental protection agency and the administrator of the United
12 States small business administration and after providing notice and the
13 opportunity for public hearing, may exclude from the small business
14 stationary source definition any category or subcategory of sources that the
15 secretary determines to have sufficient technical and financial capabilities
16 to meet the requirements of the act without the application of this section.

17 (f) There is hereby created a compliance advisory panel composed of
18 seven individuals. The compliance advisory panel shall:

19 (1) Render advisory opinions concerning the effectiveness of the
20 small business stationary source technical and environmental compliance
21 assistance program, difficulties encountered and degree and severity of
22 enforcement;

23 (2) make periodic reports to the administrator of the United States
24 environmental protection agency concerning compliance of the small
25 business stationary source technical and environmental compliance
26 assistance program with the requirements of the federal paperwork
27 reduction act, the regulatory flexibility act and the equal access to justice
28 act;

29 (3) review information for small business stationary sources to assure
30 such information is understandable by the layperson; and

31 (4) have the small business stationary source technical and
32 environmental compliance assistance program serve as the secretariat for
33 the development and dissemination of such reports and advisory opinions.

34 (g) The compliance advisory panel shall consist of:

35 (1) Two members who are not owners, or representatives of owners,
36 of small business stationary sources, appointed by the governor to
37 represent the general public;

38 (2) two members who are owners, or who represent owners, of small
39 business stationary sources, one appointed by the speaker and one
40 appointed by the minority leader of the Kansas house of representatives;

41 (3) two members who are owners, or who represent owners, of small
42 business stationary sources, one appointed by the president and one
43 appointed by the minority leader of the Kansas senate; and

1 (4) one member appointed by the secretary to represent the *Kansas*
2 department of ~~health~~ *water* and environment.

3 (h) ~~Members of the compliance advisory panel serving on the~~
4 ~~effective date of this act by appointment by the governor, the speaker of~~
5 ~~the house of representatives or the president of the senate shall serve for~~
6 ~~terms ending June 30, 1998; members serving on the effective date of this~~
7 ~~act by appointment by the minority leader of the house of representatives,~~
8 ~~the minority leader of the senate or the secretary of health and~~
9 ~~environment shall serve for terms ending June 30, 1997. Upon expiration~~
10 ~~of such terms,~~ The term of each member appointed to a vacancy created by
11 expiration of a term shall be two years commencing on July 1 immediately
12 following expiration of the term of the member's predecessor. Any vacancy
13 occurring on the panel shall be filled for the unexpired term by
14 appointment by the original appointing authority.

15 (i) A chairperson shall be elected annually by the members of the
16 compliance advisory panel. ~~A vice chairperson~~ *vice chairperson* shall be
17 designated by the chairperson to serve in the absence of the chairperson.

18 (j) The secretary *of water and environment* may reduce any fee
19 required by this act for any classification of small business sources to take
20 into account the financial resources of such classification.

21 Sec. 126. K.S.A. 65-3303 is hereby amended to read as follows: 65-
22 3303. The secretary *of health of water* and environment, hereafter referred
23 to as the "secretary" *in K.S.A. 65-3303 through 65-3308, and amendments*
24 *thereto*, is hereby authorized and empowered, pursuant to the provisions of
25 this act, to order and make approved grants from such account to
26 municipalities. The state's contribution towards the construction of water
27 pollution control projects shall not exceed ~~twenty-five percent~~ (25%)
28 of the eligible cost of each project or portions of such projects as qualify
29 under the provisions of the aforesaid federal act.

30 Sec. 127. K.S.A. 65-3308 is hereby amended to read as follows: 65-
31 3308. The secretary ~~of health and environment~~ shall promulgate rules and
32 regulations, guidelines, standards and procedures for the development of
33 countywide wastewater management plans, and any other rules and
34 regulations necessary for effective implementation of this act.

35 Sec. 128. K.S.A. 65-3309 is hereby amended to read as follows: 65-
36 3309. (a) Each county preparing a plan shall organize a wastewater
37 management committee as provided in subsection (b). However, counties
38 with populations of 30,000 or less, may at their discretion, apply to the
39 secretary ~~of health of water~~ *of water* and environment to be exempt from the
40 requirement of preparing a plan. The secretary, after receipt of an
41 application for exemption, shall determine whether sufficient necessity
42 exists to justify the preparation of a countywide wastewater management
43 plan, and shall in the secretary's sole discretion, either grant or deny the

1 exemption application. Each county preparing a plan shall submit to the
2 secretary a workable plan for wastewater management within such county
3 as prepared by the county wastewater management committee. The
4 wastewater management plan shall provide for comprehensive countywide
5 management to be effective throughout the county. The plan shall
6 incorporate and coordinate existing plans, ordinances and guidelines and
7 shall address (1) city and county cooperation in management of existing
8 point sources of pollution; (2) the management of onsite residential
9 wastewater treatment facilities, including septic tanks; (3) industrial waste
10 treatment; (4) procedures for approval of water delivery and wastewater
11 systems for new developing areas; and (5) urban stormwater runoff.

12 (b) There is hereby created in each county of this state required to
13 prepare a wastewater management plan a county wastewater management
14 committee. The county wastewater management committee shall be one of
15 the following:

16 (1) In any county where subsection (b)(2) or (3) does not apply, the
17 committee shall include one member of the board of county
18 commissioners who shall serve as chairperson of the committee, the
19 county engineer, the county health officer or such officer's designated
20 representative, the director of planning where one exists, one
21 representative from each city affected by the county wastewater
22 management plan and two members selected from the public at large. The
23 member of the committee from each city affected by the plan shall be
24 appointed by the mayor of such city, and the members of the public at
25 large shall be appointed by the board of county commissioners.

26 (2) In any county where a multijurisdictional planning commission is
27 functioning solely within that county, such planning commission is hereby
28 designated as the county wastewater management committee. An advisory
29 committee to ~~said~~ *such* planning commission is hereby created which shall
30 include one member of the board of county commissioners, the county
31 engineer, the county health officer or such officer's designated
32 representative, the director of planning, one representative from each city
33 affected by the county wastewater management plan, one representative
34 from each improvement district affected by the county wastewater
35 management plan and two members selected from the public at large. The
36 member of the committee from each city affected by the plan shall be
37 appointed by the mayor of such city, and the members of the public at
38 large shall be appointed by the board of county commissioners.

39 The multijurisdictional planning commission functioning as the county
40 wastewater management committee may in its discretion designate the
41 advisory committee as the county wastewater management committee.

42 (3) In any county where a wastewater management agency or
43 agencies has been established in the Kansas water quality management

1 plan pursuant to section 208 of the federal water pollution act and
2 amendments thereto, such agency or agencies is hereby designated as the
3 county wastewater management committee.

4 (c) Every plan required by a county wastewater management
5 committee shall:

6 (1) Reasonably conform to the rules and regulations, standards and
7 procedures adopted by the secretary *of water and environment* for
8 implementation of this act;

9 (2) integrate and coordinate existing comprehensive plans, population
10 trend projections, engineering and economics so as to plan adequately for
11 changing conditions;

12 (3) take into account existing acts and regulations affecting the
13 development, use and protection of air, water or land resources;

14 (4) include such other reasonable information as the secretary shall
15 require.

16 (d) All entities affected by or that can contribute to the wastewater
17 management plan shall have adequate opportunity for comment and input
18 in the development of the plan. Such entities shall include, but not be
19 limited to, rural water districts, water districts and improvement districts.
20 The plan shall be reviewed by each local governing body affected and by
21 appropriate official planning agencies within the area covered by the plan
22 for consistency with programs of comprehensive planning for the county
23 and for each other local governing unit. All such reviews shall be
24 transmitted to the secretary *of water and environment* with the proposed
25 plan.

26 (e) The secretary *of water and environment* is authorized to approve
27 or disapprove plans for countywide wastewater management submitted in
28 accordance with this act. If the plan is disapproved, the secretary shall
29 furnish all reasons for such disapproval. Any action of the secretary
30 pursuant to this subsection is subject to review as provided in K.S.A. 65-
31 3312 and amendments thereto. If the plan is disapproved by the secretary,
32 the county shall modify the plan so as to obtain the secretary's approval
33 unless otherwise ordered by the court on review.

34 (f) Any city or county commission of any county required to develop
35 a countywide wastewater management plan under the act of which this
36 section is amendatory may act on behalf of the other units of government
37 of ~~said~~ *such* county in filing the necessary documents to obtain state and
38 federal grants in aid and in such case shall act as contracting agency for
39 employment of any consultants necessary for plan development and shall
40 also act as financial disbursement manager for development of the plan.

41 Sec. 129. K.S.A. 65-3310 is hereby amended to read as follows: 65-
42 3310. The secretary of ~~health~~ *of water and environment* is authorized and
43 directed to:

1 (a) Adopt rules and regulations, standards and procedures to be used
2 by counties in the development and the periodic updating of wastewater
3 management plans, and to enable the secretary to carry out the purposes
4 and provisions of this act;

5 (b) receive and disburse any federal funds received for development
6 and implementation of countywide wastewater management plans;

7 (c) administer the wastewater management program and enforce the
8 provisions of each county wastewater management plan adopted pursuant
9 to the provisions of this act;

10 (d) provide technical assistance to counties, including the training of
11 personnel;

12 (e) institute, conduct and support research, demonstration projects
13 and investigations and coordinate all state agency research programs with
14 applicable federal programs pertaining to wastewater management; and

15 (f) conduct and contract for researchers and investigations in the area
16 of wastewater management of point source pollution.

17 Sec. 130. K.S.A. 65-3311 is hereby amended to read as follows: 65-
18 3311. In carrying out its duties with regard to the implementation of a
19 countywide wastewater management plan, any county planning committee
20 may recommend such reasonable ordinances, rules, regulations and
21 standards for industrial siting, onsite residential wastewater treatment
22 facilities (including septic tanks) and water delivery and wastewater
23 systems in newly developing areas within the county to the county
24 commissioners or municipal government authorized to enact such
25 ordinances, rules and regulations, which governmental unit is hereby
26 authorized to enact and enforce. The rules and regulations and standards
27 shall be in conformity with the rules and regulations and standards adopted
28 by the secretary *of water and environment* for wastewater management of
29 point source pollution.

30 Sec. 131. K.S.A. 65-3312 is hereby amended to read as follows: 65-
31 3312. Any action of the secretary of ~~health~~ *water* and environment
32 pursuant to this act is subject to review in accordance with the Kansas
33 judicial review act.

34 Sec. 132. K.S.A. 65-3313 is hereby amended to read as follows: 65-
35 3313. No provision of this act shall be deemed mandatory until ~~seventy-~~
36 ~~five percent~~ (75%) or more of the moneys necessary to implement such
37 provisions are certified by the secretary of ~~health~~ *of water* and
38 environment to be available from the federal government. The remaining
39 costs of implementation of such provisions shall be shared equally by the
40 state and county.

41 Sec. 133. K.S.A. 65-3321 is hereby amended to read as follows: 65-
42 3321. As used in K.S.A. 65-3321 through 65-3329, *and amendments*
43 *thereto*:

1 (a) "Fund" means the Kansas water pollution control revolving fund
2 established by K.S.A. 65-3322 ~~of this act,~~ *and amendments thereto.*

3 (b) "Municipality" means any city, county, township, sewer district,
4 improvement district, or other political subdivision of the state, or any
5 combination thereof, ~~which that~~ is authorized by law to construct, operate,
6 and maintain wastewater treatment works.

7 (c) "Wastewater treatment works" means any treatment works, as
8 defined in the federal act, ~~which that~~ is publicly owned.

9 (d) "Project" means the acquisition, construction, improvement,
10 repair, rehabilitation, or extension of a wastewater treatment works.

11 (e) "Project costs" means all costs or expenses ~~which that~~ are
12 necessary or incident to a project and ~~which that~~ are directly attributable
13 thereto.

14 (f) "Federal act" means the federal clean water act as amended by the
15 federal water quality act of 1987.

16 (g) "Administrator" means the administrator of the United States
17 environmental protection agency.

18 (h) "Secretary" means the secretary of ~~health~~ *the Kansas department*
19 *of water and environment.*

20 Sec. 134. K.S.A. 65-3329 is hereby amended to read as follows: 65-
21 3329. The activities of the *Kansas department of* ~~health~~ *water and*
22 *environment* in administering and performing the powers, duties and
23 functions prescribed by the provisions of K.S.A. 65-3321 through 65-
24 3329, *and amendments thereto,* and providing for the payment of the
25 matching grant requirements under the federal act from the proceeds of
26 revenue bonds issued for such purpose by the Kansas development finance
27 authority are hereby approved for the purposes of ~~subsection (b) of~~ K.S.A.
28 74-8905(b), and amendments thereto, and the authorization of the issuance
29 of such bonds by the Kansas development finance authority in accordance
30 with that statute. The provisions of ~~subsection (a) of~~ K.S.A. 74-8905(a),
31 and amendments thereto, shall not prohibit the issuance of bonds for such
32 purposes when so authorized and any such issuance of bonds is exempt
33 from the provisions of ~~subsection (a) of~~ K.S.A. 74-8905(a), and
34 amendments thereto.

35 Sec. 135. K.S.A. 65-3330 is hereby amended to read as follows: 65-
36 3330. (a) As used in this section:

37 (1) "Department" means the Kansas department of ~~health~~ *water and*
38 *environment.*

39 (2) "Eligible borrower" means:

40 (A) Any individual, limited liability agricultural company, limited
41 agricultural partnership or family farm corporation, as defined in K.S.A.
42 17-5903, and amendments thereto, involved in farming or livestock
43 production;

1 (B) a responsible party or an owner of real property, but does not
2 include the state, any state agency, the federal government or any agency
3 of the federal government; or

4 (C) a person who: (i) Is involved in a transaction related to real
5 property; (ii) is not a responsible party or owner of the real property; (iii)
6 voluntarily takes corrective action on the property in response to a request
7 or order for corrective action from the department; and (iv) voluntarily
8 implements an eligible conservation practice.

9 (3) "Eligible financial institution" means a bank or other financial
10 institution or association chartered or incorporated under the laws of this
11 state, or organized under the laws of the United States or another state,
12 ~~which~~ *that* has a main or branch office or chapter in this state that agrees to
13 participate in the Kansas local conservation lending program and is
14 eligible to be a depository of state funds.

15 (4) "Eligible practice" means a conservation practice that prevents or
16 reduces water pollution from nonpoint sources by using the most effective
17 and practicable means of achieving water quality goals. Eligible practices
18 include, but are not limited to, structural and nonstructural controls or
19 systems as identified in the nonpoint source management plan.

20 (5) "Eligible project" means an individual conservation practice or
21 system of conservation practices located within Kansas and identified in
22 the nonpoint source management plan as eligible for a low interest loan
23 through the local conservation lending program.

24 (6) "Linked deposit agreement" means the agreement and associated
25 attachments provided by the secretary to the eligible financial institution
26 for participation in the program.

27 (7) "Project application" means the forms provided by the department
28 for the purpose of determining and certifying eligibility for funding a
29 project through the local conservation lending program.

30 (8) "Secretary" means the secretary of ~~health~~ *the Kansas department*
31 *of water* and environment.

32 (b) There is hereby created a local conservation linked deposit
33 lending program, hereby referred to as the local conservation lending
34 program. The secretary may establish and administer the local
35 conservation lending program to facilitate loans by eligible financial
36 institutions for the construction, design, rehabilitation and enhancement of
37 nonpoint source control systems for public or private owners thereof. The
38 eligible financial institution shall enter into a linked deposit agreement
39 with the secretary, which shall include requirements necessary to
40 implement the purposes of the local conservation lending program.

41 (c) The secretary shall prepare a nonpoint source management plan.
42 The nonpoint source management plan, shall identify eligibility criteria,
43 practices eligible for funding through the local conservation lending

1 program, eligibility criteria for borrowers, eligibility criteria for costs,
2 project completion and certification requirements and process, and
3 establish other program requirements.

4 (d) The secretary shall authorize a linked deposit in the amount
5 certified by the secretary using long-term investment funds available from
6 the Kansas water pollution control revolving fund, K.S.A. 65-3322, and
7 amendments thereto, or from other available sources to the secretary, into
8 eligible financial institutions in the form of low-yielding certificates of
9 deposit or time or demand deposits, or other authorized deposits or
10 investments. If sufficient funds are not available for a linked deposit then
11 the applications may be considered when funds become available at an
12 interest rate identified annually by the secretary in the nonpoint source
13 management plan.

14 (e) The secretary is hereby authorized to disseminate information
15 regarding eligibility for potential participants in this program.

16 (f) The secretary may accept or reject a project application based on
17 the secretary's determination of project eligibility consistent with the
18 eligibility criteria in the nonpoint source management plan. Upon
19 acceptance of a project application, the secretary shall notify the eligible
20 financial institution and borrower of approval.

21 (g) An eligible financial institution that agrees to receive a local
22 conservation loan deposit shall accept and review applications for loans
23 from eligible borrowers. The eligible financial institution shall apply all
24 usual lending standards to determine the credit worthiness of eligible
25 borrowers.

26 (h) The eligible financial institution may approve or reject a loan
27 application based on the financial institution's evaluation of the eligible
28 borrowers included in the application, the amount of the loan in the
29 application and other appropriate considerations.

30 (i) The eligible financial institution shall enter into a local
31 conservation linked deposit participation agreement with the secretary,
32 which shall include requirements necessary to implement the purposes of
33 the Kansas local conservation loan deposit program.

34 (j) The loans authorized by this act shall not be deemed to constitute a
35 debt or liability of the state or the secretary, and shall not constitute a
36 pledge of the full faith and credit of the state, any political subdivision
37 thereof or the secretary. The state, any political subdivision thereof or the
38 secretary shall not, in any event, be liable for the payment of the principal
39 or interest on any such loan made by an eligible financial institution to an
40 eligible borrower. Any delay in payments or default on the part of an
41 eligible borrower does not, in any manner, affect the linked deposit
42 agreement between the eligible financial institution and the secretary.

43 (k) The secretary is hereby authorized to adopt any rules and

1 regulations necessary to carry out the provisions of this section.

2 Sec. 136. K.S.A. 65-3401 is hereby amended to read as follows: 65-
3 3401. It is hereby declared that protection of the health and welfare of the
4 citizens of Kansas requires the safe and sanitary disposal of solid wastes.
5 The legislature finds that the lack of adequate state regulations and control
6 of solid waste and solid waste management systems has resulted in
7 undesirable and inadequate solid waste management practices that are
8 detrimental to the health of the citizens of the state; degrade the quality of
9 the environment; and cause economic loss. For these reasons it is the
10 policy of the state to:

11 (a) Establish and maintain a cooperative state and local program of
12 planning and technical and financial assistance for comprehensive solid
13 waste management.

14 (b) Utilize the capabilities of private enterprise as well as the services
15 of public agencies to accomplish the desired objectives of an effective
16 solid waste management program.

17 (c) Require a permit for the operation of solid waste processing and
18 disposal systems.

19 (d) Achieve and maintain status for the Kansas department of ~~health~~
20 *water* and environment as an approved state agency for the purpose of
21 administering federal municipal solid waste management laws and
22 regulations.

23 (e) Encourage the wise use of resources through development of
24 strategies that reduce, reuse and recycle materials.

25 Sec. 137. K.S.A. 65-3402 is hereby amended to read as follows: 65-
26 3402. As used in this act, unless the context otherwise requires:

27 (a) "Solid waste" means garbage, refuse, waste tires as defined by
28 K.S.A. 65-3424, and amendments thereto, and other discarded materials,
29 including, but not limited to, solid, semisolid, sludges, liquid and
30 contained gaseous waste materials resulting from industrial, commercial,
31 agricultural and domestic activities. Solid waste does not include
32 hazardous wastes as defined by ~~subsection (f) of~~ K.S.A. 65-3430(~~f~~), and
33 amendments thereto, recyclables or the waste of domestic animals as
34 described by ~~subsection (a)(1) of~~ K.S.A. 65-3409(~~a~~)(1), and amendments
35 thereto.

36 (b) "Solid waste management system" means the entire process of
37 storage, collection, transportation, processing, and disposal of solid wastes
38 by any person engaging in such process as a business, or by any state
39 agency, city, authority, county or any combination thereof.

40 (c) "Solid waste processing facility" means incinerator, composting
41 facility, household hazardous waste facility, waste-to-energy facility,
42 transfer station, reclamation facility or any other location where solid
43 wastes are consolidated, temporarily stored, salvaged or otherwise

1 processed prior to being transported to a final disposal site. This term does
2 not include a scrap material recycling and processing facility.

3 (d) "Solid waste disposal area" means any area used for the disposal
4 of solid waste from more than one residential premises, or one or more
5 commercial, industrial, manufacturing or municipal operations. "Solid
6 waste disposal area" includes all property described or included within any
7 permit issued pursuant to K.S.A. 65-3407, and amendments thereto.

8 (e) "Person" means individual, partnership, firm, trust, company,
9 association, corporation, individual or individuals having controlling or
10 majority interest in a corporation, institution, political subdivision, state
11 agency or federal department or agency.

12 (f) "Waters of the state" means all streams and springs, and all bodies
13 of surface or groundwater, whether natural or artificial, within the
14 boundaries of the state.

15 (g) "Secretary" means the secretary of ~~health and environment~~ *the*
16 *Kansas department of water and environment*.

17 (h) "Department" means the Kansas department of ~~health~~ *water* and
18 environment.

19 (i) "Disposal" means the discharge, deposit, injection, dumping,
20 spilling, leaking or placing of any solid waste into or on any land or water
21 so that such solid waste or any constituent thereof may enter the
22 environment or be emitted into the air or discharged into any water.

23 (j) "Open dumping" means the disposal of solid waste at any solid
24 waste disposal area or facility ~~which~~ *that* is not permitted by the secretary
25 under the authority of K.S.A. 65-3407, and amendments thereto, or the
26 disposal of solid waste contrary to rules and regulations adopted pursuant
27 to K.S.A. 65-3406, and amendments thereto.

28 (k) "Generator" means any person who produces or brings into
29 existence solid waste.

30 (l) "Monitoring" means all procedures used to (1) systematically
31 inspect and collect data on the operational parameters of a facility, an area
32 or a transporter, or (2) to systematically collect and analyze data on the
33 quality of the air, groundwater, surface water or soils on or in the vicinity
34 of a solid waste processing facility or solid waste disposal area.

35 (m) "Closure" means the permanent cessation of active disposal
36 operations, abandonment of the disposal area, revocation of the permit or
37 filling with waste of all areas and volume specified in the permit and
38 preparing the area for the long-term care.

39 (n) "Postclosure" means that period of time subsequent to closure of a
40 solid waste disposal area when actions at the site must be performed.

41 (o) "Reclamation facility" means any location ~~at which~~ *where*
42 material containing a component defined as a hazardous substance
43 pursuant to K.S.A. 65-3452a, and amendments thereto, or as an industrial

1 waste pursuant to this section is processed.

2 (p) "Designated city" means a city or group of cities ~~which~~ *that*,
3 through interlocal agreement with the county ~~in which~~ *where* they are
4 located, is delegated the responsibility for preparation, adoption or
5 implementation of the county solid waste plan.

6 (q) "Nonhazardous special waste" means any solid waste designated
7 by the secretary as requiring extraordinary handling in a solid waste
8 disposal area.

9 (r) "Recyclables" means any materials that will be used or reused, or
10 prepared for use or reuse, as an ingredient in an industrial process to make
11 a product, or as an effective substitute for a commercial product.
12 "Recyclables" includes, but is not limited to, paper, glass, plastic,
13 municipal water treatment residues, as defined by K.S.A. 65-163, and
14 amendments thereto, and metal, but does not include yard waste.

15 (s) "Scrap material processing industry" means any person who
16 accepts, processes and markets recyclables.

17 (t) "Scrap material recycling and processing facility" means a fixed
18 location that utilizes machinery and equipment for processing only
19 recyclables.

20 (u) "Construction and demolition waste" means solid waste resulting
21 from the construction, remodeling, repair and demolition of structures,
22 roads, sidewalks and utilities; untreated wood and untreated sawdust from
23 any source; treated wood from construction or demolition projects; small
24 amounts of municipal solid waste generated by the consumption of food
25 and drinks at construction or demolition sites, including, but not limited to,
26 cups, bags and bottles; furniture and appliances from which ozone
27 depleting chlorofluorocarbons have been removed in accordance with the
28 provisions of the federal clean air act; solid waste consisting of motor
29 vehicle window glass; and solid waste consisting of vegetation from land
30 clearing and grubbing, utility maintenance, and seasonal or storm-related
31 cleanup. Such wastes include, but are not limited to, bricks, concrete and
32 other masonry materials, roofing materials, soil, rock, wood, wood
33 products, wall or floor coverings, plaster, drywall, plumbing fixtures,
34 electrical wiring, electrical components containing no hazardous materials,
35 nonasbestos insulation and construction related packaging. "Construction
36 and demolition waste" shall not include waste material containing friable
37 asbestos, garbage, furniture and appliances from which ozone depleting
38 chlorofluorocarbons have not been removed in accordance with the
39 provisions of the federal clean air act, electrical equipment containing
40 hazardous materials, tires, drums and containers even though such wastes
41 resulted from construction and demolition activities. Clean rubble that is
42 mixed with other construction and demolition waste during demolition or
43 transportation shall be considered to be construction and demolition waste.

1 (v) "Construction and demolition landfill" means a permitted solid
2 waste disposal area used exclusively for the disposal on land of
3 construction and demolition wastes. This term shall not include a site that
4 is used exclusively for the disposal of clean rubble.

5 (w) "Clean rubble" means the following types of construction and
6 demolition waste: Concrete and concrete products including reinforcing
7 steel, asphalt pavement, brick, rock and uncontaminated soil as defined in
8 rules and regulations adopted by the secretary.

9 (x) "Industrial waste" means all solid waste resulting from
10 manufacturing, commercial and industrial processes—~~which~~ *that* is not
11 suitable for discharge to a sanitary sewer or treatment in a community
12 sewage treatment plant or is not beneficially used in a manner that meets
13 the definition of recyclables. Industrial waste includes, but is not limited
14 to: Mining wastes from extraction, beneficiation and processing of ores
15 and minerals unless those minerals are returned to the mine site; fly ash,
16 bottom ash, slag and flue gas emission wastes generated primarily from
17 the combustion of coal or other fossil fuels; cement kiln dust; waste oil and
18 sludges; waste oil filters; and fluorescent lamps.

19 (y) "Composting facility" means any facility that composts wastes
20 and has a composting area larger than one-half acre.

21 (z) "Household hazardous waste facility" means a facility established
22 for the purpose of collecting, accumulating and managing household
23 hazardous waste and may also include small quantity generator waste or
24 agricultural pesticide waste, or both. Household hazardous wastes are
25 consumer products that when discarded exhibit hazardous characteristics.

26 (aa) "Waste-to-energy facility" means a facility that processes solid
27 waste to produce energy or fuel.

28 (bb) "Transfer station" means any facility where solid wastes are
29 transferred from one vehicle to another or where solid wastes are stored
30 and consolidated before being transported elsewhere, but shall not include
31 a collection box provided for public use as a part of a county-operated
32 solid waste management system if the box is not equipped with
33 compaction mechanisms or has a volume smaller than 20 cubic yards.

34 (cc) "Municipal solid waste landfill" means a solid waste disposal
35 area where residential waste is placed for disposal. A municipal solid
36 waste landfill also may receive other nonhazardous wastes, including
37 commercial solid waste, sludge and industrial solid waste.

38 (dd) "Construction related packaging" means small quantities of
39 packaging wastes that are generated in the construction, remodeling or
40 repair of structures and related appurtenances. "Construction related
41 packaging" does not include packaging wastes that are generated at retail
42 establishments selling construction materials, chemical containers
43 generated from any source or packaging wastes generated during

1 maintenance of existing structures.

2 (ee) "Industrial facility" includes all operations, processes and
3 structures involved in the manufacture or production of goods, materials,
4 commodities or other products located on, or adjacent to, an industrial site
5 and is not limited to a single owner or to a single industrial process. For
6 purposes of this act, it includes all industrial processes and applications
7 that may generate industrial waste ~~which~~ that may be disposed at a solid
8 waste disposal area ~~which~~ that is permitted by the secretary and operated
9 for the industrial facility generating the waste and used only for industrial
10 waste.

11 Sec. 138. K.S.A. 65-3419 is hereby amended to read as follows: 65-
12 3419. (a) Any person who violates any provision of ~~subsection (a) of~~
13 K.S.A. 65-3409(a), and amendments thereto, shall incur, in addition to any
14 other penalty provided by law, a civil penalty in an amount of up to \$5,000
15 for every such violation and, in the case of a continuing violation, every
16 day such violation continues shall be deemed a separate violation.

17 (b) The director of the *Kansas department of water and environment*,
18 division of environment *and conservation*, upon a finding that a person has
19 violated any provision of ~~subsection (a) of~~ K.S.A. 65-3409(a), and
20 amendments thereto, may impose a penalty within the limits provided in
21 this section, ~~which~~. Such penalty shall constitute an actual and substantial
22 economic deterrent to the violation for which it is assessed.

23 (c) No penalty shall be imposed pursuant to this section except upon
24 the written order of the director of the division of environment *and*
25 *conservation*, to the person who committed the violation. Such order shall
26 state the violation, the penalty to be imposed and the right of such person
27 to appeal to a hearing before the secretary ~~of health and environment~~. Any
28 such person may, within 15 days after service of the order, make written
29 request to the secretary for a hearing thereon. Hearings under this
30 subsection shall be conducted in accordance with the provisions of the
31 Kansas administrative procedure act.

32 (d) Any action of the secretary pursuant to subsection (c) is subject to
33 review in accordance with the Kansas judicial review act.

34 (e) Notwithstanding any other provision of this act, the secretary,
35 upon receipt of information that the storage, transportation, processing,
36 treatment or disposal of any waste may present a substantial hazard to the
37 health of persons or to the environment or for a threatened or actual
38 violation of this act or rules and regulations adopted pursuant thereto, or
39 any orders issued pursuant thereto, or any permit conditions required
40 thereby, may take such action as the secretary determines to be necessary
41 to protect the health of such persons or the environment. The action the
42 secretary may take shall include, but not be limited to:

43 (1) Issuing an order directing the owner, generator, transporter or the

1 operator of the processing, treatment or disposal facility or site, or the
2 custodian of the waste, which constitutes such hazard or threatened or
3 actual violation, to take such steps as are necessary to prevent the act or
4 eliminate the practice ~~which~~ *that* constitutes such hazard. Such action may
5 include, with respect to a facility or site, permanent or temporary cessation
6 of operation.

7 (2) Commencing an action to enjoin acts or practices specified in
8 paragraph (1) or requesting that the attorney general or appropriate district
9 or county attorney commence an action to enjoin those acts or practices or
10 threatened acts or practices. Upon a showing by the secretary that a person
11 has engaged in those acts or practices or intends to engage in those acts or
12 practices, a permanent or temporary injunction, restraining order or other
13 order may be granted by any court of competent jurisdiction. An action for
14 injunction under this paragraph (2) shall have precedence over other cases
15 in respect to order of trial.

16 (3) Applying to the district court in the county ~~in which~~ *where* an
17 order of the secretary under paragraph (1) will take effect, in whole or in
18 part, for an order of that court directing compliance with the order of the
19 secretary. Failure to obey the court order shall be punishable as contempt
20 of the court issuing the order. The application under this paragraph (3) for
21 a court order shall have precedence over other cases in respect to order of
22 trial.

23 (f) In any civil action brought pursuant to this section in which a
24 temporary restraining order, preliminary injunction or permanent
25 injunction is sought, it shall not be necessary to allege or prove at any
26 stage of the proceeding that irreparable damage will occur should the
27 temporary restraining order, preliminary injunction or permanent
28 injunction not be issued or that the remedy at law is inadequate, and the
29 temporary restraining order, preliminary injunction or permanent
30 injunction shall issue without such allegations and without such proof.

31 Sec. 139. K.S.A. 65-3423 is hereby amended to read as follows: 65-
32 3423. (a) When a city or a county or any combination of cities or counties,
33 or both, provides for a facility or facilities to recover materials or energy as
34 a part of an approved solid waste management plan, the city or county or
35 the separate legal entity created to govern the combination of cities or
36 counties, or both, if such an entity exists, may enter into contracts with
37 private persons for the performance of any such functions of the plan
38 ~~which~~ *that*, in the opinion of the city or county or such separate legal
39 entity, can desirably and conveniently be carried out by a private person
40 under contract provided any such contract shall contain such terms and
41 conditions as will enable the city or county or such separate legal entity to
42 retain overall supervision and control of the business, design, operating
43 management, transportation, marketing, planning and research and

1 development functions to be carried out or to be performed by such private
2 persons pursuant to such contract. Such contracts may be entered into
3 either on a negotiated or an open-bid basis, and the city or county or such
4 separate legal entity in its discretion may select the type of contract it
5 deems most prudent to utilize considering the scope of work, the
6 management complexities associated therewith, the extent of current and
7 future technological development requirements and the best interests of the
8 state.

9 (b) Private entities may construct, operate, maintain and own resource
10 recovery facilities; form contracts to supply solid waste to the resource
11 recovery facility or facilities; form contracts to market materials or energy
12 recovered from such facility or facilities; or utilize such facility or
13 facilities to conserve materials or energy by reducing the volume of solid
14 waste under the supervision of and with the approval of the city or county
15 or such separate legal entity, subject to the approval of the ~~Kansas~~
16 ~~department of health and environment~~, and in accordance with the
17 approved local solid waste management plan.

18 Sec. 140. K.S.A. 65-3424d is hereby amended to read as follows: 65-
19 3424d. (a) In addition to any other tax imposed upon the retail sale of new
20 vehicle tires, there is hereby imposed on retail sales of new vehicle tires~~(,~~
21 ~~excluding innertubes)~~, including new tires mounted on a vehicle sold at
22 retail for the first time, an excise tax of \$.25 per vehicle tire. Such tax shall
23 be paid by the purchaser of such tires and collected by the retailer thereof.

24 (b) The tax imposed by this section collected by the retailer shall
25 become due and payable as follows: When the total tax for which any
26 retailer is liable under this act does not exceed the sum of \$80 in any
27 calendar year, the retailer shall file an annual return on or before January
28 25 of the following year; when the total tax liability does not exceed
29 \$1,600 in any calendar year, the retailer shall file returns quarterly on or
30 before the 25th day of the month following the end of each calendar
31 quarter; when the total tax liability exceeds \$1,600 in any calendar year,
32 the retailer shall file a return for each month on or before the 25th day of
33 the following month. Each person collecting the tax imposed pursuant to
34 this section shall make a true report to the department of revenue, on a
35 form prescribed by the secretary of revenue, providing such information as
36 may be necessary to determine the amounts of taxes due and payable
37 hereunder for the applicable month or months, which report shall be
38 accompanied by the tax disclosed thereby. Records of sales of new tires
39 shall be kept separate and apart from the records of other retail sales made
40 by the person charged to collect the tax imposed pursuant to this section in
41 order to facilitate the examination of books and records as provided herein.

42 (c) The secretary of revenue or the secretary's authorized
43 representative shall have the right at all reasonable times during business

1 hours to make such examination and inspection of the books and records
2 of the person required to collect the tax imposed pursuant to this section as
3 may be necessary to determine the accuracy of such reports required
4 hereunder.

5 (d) The secretary of revenue is hereby authorized to administer and
6 collect the tax imposed by this section and to adopt such rules and
7 regulations as may be necessary for the efficient and effective
8 administration and enforcement of the collection thereof. Whenever any
9 person liable to collect the taxes imposed hereunder refuses or neglects to
10 pay them, the amount, including any penalty, shall be collected in the
11 manner prescribed for the collection of the retailers' sales tax by K.S.A.
12 79-3617, and amendments thereto.

13 (e) The secretary of revenue shall remit all revenue collected under
14 the provisions of this section to the state treasurer in accordance with the
15 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
16 each such remittance, the state treasurer shall deposit the entire amount in
17 the state treasury to the credit of the waste tire management fund.

18 (f) Whenever, in the judgment of the secretary of revenue, it is
19 necessary, in order to secure the collection of any taxes, penalties or
20 interest due, or to become due, under the provisions of this act, the
21 secretary may require any person charged with the collection of such tax to
22 file a bond with the director of taxation under conditions established by
23 and in such form and amount as prescribed by rules and regulations
24 adopted by the secretary.

25 (g) The secretary of revenue and the secretary of ~~health~~ *of water* and
26 environment shall cooperate to: (1) Ensure that retailers required to collect
27 the tax imposed by this section collect such tax on sales of tires for all
28 vehicles, as defined by K.S.A. 65-3424, and amendments thereto; and (2)
29 develop and distribute to tire retailers educational materials that emphasize
30 appropriate waste tire management practices.

31 Sec. 141. K.S.A. 65-3424i is hereby amended to read as follows: 65-
32 3424i. (a) Except as provided by subsection (b), no tire retailer shall refuse
33 to accept waste tires from customers.

34 (b) A tire retailer may: (1) Ask customers if they wish to retain their
35 old tires at the time of sale; (2) refuse to accept more tires from a customer
36 than purchased by that customer at the time of sale; or (3) refuse to accept
37 waste tires from a customer purchasing replacement tires for commercial
38 use if the tire retailer does not mount such replacement tires.

39 (c) Tire retailers shall prominently display or make available to
40 customers educational materials provided by the department of ~~health and~~
41 ~~environment~~ and *the Kansas* department of revenue relating to proper
42 waste tire management practices.

43 Sec. 142. K.S.A. 65-3426 is hereby amended to read as follows: 65-

1 3426. (a) There is hereby established within the *Kansas* department of
2 ~~health water~~ and environment the solid waste grants advisory committee;
3 ~~which that~~ shall be composed of eight members as follows:

4 (1) Seven members appointed by the governor, two of whom shall
5 represent the interests of regional solid waste management entities, two of
6 whom shall represent the interests of counties, one of whom shall
7 represent the interests of cities, one of whom shall represent the interests
8 of waste tire generators or handlers and one of whom shall represent the
9 interests of the private sector;

10 (2) the secretary of ~~health~~ *of water* and environment or the secretary's
11 designee.

12 (b) Appointive members of the solid waste grants advisory committee
13 shall serve terms of two years. The secretary of ~~health~~ *of water* and
14 environment or the person designated by the secretary shall serve as
15 chairperson of the advisory committee.

16 (c) Members of the solid waste grants advisory committee shall
17 receive amounts provided by ~~subsection (c) of~~ K.S.A. 75-3223(e), and
18 amendments thereto, for each day of actual attendance at any meeting of
19 the advisory committee or any subcommittee meeting authorized by the
20 advisory committee.

21 (d) The secretary of ~~health~~ *of water* and environment shall provide
22 technical support related to the activities of the solid waste grants advisory
23 committee, including but not limited to establishing project selection
24 criteria, performing technology evaluations, assessing technical feasibility
25 and determining consistency with the statewide solid waste management
26 plan, the applicable county or regional solid waste management plan and
27 regional activities.

28 (e) In accordance with schedules established by the secretary of
29 ~~health water~~ and environment, the solid waste grants advisory committee
30 shall meet to review competitive grant applications submitted pursuant to
31 ~~subsection (b) of~~ K.S.A. 65-3415(b), and amendments thereto. The
32 advisory committee shall establish a project priority list for each fiscal
33 year based upon the availability of funds as estimated by the secretary and
34 shall make recommendations regarding the selection of grantees and the
35 disbursement of moneys.

36 Sec. 143. K.S.A. 65-3427 is hereby amended to read as follows: 65-
37 3427. The number of full-time *positions* and regular part-time positions
38 equated to full-time, excluding seasonal and temporary positions, for the
39 *Kansas* department of ~~health~~ *water* and environment for any solid waste
40 management programs and functions pursuant to K.S.A. 65-3401 through
41 65-3425, and amendments thereto, shall not exceed 44.

42 Sec. 144. K.S.A. 65-3430 is hereby amended to read as follows: 65-
43 3430. As used in K.S.A. 65-3430 ~~to~~ *through* 65-3447, and amendments

1 thereto:

2 (a) "Department" means the Kansas department of ~~health~~ *water* and
3 environment.

4 (b) "Disposal" means the discharge, deposit, injection, dumping,
5 spilling, leaking or placing of any hazardous waste into or on any land or
6 water so that such hazardous waste or any constituent thereof may enter
7 the environment or be emitted into the air or discharged into any waters,
8 including groundwater.

9 (c) "Facility" means all contiguous land, structures and other
10 appurtenances and improvements on the land utilized for the purpose of
11 treating, storing or disposing of hazardous waste. A facility may consist of
12 several treatment, storage or disposal operational units.

13 (d) "Generator" means any person, by site, whose act or process
14 produces hazardous waste or whose act first causes a hazardous waste to
15 become subject to regulation.

16 (e) (1) "Hazardous waste" means any waste or combination of wastes
17 ~~which~~ *that*, because of its quantity, concentration or physical, chemical,
18 biological or infectious characteristics or as otherwise determined by the
19 secretary: (A) Causes or significantly contributes to an increase in
20 mortality or an increase in serious irreversible or incapacitating reversible
21 illness; or (B) poses a substantial present or potential hazard to human
22 health or the environment when improperly treated, stored, transported or
23 disposed of or otherwise managed.

24 (2) "Hazardous waste ~~shall~~" *does* not include: (A) Household waste;
25 (B) agricultural waste returned to the soil as fertilizer; (C) mining waste
26 and overburden from the extraction, beneficiation and processing of ores
27 and minerals, if returned to the mine site; (D) drilling fluids, produced
28 waters and other wastes associated with the exploration, development and
29 production of crude oil, natural gas or geothermal energy; (E) fly ash,
30 bottom ash, slag and flue gas emission control wastes generated primarily
31 from the combustion of coal or other fossil fuels; (F) cement kiln dust; or
32 (G) materials listed in 40 C.F.R. 261.4, as in effect on July 1, ~~1983~~ *2006*,
33 or any later version as established in rules and regulations adopted by the
34 secretary.

35 (f) "Hazardous waste facility" means a facility or part of a facility
36 *where*: (1) ~~At which~~ Hazardous waste is treated; (2) ~~at which~~ hazardous
37 waste is stored; or (3) ~~at which~~ hazardous waste is disposed and will
38 remain after closure. "Hazardous waste facility" includes a hazardous
39 waste injection well.

40 (g) "Hazardous waste management" means the systematic control of
41 the collection, source separation, storage, transportation, processing,
42 treatment, recovery and disposal of hazardous waste.

43 (h) "Hazardous waste transfer facility" means any hazardous waste

1 transportation-related facility, other than the location of generation or of
2 final treatment or disposal, that, during the course of transportation, serves
3 as an area for the accumulation, consolidation, distribution or transfer of
4 hazardous waste shipments, including loading docks, parking areas, rail
5 spurs and other similar areas where shipments of hazardous waste are held
6 during the normal course of transportation. "Hazardous waste transfer
7 facility" does not include hazardous waste facilities or permitted
8 household hazardous waste facilities.

9 (i) "Manifest" means the form prescribed by the secretary to be used
10 for identifying the quantity, composition, origin, routing and destination of
11 hazardous waste during ~~its~~ transportation from the point of generation to
12 the point of disposal, treatment or storage.

13 (j) "Modification" means the expansion or enlargement of a facility
14 beyond the boundaries established by an existing permit or any material or
15 substantial alteration or addition to an existing permitted facility ~~which~~
16 *that* would justify the application of permit conditions that would be
17 materially or substantially different from the conditions of the existing
18 permit or are absent from the existing permit.

19 (k) "Monitoring" means all procedures used to: (1) Systematically
20 inspect and collect samples or require information and copy records or
21 data on the operational parameters of a facility, generator or a transporter;
22 or (2) to systematically collect and analyze data on the quality of the air,
23 groundwater, surface water or soil on or in the vicinity of a hazardous
24 waste generator, transporter or facility.

25 (l) "Off-site facility" means a facility where treatment, storage or
26 disposal activities are conducted by a person other than the hazardous
27 waste generator.

28 (m) "On-site facility" means a facility ~~which~~ *that* is solely owned and
29 operated by the generator exclusively for the treatment, storage or disposal
30 of wastes ~~which~~ *that* have been generated on the contiguous property ~~and~~.
31 "*On-site facility*" includes the same or geographically contiguous property
32 ~~which~~ *that* may be divided by public or private right-of-way, ~~provided if~~
33 the entrance and exit between the properties is at a crossroads intersection
34 and access is by crossing and not going along the right-of-way or
35 noncontiguous properties owned by the same person but connected by a
36 right-of-way ~~which~~ *that* the person controls and ~~to which~~ the public does
37 not have access.

38 (n) "Permit" means the document issued to a person by the secretary
39 ~~which~~ *that* allows such person to construct and operate a hazardous waste
40 facility in the state.

41 (o) "Person" means an individual, trust, firm, joint stock company,
42 federal agency, corporation, including a government corporation,
43 partnership, state, municipality, commission, political subdivision of a

1 state or any interstate body.

2 (p) "Secretary" means the secretary of the *Kansas* department of
3 ~~health~~ water and environment.

4 (q) "Storage" means the holding of hazardous waste for a temporary
5 period at the end of which the hazardous waste is treated, disposed of or
6 stored elsewhere.

7 (r) "Transporter" means any person who is engaged in the off-site
8 transportation of hazardous waste by air, rail, land, highway or water.

9 (s) "Treatment" means any method, technique or process, including
10 neutralization, designed to change the physical, chemical or biological
11 character or composition of any hazardous waste so as to neutralize such
12 waste or so as to recover energy or material resources from the waste, to
13 render such waste nonhazardous, less hazardous, safer to transport, store
14 or dispose of; amenable for recovery or storage; or reduced in volume.

15 (t) "Waste" means any garbage, refuse, sludge or other discarded
16 material—~~which~~ that is abandoned or committed to treatment, storage or
17 disposal, including solid, liquid, semisolid or contained gaseous materials
18 resulting from industrial, commercial, mining, community and agricultural
19 activities. "Waste" does not include solid or dissolved materials in
20 domestic sewage or irrigation return flows or solid or dissolved materials
21 or industrial discharges—~~which~~ that are point sources subject to permits
22 under K.S.A. 65-165, and amendments thereto.

23 (u) "Acutely hazardous waste" means:

24 (1) A commercial chemical product or manufacturing chemical
25 intermediate having a generic name listed in 40 C.F.R. 261.33(e), as in
26 effect on July 1, ~~1984~~ 2006, or any later version as established in rules and
27 regulations adopted by the secretary; or

28 (2) an off-specification commercial chemical product or
29 manufacturing chemical intermediate—~~which~~ that, if either met
30 specifications, would have a generic name listed in 40 C.F.R. 261.33(e), as
31 in effect on July 1, ~~1984~~ 2006, or any later version as established in rules
32 and regulations adopted by the secretary.

33 (v) "Underground injection" means the subsurface emplacement of
34 fluids through a well for which a permit has been issued by the secretary.

35 (w) "Land treatment" means the practice of applying hazardous waste
36 onto or incorporating hazardous waste into the soil surface so that ~~it~~ *such*
37 waste degrades or decomposes and renders the waste nonhazardous.

38 (x) "Above ground storage" means the placement of containerized
39 hazardous waste into an above ground structure for a temporary period
40 prior to the reuse or ultimate treatment or disposal of such waste.

41 (y) "Closure plan" means a written document—~~which~~ that identifies the
42 procedures by which the owner or operator of a hazardous waste facility
43 will close such facility—~~so~~ as to control, minimize or eliminate, to the

1 extent necessary to prevent a threat to human health and the environment,
2 post-closure escape of hazardous waste, hazardous waste constituents,
3 leachate, contaminated rainfall or waste decomposition products to the
4 ground, groundwater, surface waters or to the atmosphere.

5 (z) "Post-closure plan" means the written document ~~which~~ *that*
6 identifies the procedures by which the owner or operator of a hazardous
7 waste facility shall provide, for a minimum of 30 years, for groundwater
8 protection, site security and maintenance of cover and leachate collection
9 systems.

10 Sec. 145. K.S.A. 65-3446 is hereby amended to read as follows: 65-
11 3446. (a) The secretary ~~of the department of health and environment~~ or the
12 director of the *Kansas department of water and environment*, division of
13 environment *and conservation*, if designated by the secretary, upon a
14 finding that a person has violated any provision of K.S.A. 65-3441, and
15 amendments thereto, may impose a penalty not to exceed \$10,000 ~~which~~.
16 *Such penalty* shall constitute an actual and substantial economic deterrent
17 to the violation for which it is assessed and, in the case of a continuing
18 violation, every day such violation continues shall be deemed a separate
19 violation.

20 (b) No penalty shall be imposed pursuant to this section except after
21 notice of violation and opportunity for hearing upon the written order of
22 the secretary or the director of the division of environment *and*
23 *conservation*, if designated by the secretary, to the person who committed
24 the violation. The order shall state the violation, the penalty to be imposed
25 and, in the case of an order of the director of the division of environment
26 *and conservation*, the right to appeal to the secretary for a hearing thereon.
27 Any person may appeal an order of the director of the division of
28 environment *and conservation* by making a written request to the secretary
29 for a hearing within 15 days of service of such order. The secretary shall
30 hear the person within 30 days after receipt of such request, unless such
31 time period is waived or extended by written consent of all parties or by a
32 showing of good cause. Hearings under this subsection shall be conducted
33 in accordance with the provisions of the Kansas administrative procedure
34 act.

35 (c) Any action of the secretary pursuant to this section is subject to
36 review in accordance with the Kansas judicial review act.

37 Sec. 146. K.S.A. 65-3458 is hereby amended to read as follows: 65-
38 3458. (a) The underground burial of hazardous waste produced by persons
39 generating quantities of such waste greater than those specified in K.S.A.
40 65-3451, and amendments thereto, is prohibited except as provided by
41 order of the secretary of ~~health~~ *of water* and environment issued pursuant
42 to this act. Such prohibition shall not be construed as prohibiting ~~(1)~~
43 mound landfill, ~~(2)~~ aboveground storage, ~~(3)~~ land treatment, ~~(4)~~

1 underground injection of hazardous waste or ~~(5)~~ on-site disposal or
2 consolidation of solid and hazardous wastes, including soils, sediments
3 and debris, if the wastes are generated as the result of a clean-up, approved
4 by the secretary, at the site, which may include adjacent or nearby property
5 under separate ownership that is part of the approved clean-up. Any
6 existing hazardous waste facility ~~which~~ that utilizes underground burial
7 shall cease such practice and, with the approval of the secretary, shall
8 implement closure and postclosure plans for all units of the facility ~~in~~
9 ~~which~~ where hazardous wastes have been disposed of underground.

10 (b) (1) The secretary of water and environment shall decide whether
11 or not an exception to the prohibition against underground burial of
12 hazardous waste shall be granted for a particular hazardous waste. No
13 decision to grant an exception shall be rendered unless ~~it is demonstrated~~
14 *the petitioner demonstrates* to the secretary that, except for underground
15 burial, no economically reasonable or technologically feasible
16 methodology exists for the disposal of a particular hazardous waste. The
17 procedures for obtaining an exception to the prohibition against
18 underground burial of hazardous waste shall include a public hearing
19 conducted in accordance with the provisions of the Kansas administrative
20 procedure act and such other procedures as are established and prescribed
21 by rules and regulations adopted by the secretary. Such rules and
22 regulations shall include requirements for the form and contents of a
23 petition desiring an exception.

24 (2) Within 90 days after submission of a petition desiring an
25 exception, ~~and~~ if the secretary decides to grant an exception to the
26 prohibition against underground burial of hazardous waste, the secretary of
27 ~~health~~ water and environment shall issue an order so providing. Any action
28 by the secretary pursuant to this section is subject to review in accordance
29 with the Kansas judicial review act.

30 Sec. 147. K.S.A. 65-3491 is hereby amended to read as follows: 65-
31 3491. (a) There is hereby created in the state treasury the hazardous waste
32 management fund.

33 (b) Subject to the provisions of subsection (c), moneys credited to the
34 hazardous waste management fund may be expended for the following
35 purposes:

36 (1) Technical reviews of applications for permits pursuant to K.S.A.
37 65-3430 through 65-3460, and amendments thereto, including permit
38 modifications and permit renewals for hazardous waste facilities;

39 (2) evaluating options available for minimizing the generation of
40 hazardous wastes;

41 (3) completing background investigations of applicants pursuant to
42 ~~subsection (e) of~~ K.S.A. 65-3437(c), and amendments thereto;

43 (4) completing site investigations pursuant to ~~subsection (d) of~~

1 K.S.A. 65-3437(d), and amendments thereto;

2 (5) assuring that a permittee pursuant to K.S.A. 65-3430 through 65-
3 3460, and amendments thereto, fulfills all permit conditions during the
4 effective period of the permit; and

5 (6) payment of the administrative, technical and legal costs incurred
6 by the secretary of *water and environment* in carrying out the provisions of
7 K.S.A. 65-3430 through 65-3460, and amendments thereto, including the
8 cost of any additional employees or increased operating costs of the
9 *Kansas* department of *water and environment* attributable thereto.

10 (c) Moneys credited to the hazardous waste management fund from
11 fees established pursuant to ~~subsection (v)(1) of~~ K.S.A. 65-3431(v)(1), and
12 amendments thereto, shall be expended only to recover costs associated
13 with the review and processing of the permit application for which the fee
14 was paid.

15 (d) On or before the 10th of each month, the director of accounts and
16 reports shall transfer from the state general fund to the hazardous waste
17 management fund interest earnings based on:

18 (1) The average daily balance of moneys in the hazardous waste
19 management fund for the preceding month; and

20 (2) the net earnings rate for the pooled money investment portfolio
21 for the preceding month.

22 (e) All expenditures from the hazardous waste management fund
23 shall be made in accordance with appropriation acts upon warrants of the
24 director of accounts and reports issued pursuant to vouchers approved by
25 the secretary of *water and environment* for the purposes set forth in this
26 section.

27 (f) The hazardous waste management fund shall be used for the
28 purposes set forth in this section and for no other governmental purposes.
29 It is the intent of the legislature that the fund shall remain intact and
30 inviolate for the purposes set forth in this section and moneys in the fund
31 shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-
32 3726a, and amendments thereto.

33 ~~(g) On the effective date of this act, the director of accounts and~~
34 ~~reports shall transfer all moneys in the hazardous waste perpetual care trust~~
35 ~~fund and the environmental permit fund, created pursuant to K.S.A. 65-~~
36 ~~3431 as it existed immediately before the effective date of this act, to the~~
37 ~~hazardous waste management fund. On the effective date of this act, all~~
38 ~~liabilities of the hazardous waste perpetual care trust fund and the~~
39 ~~environmental permit fund are hereby transferred to and imposed upon the~~
40 ~~hazardous waste management fund. On the effective date of this act, the~~
41 ~~hazardous waste perpetual care trust fund and the environmental permit~~
42 ~~fund are hereby abolished.~~

43 Sec. 148. K.S.A. 65-34,102 is hereby amended to read as follows: 65-

1 34,102. As used in the Kansas storage tank act:

2 (a) "Aboveground storage tank" means:

3 (1) Any storage tank ~~in which~~ *where* greater than 90% of the tank
4 volume, including volume of the piping, is not below the surface of the
5 ground; or

6 (2) any storage tank situated in an underground area, such as a
7 basement, cellar, mine working, drift, shaft or tunnel, if the storage tank is
8 situated upon or above the surface of the floor.

9 (b) "Aboveground fund" means the aboveground petroleum storage
10 tank release trust fund.

11 (c) "Department" means the Kansas department of ~~health~~ *water* and
12 environment.

13 (d) "Facility" means all contiguous land, structures and other
14 appurtenances and improvements on the land used in connection with one
15 or more storage tanks.

16 (e) "Federal act" means the solid waste disposal act (42 U.S.C. §
17 3152 et seq.; and 42 U.S.C. § 6991 et seq., as in effect on January 1,
18 2012), and rules and regulations adopted pursuant to such federal laws and
19 in effect on January 1, 2012.

20 (f) "Financial responsibility" means insurance, guarantee, surety
21 bond, letter of credit, qualification as a self-insurer or any other method
22 satisfactory to the secretary to provide for taking corrective action,
23 including cleanup and restoration of any damage to the land, air or waters
24 of the state, and compensating third parties for cleanup, bodily injury or
25 property damage resulting from a sudden or nonsudden release of a
26 regulated substance arising from the construction, relining, ownership or
27 operation of an underground storage tank and in the amount specified in
28 the federal act.

29 (g) "Guarantor" means any person, other than an owner or operator,
30 who provides evidence of financial responsibility for an owner or operator.

31 (h) "Operator" means any person in control of or having
32 responsibility for the daily operation of a storage tank, ~~but such term shall~~.
33 "*Operator*" does not include a person whose only responsibility regarding
34 such storage tank is filling such tank with a regulated substance and who
35 does not dispense or have control of the dispensing of regulated substances
36 from the storage tank.

37 (i) "Own" means to hold title to or possess an interest in a storage
38 tank or the regulated substance in a storage tank.

39 (j) (1) "Owner" means any person who: (A) Is or was the owner of
40 any underground storage tank ~~which~~ *that* was in use on November 8, 1984,
41 or brought into use subsequent to that date; (B) in the case of an
42 underground storage tank in use prior to November 8, 1984, owned such
43 tank immediately prior to the discontinuation of its use; (C) is or was the

1 owner of any aboveground storage tank ~~which~~ *that* was in use on July 1,
2 1992, or brought into use subsequent to that date; or (D) in the case of an
3 aboveground storage tank in use prior to July 1, 1992, owned such tank
4 immediately prior to the discontinuation of its use.

5 (2) "Owner" does not include: (A) A person who holds an interest in a
6 petroleum storage tank solely for financial security, unless through
7 foreclosure or other related actions the holder of a security interest has
8 taken possession of the storage tank; and (B) any city or county ~~which~~ *that*
9 obtains a storage tank or regulated substance as a result of tax foreclosure
10 proceedings.

11 (k) "Person" means an individual, trust, firm, joint venture,
12 consortium, joint-stock company, corporation, partnership, association,
13 state, interstate body, municipality, commission, political subdivision or
14 any agency, board, department or bureau of this state or of any other state
15 or of the United States government.

16 (l) "Petroleum" means petroleum, including crude oil or any fraction
17 thereof, ~~which~~ *that* is liquid at standard conditions of temperature and
18 pressure, 60 degrees Fahrenheit and 14.7 pound per square inch absolute,
19 including, but not limited to, gasoline, gasohol, diesel fuel, fuel oils,
20 kerosene and biofuels.

21 (m) "Petroleum product" means petroleum other than crude oil.

22 (n) "Petroleum storage tank" means any storage tank used to contain
23 an accumulation of petroleum.

24 (o) "Regulated substance" means petroleum or any element,
25 compound, mixture, solution or substance defined in section 101(14) of
26 the comprehensive environmental response, compensation and liability act
27 of 1980 of the United States as in effect on January 1, 1989, but not if
28 regulated as a hazardous waste under the resource conservation and
29 recovery act of 1976, 42 U.S.C. §§ 6921 through 6939b, as in effect on
30 January 1, 1989.

31 (p) "Release" means any spilling, leaking, emitting, discharging,
32 escaping, leaching or disposing from a storage tank into groundwater,
33 surface water or soils.

34 (q) "Removal" means the process of removing or disposing of a
35 storage tank; *that is* no longer in service; and ~~also shall mean~~ the process
36 of abandoning such tank; in place.

37 (r) "Repair" means to restore a tank, pipe, spill prevention equipment,
38 overfill prevention equipment, corrosion protection equipment, release
39 detection equipment or other UST system component that has caused a
40 release or a suspected release of product from the UST system or has
41 failed to function properly. ~~The term~~ "Repair" includes modification or
42 correction of a storage tank through such means as relining, replacement
43 of piping, valves, fillpipes, vents and liquid level monitoring systems; and

1 the maintenance and inspection of the efficacy of cathodic protection
2 devices, but ~~the term "repair"~~ does not include the process of conducting a
3 tightness test to establish the integrity of a tank.

4 (s) "Secretary" means the secretary of ~~health~~ *the Kansas department*
5 *of water* and environment.

6 (t) "Storage tank" means any one or combination of tanks used to
7 contain an accumulation of regulated substances, the associated piping and
8 ancillary equipment and the containment system.

9 (u) "Tank" means a stationary device designed to contain an
10 accumulation of substances and constructed of non-earthen materials such
11 as concrete, steel or plastic; that provide structural support.

12 (v) "Terminal" means a bulk storage facility for storing petroleum
13 supplied by pipeline or marine vessel.

14 (w) "Trade secret" ~~has the same meaning as provided~~ *means the same*
15 *as defined* in K.S.A. 60-3320, and amendments thereto.

16 (x) "Underground storage tank" means any storage tank ~~in which~~
17 *where* 10% or more of the tank volume, including volume of the piping, is
18 below the surface of the ground. "Underground storage tank" does not
19 include any storage tank situated in an underground area, such as a
20 basement, cellar, mine working, drift, shaft or tunnel, if the storage tank is
21 situated upon or above the surface of the floor.

22 (y) "Underground storage tank contractor" or "contractor" means a
23 business ~~which~~ *that* holds itself out as being qualified to install, repair or
24 remove underground storage tanks.

25 (z) "Underground fund" means the underground petroleum storage
26 tank release trust fund.

27 (aa) "Underground storage tank installer" or "installer" means an
28 individual who has an ownership interest or exercises a management or
29 supervisory position with an underground storage tank contractor. ~~The~~
30 ~~term shall include and includes~~ the crew chief, expediter, engineer,
31 supervisor, leadman or foreman in charge of a tank installation project.

32 (bb) "UST redevelopment fund" means the Kansas UST property
33 redevelopment trust fund.

34 (cc) "Abandoned underground storage tank" means an underground
35 storage tank that exhibits one or more of the following conditions:

36 (1) Is not in use for more than three months;

37 (2) does not have a current tank permit issued by the department; or

38 (3) has been temporarily closed, in accordance with department
39 guidelines, for more than 12 months.

40 (dd) "Property owner" means, for the purposes of the UST
41 redevelopment fund, a person who owns real property ~~on which~~ *where* an
42 abandoned underground storage tank is located.

43 (ee) "Installation of a new motor fuel dispenser system" means the

1 installation of a new motor fuel dispenser and the equipment necessary to
 2 connect the dispenser to the underground storage tank system, but does not
 3 mean the installation of a motor fuel dispenser installed separately from
 4 the equipment needed to connect the dispenser to the underground storage
 5 tank system.

6 (ff) "Replaced" means:

7 (1) For a tank, to remove a tank and install another tank; and

8 (2) for piping, to remove 50% or more of piping and install other
 9 piping, excluding connectors, connected to a single tank. For tanks with
 10 multiple piping runs, this definition applies independently to each piping
 11 run.

12 (gg) "Secondary containment" or "secondarily contained" means a
 13 release prevention and release detection system for a tank or piping. These
 14 systems have an inner and outer barrier with an interstitial space that is
 15 monitored for a release of regulated substances from the underground
 16 storage tank and piping.

17 (hh) "Safe suction piping" means underground piping that conveys
 18 regulated substances under suction, is designed and constructed to operate
 19 at less than atmospheric pressure, is sloped so that the contents of the pipe
 20 drain back into the storage tank if the suction is released and contains only
 21 one check valve in each suction line that is located directly below and as
 22 close as practical to the suction pump.

23 (ii) "Under-dispenser containment" means containment underneath a
 24 dispenser system designed to prevent dispenser system leaks from
 25 reaching soil or groundwater. The containment ~~must~~ shall be:

26 (1) Liquid tight on its sides, bottom and at any penetrations;

27 (2) compatible with the substance conveyed by the piping; and

28 (3) allow for visual inspection and access to the components in the
 29 containment or be monitored for a release of regulated substances from
 30 dispenser and piping.

31 Sec. 149. K.S.A. 65-34,126 is hereby amended to read as follows: 65-
 32 34,126. (a) The commissioner of insurance shall adopt and implement a
 33 plan for applicants for insurance who are in good faith entitled to
 34 insurance necessary to achieve compliance with the financial
 35 responsibility requirements for third-party liability imposed by 40 C.F.R.
 36 part 280, subpart H, and part 281 adopted by the federal environmental
 37 protection agency. Insurers undertaking to transact the kinds of insurance
 38 specified in ~~subsection (b) or (c) of K.S.A. 40-1102(b) or (c), and~~
 39 amendments thereto, and rating organizations ~~which~~ that file rates for such
 40 insurance shall cooperate in the preparation and submission to the
 41 commissioner of insurance of a plan or plans for the insurance specified in
 42 this section. Such plan shall provide:

43 (1) Insurance necessary to achieve compliance with the financial

- 1 responsibility requirements for third-party liability imposed by 40 C.F.R.
2 part 280, subpart H, and part 281;
- 3 (2) for the appointment by the plan of a servicing carrier—~~which that~~
4 shall be: (A) An insurance company authorized to transact business in this
5 state; (B) an insurance company—~~which that~~ is listed with the commissioner
6 pursuant to K.S.A. 40-246e and amendments thereto; or (C) a risk
7 retention group, as defined by K.S.A. 40-4101 and amendments thereto,
8 ~~which that~~ meets the requirements established under the federal liability
9 risk retention act of 1986 (15 U.S.C. 3901 et seq.), and has registered with
10 the commissioner pursuant to K.S.A. 40-4103, and amendments thereto;
- 11 (3) reasonable rules governing the plan, including provisions
12 requiring, at the request of the applicant, an immediate assumption of the
13 risk by an insurer or insurers upon completion of an application, payment
14 of the specified premium and deposit of the application and the premium
15 in the United States mail, postage prepaid and addressed to the plan's
16 office;
- 17 (4) rates and rate modifications applicable to such risks,—~~which and~~
18 ~~such~~ rates shall be established as provided by subsection (b);
- 19 (5) the limits of liability—~~which that~~ the insurer shall be required to
20 assume;
- 21 (6) coverage for only underground storage tanks located within this
22 state;
- 23 (7) coverage for at least 12 months from the date of the original
24 application with respect to any underground storage tank—~~which that~~ has
25 been installed for less than 10 years, and may provide such coverage with
26 respect to any such tank—~~which that~~ has been installed 10 or more years,
27 without requiring tank integrity tests, soil tests or other tests for
28 insurability if, within six months immediately preceding application for
29 insurance, the tank has been made to comply with all provisions of federal
30 and state law; and all applicable rules and regulations adopted pursuant
31 thereto, but the plan may provide for renewal or continuation of such
32 coverage to be contingent upon satisfactory evidence that the tank or tanks
33 to be insured continue to be in compliance with such laws and rules and
34 regulations;
- 35 (8) exclusion from coverage of any damages for noneconomic loss
36 and any damages resulting from intentional acts of the insured or agents of
37 the insured;
- 38 (9) to the extent allowed by law, subrogation of the insurer to all
39 rights of recovery from other sources for damages covered by the plan or
40 plans;
- 41 (10) an optional deductible of the first \$2,500, \$5,000 or \$10,000 of
42 liability per occurrence at any one location for compensation of third
43 parties for bodily injury and property damage caused by either gradual or

1 sudden and accidental releases from underground petroleum storage tanks,
2 but no such deductible shall apply to reasonable and necessary attorney
3 fees and other reasonable and necessary expenses incurred in defending a
4 claim for such compensation;

5 (11) coverage only of claims for occurrences that commenced during
6 the term of the policy and that are discovered and reported to the insurer
7 during the policy period or within six months after the effective date of the
8 cancellation or termination of the policy;

9 (12) a method whereby applicants for insurance, insureds and
10 insurers may have a hearing on grievances and the right of appeal to the
11 commissioner;

12 (13) a method whereby adequate reserves are established for open
13 claims and claims incurred but not reported based on advice from an
14 independent actuary retained by the plan at least annually, the cost of
15 which shall be borne by the plan;

16 (14) a method whereby the plan shall compare the premiums earned
17 to the losses and expenses sustained by the plan for the preceding fiscal
18 year and if, for that year:

19 (A) There is any excess of losses and expenses over premiums
20 earned, plus amounts transferred pursuant to subsection (a)(15), an amount
21 equal to such excess losses and expenses shall be transferred from the
22 underground fund established by K.S.A. 65-34,114, and amendments
23 thereto to the plan; or

24 (B) there is any surplus of premiums earned, plus amounts transferred
25 pursuant to subsection (a)(15), over losses, including loss reserves, and
26 expenses sustained, $\frac{1}{2}$ of such surplus shall be transferred to such fund
27 from the plan and the remaining $\frac{1}{2}$ of such surplus shall be refunded from
28 the plan to the insureds in proportion to the amount each paid into the plan
29 during the preceding fiscal year; and

30 (15) a method whereby, during any fiscal year, whenever the losses
31 and expenses sustained by the plan exceed premiums earned, an amount
32 equal to the excess of losses and expenses shall be transferred from the
33 underground fund established by K.S.A. 65-34,114, and amendments
34 thereto, to the plan upon receipt by the ~~secretary of health and environment~~
35 of evidence, satisfactory to the secretary, of the amount of the excess
36 losses and expenses.

37 (b) The commissioner of insurance shall establish rates, effective
38 January 1 of each year, for coverage provided under the plan adopted
39 pursuant to this section. Such rates shall be reasonable, adequate and not
40 unfairly discriminatory. Such rates shall be based on loss and expense
41 experience developed by risks insured by the plan and shall be in an
42 amount deemed sufficient by the commissioner to fund anticipated claims
43 based upon reasonably prudent actuarial principles, except that:

1 (1) Due consideration shall be given to the loss and expense
2 experience developed by similar plans operating or trust funds offering
3 third party liability coverage in other states and the voluntary market; and

4 (2) ~~before January 1, 1992, the annual rate shall be not more than~~
5 ~~\$500 for each tank for which coverage is provided under the plan with~~
6 ~~selection of a \$10,000 deductible.~~

7 in establishing rates pursuant to this subsection, the commissioner shall
8 establish, as appropriate, lower rates for tanks complying with all federal
9 standards, including design, construction, installation, operation and
10 release detection standards, with which such tanks are or will be required
11 to comply by 40 C.F.R. part 280 as in effect on the effective date of this
12 act.

13 (c) The commissioner of insurance shall appoint a governing board
14 for the plan. The governing board shall meet at least annually to review
15 and prescribe operating rules of the plan. Such board shall consist of five
16 members appointed as follows: One representing domestic or foreign
17 insurance companies, one representing independent insurance agents, one
18 representing underground storage tank owners and operators and two
19 representing the general public. No member representing the general
20 public shall be, or be affiliated with, an insurance company, independent
21 insurance agent or underground storage tank operator. Members shall be
22 appointed for terms of three years, ~~except that the initial appointment shall~~
23 ~~include two members appointed for two-year terms and one member~~
24 ~~appointed for a one-year term, as designated by the commissioner.~~

25 (d) Before adoption of a plan pursuant to this section, the
26 commissioner of insurance shall hold a hearing thereon.

27 (e) An insurer participating in the plan adopted by the commissioner
28 of insurance pursuant to this section may pay a commission with respect to
29 insurance assigned under the plan to an agent licensed for any other
30 insurer participating in the plan or to any insurer participating in the plan.

31 (f) The commissioner of insurance may adopt such rules and
32 regulations as necessary to administer the provisions of this section.

33 (g) ~~The department of health and environment~~ and the plan shall
34 provide to each other such information as necessary to implement and
35 administer the provisions of this section. Any such information ~~which that~~
36 is confidential while in the possession of the department or plan shall
37 remain confidential after being provided to the other pursuant to this
38 subsection.

39 (h) This section shall be a part of and supplemental to the Kansas
40 storage tank act.

41 Sec. 150. K.S.A. 65-34,133 is hereby amended to read as follows: 65-
42 34,133. (a) There is hereby established the UST redevelopment fund
43 compensation advisory board composed of five members, including the

1 state fire marshal or the state fire marshal's designee, the director of the
2 *Kansas department of water and environment*, division of environment ~~of~~
3 ~~the department~~ *and conservation* or *the director's* designee, two
4 representatives from the petroleum industry, at least one of which shall be
5 a petroleum marketer, and one representative from the petroleum
6 equipment installation industry. The governor shall appoint the appointive
7 members of the board, and the members so appointed shall serve for terms
8 of the duration of the UST redevelopment fund. The governor also shall
9 designate a member of the board as its ~~chair~~ *chairperson*, to serve in such
10 capacity at the pleasure of the governor. The secretary shall provide staff
11 to support the activities of the board.

12 (b) Appointed members of the board attending meetings of such
13 board, or attending a subcommittee meeting thereof, when authorized by
14 such board, shall receive the amounts provided in ~~subsection (c)~~ of K.S.A.
15 75-3223(e), and amendments thereto.

16 (c) The board shall provide advice and counsel and make
17 recommendations to the secretary regarding disputes over the
18 disbursement of moneys from the UST redevelopment fund.

19 Sec. 151. K.S.A. 65-34,142 is hereby amended to read as follows: 65-
20 34,142. As used in this act:

21 (a) "Chlorinated drycleaning solvent" means any drycleaning solvent
22 ~~which that~~ contains a compound ~~which that~~ has a molecular structure
23 containing the element chlorine.

24 (b) "Corrective action" means those activities described in ~~subsection~~
25 ~~(a)~~ of K.S.A. 65-34,148(a), and amendments thereto.

26 (c) "Corrective action plan" means a plan approved by the secretary
27 to perform corrective action at a drycleaning facility.

28 (d) "Department" means the *Kansas* department of ~~health~~ *water* and
29 environment.

30 (e) "Drycleaning facility" means a commercial establishment that
31 operates, or has operated in the past, in whole or in part for the purpose of
32 cleaning garments or other fabrics utilizing a process that involves any use
33 of drycleaning solvents. "Drycleaning facility" includes all contiguous
34 land, structures and other appurtenances and improvements on the land
35 used in connection with a "drycleaning facility" but does not include
36 prisons or governmental entities.

37 (f) "Drycleaning solvent" means any and all nonaqueous solvents
38 used or to be used in the cleaning of garments and other fabrics at a
39 drycleaning facility and includes, but is not limited to, perchloroethylene,
40 also known as tetrachloroethylene, ~~and~~ petroleum-based solvents; and the
41 products into which such solvents degrade.

42 (g) "Drycleaning unit" means a machine or device ~~which that~~ utilizes
43 drycleaning solvents to clean garments and other fabrics and includes any

1 associated piping and ancillary equipment and any containment system.

2 (h) "Fund" means the drycleaning facility release trust fund.

3 (i) "Immediate response to a release" means containment and control
4 of a known release in excess of a reportable quantity and notification to the
5 department within 48 hours of any known release in excess of a reportable
6 quantity.

7 (j) "Owner" means any person who owns or leases, or has owned or
8 leased, a drycleaning facility and who is or has been responsible for the
9 operation of drycleaning operations at such drycleaning facility.

10 (k) "Person" means an individual, trust, firm, joint venture,
11 consortium, joint-stock company, corporation, partnership, association or
12 limited liability company. "Person" does not include any governmental
13 organization.

14 (l) "Release" means any spill, leak, emission, discharge, escape, leak
15 or disposal of drycleaning solvent from a drycleaning facility into the soils
16 or waters of the state.

17 (m) "Reportable quantity" means a known release of a chlorinated
18 drycleaning solvent in excess of one quart over a 24-hour period or a
19 known release of a nonchlorinated drycleaning solvent in excess of one
20 gallon over a 24-hour period.

21 (n) "Retailer" means any business that: (1) Is registered for purposes
22 of the Kansas retailers sales tax act and provides drycleaning, or
23 drycleaning and laundry, services to final consumers; or (2) has provided a
24 drycleaning, or drycleaning and laundry, facility with a resale exemption
25 certificate and is responsible for charging and collecting retailers' sales tax
26 from final consumers of drycleaning or laundry services.

27 (o) "Secretary" means the secretary of ~~health~~ *the Kansas department*
28 *of water* and environment.

29 Sec. 152. K.S.A. 65-34,144 is hereby amended to read as follows: 65-
30 34,144. (a) It shall be unlawful for any person to:

31 (1) Operate a drycleaning facility in violation of this act, rules and
32 regulations adopted pursuant to this act or orders of the secretary pursuant
33 to this act;

34 (2) prevent or hinder a properly identified officer or employee of the
35 department or other authorized agent of the secretary from entering,
36 inspecting, sampling or responding to a release as authorized by this act;

37 (3) knowingly make any false material statement or representation in
38 any record, report or other document filed, maintained or used for the
39 purpose of compliance with this act;

40 (4) knowingly destroy, alter or conceal any record required to be
41 maintained by this act or rules and regulations adopted under this act;

42 (5) willfully allow a release or knowingly fail to make an immediate
43 response to a release in accordance with this act and rules and regulations

1 pursuant to this act.

2 (b) The director of the *Kansas department of water and environment*,
3 division of environment *and conservation*, upon a finding that a person has
4 violated a provision of subsection (a), may impose on such person an
5 administrative penalty in an amount not to exceed \$500 for every
6 violation.

7 (c) In assessing an administrative penalty under this section, the
8 director ~~of the division of environment~~ shall consider, when applicable, the
9 following factors:

10 (1) The extent ~~to which~~ *that* the violation presents a hazard to human
11 health;

12 (2) the extent ~~to which~~ *that* the violation has or may have an adverse
13 effect on the environment;

14 (3) the amount of the reasonable costs incurred by the state in
15 detection and investigation of the violation; and

16 (4) the economic savings realized by the person in not complying
17 with the provision for which a violation is charged.

18 Sec. 153. K.S.A. 65-34,153 is hereby amended to read as follows: 65-
19 34,153. (a) Any person adversely affected by any order or decision of the
20 director of the *Kansas department of water and environment*, division of
21 environment *and conservation* or the secretary under this act may, within
22 15 days of service of the order or decision, make a written request for a
23 hearing. Hearings under this section shall be conducted in accordance with
24 the provisions of the Kansas administrative procedure act.

25 (b) Any person adversely affected by any final action of the secretary
26 pursuant to this act may obtain a review of the action in accordance with
27 the Kansas judicial review act.

28 Sec. 154. K.S.A. 65-34,162 is hereby amended to read as follows: 65-
29 34,162. As used in this act:

30 (a) "Contaminant" means such alteration of the physical, chemical or
31 biological properties of any soils and waters of the state as will or is likely
32 to create a nuisance or render such soils or waters potentially harmful, or
33 injurious to public health, safety or welfare, or to the plant, animal or
34 aquatic life of the state.

35 (b) "Department" means the *Kansas department of ~~health~~ water and*
36 environment.

37 (c) "Secretary" means the secretary of ~~health~~ *the Kansas department*
38 *of water and environment*.

39 Sec. 155. K.S.A. 65-34,175 is hereby amended to read as follows: 65-
40 34,175. (a) There is hereby created in the state treasury the environmental
41 stewardship fund. All moneys received pursuant to K.S.A. 65-34,117(b)
42 (5), and amendments thereto, shall be deposited into the environmental
43 stewardship fund.

1 (b) Fund expenditures from the environmental stewardship fund shall
2 be used by the secretary of ~~the department of health~~ *water* and
3 environment for:

4 (1) The secretary ~~of health and environment~~ to take whatever
5 emergency action necessary or appropriate in response to an
6 environmental threat to public health or safety;

7 (2) state-led programs to investigate, monitor, remediate and perform
8 long-term care actions;

9 (3) state matching funds and long-term care actions at federal
10 remedial actions; and

11 (4) the administrative, personnel and contractual service expenses
12 incurred in undertaking the provisions of this section.

13 (c) The secretary of ~~the department of health~~ *water* and environment
14 shall undertake cost recovery actions for expenditures from the
15 environmental stewardship fund if a responsible party is identified.

16 (d) The environmental stewardship fund shall be used for the
17 purposes set forth in this act and for no other governmental purposes.
18 Moneys in the environmental stewardship fund shall not be subject to the
19 provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments
20 thereto.

21 (e) All such expenditures from the environmental stewardship fund
22 shall be made in accordance with appropriation acts upon warrants of the
23 director of accounts and reports issued pursuant to vouchers approved by
24 the secretary of ~~health~~ *of water* and environment or the secretary's
25 designee.

26 Sec. 156. K.S.A. 65-34,176 is hereby amended to read as follows: 65-
27 34,176. (a) (1) For a site to be eligible to participate in the risk
28 management program, the secretary shall make a finding that the site:

29 (A) Is subject to an agreement or order under the authority of the
30 secretary's bureau of environmental remediation; and

31 (B) poses a low risk to human health and the environment.

32 (2) In making eligibility determinations, the secretary shall have
33 authority to consider such additional factors as deemed relevant.

34 (3) Any changes in site conditions or property use that results in a
35 change in the risks posed by the site shall make a site ineligible for
36 acceptance or continued participation in the risk management program.

37 (b) (1) Funding for the risk management plan may be satisfied by the
38 secretary where adequate funding is supplied by federal grants, designated
39 fee funds or other funding sources. The secretary shall remit to the state
40 treasurer, in accordance with K.S.A. 75-4215, and amendments thereto, all
41 moneys received from this act. Upon receipt of the remittance, the state
42 treasurer shall deposit the entire amount in the state treasury and credit it
43 to the risk management fund. Funding requirements for the risk

1 management plan payment will be based on the size and risk of the site-~~to~~
2 ~~which~~ where the risk management plan applies, amount of contaminated
3 groundwater, toxicity and mobility of the contaminants, frequency of long
4 term care activities and oversight costs, as determined by the secretary.

5 (2) Upon acceptance of the application, participants shall make a one-
6 time payment for the risk management plan of a minimum of \$2,500.

7 (c) (1) There is hereby established in the state treasury the risk
8 management fund. Moneys from the following sources shall be deposited
9 in the state treasury and credited to the fund:

10 (A) Moneys collected from the one-time payments;

11 (B) moneys received by the secretary in the form of gifts, grants,
12 reimbursements or appropriations from any source intended to be used for
13 purposes of the fund; and

14 (C) interest attributable to the investment of moneys in the fund.

15 (2) Moneys in the risk management plan fund shall be expended only
16 for the costs of:

17 (A) Review of risk management applications;

18 (B) oversight of risk management plan requirements;

19 (C) implementation of the risk management plan upon failure of the
20 participant;

21 (D) activities performed by the secretary to address immediate or
22 emergency threats to human health or the environment related to properties
23 subject to risk management plans;

24 (E) development, operation and maintenance of the risk management
25 plan tracking system; and

26 (F) administration and enforcement of the provisions of this act.

27 (3) On or before the 10th of each month, the director of accounts and
28 reports shall transfer from the state general fund to the risk management
29 fund interest earnings based on the:

30 (A) Average daily balance of moneys in the risk management fund
31 for the preceding month; and

32 (B) net earnings rate of the pooled money investment portfolio for the
33 preceding month.

34 (4) All expenditures from the risk management plan fund shall be
35 made in accordance with appropriation acts upon warrants of the director
36 of accounts and reports issued pursuant to vouchers approved by the
37 secretary or the secretary's designee for purposes set forth in this section.

38 (d) (1) A risk management plan shall terminate if it is demonstrated to
39 the secretary's satisfaction that the risk management plan is no longer
40 necessary to protect human health or the environment. Any person shall
41 submit a request to the secretary for approval to terminate a risk
42 management plan. The secretary shall review the request and provide the
43 secretary's decision to approve or deny the request within 120 days after

1 the secretary's receipt of the request. If the secretary denies the request,
2 justification shall be provided with a written explanation of the denial,
3 including that the person has not provided the documentation to
4 demonstrate that the request is protective of human health and the
5 environment, as determined by the secretary.

6 (2) A risk management plan agreement shall be an enforceable
7 contract; that may be transferred to another person upon approval by the
8 secretary. Any risk management plan may be modified by mutual written
9 agreement by the person and the secretary. The secretary shall not acquire
10 any liability by virtue of approving a risk management plan or by
11 approving expiration of all or a portion of a risk management plan.

12 (e) A risk management plan pursuant to this section may include or
13 require:

14 (1) Prompt notification to the secretary of any transfer of property
15 that is the subject of a risk management plan, such notice to be given by
16 the participant;

17 (2) prompt notification to the secretary of any change in use of the
18 property that is the subject of a risk management plan;

19 (3) maintenance of protective structures or remedial systems at the
20 site, such as soil caps, soil covers, soil surfaces, berms, drainage structures,
21 vegetation, monitoring wells or other structures or systems;

22 (4) access to the property by agents of the secretary as necessary to
23 inspect and monitor the risk management plan activities;

24 (5) any other obligations necessary to reduce or eliminate risks or
25 threats to human health and the environment from the site; or

26 (6) restrictions, prohibitions and zoning requirements placed on
27 property in the site by a local or state government. Such restrictions,
28 prohibitions and zoning requirements may be utilized in addition with any
29 risk management plan activities approved by the secretary. This provision
30 does not grant or expand authority of local government to restrict, prohibit,
31 zone or regulate land.

32 (f) Upon receipt of information that an approved risk management
33 plan is not being implemented as written or that property subject to an
34 approved risk management plan presents a hazard to human health or the
35 environment, the secretary may take such actions as may be necessary to
36 protect human health or the environment. The action the secretary may
37 take shall include, but not be limited to:

38 (1) Issuing an order directing the participant to take such steps as are
39 necessary to correct any deficiencies and fully implement the approved
40 risk management plan.

41 (2) Issuing an order retracting the approval of the risk management
42 plan and require the participant to implement remediation of the site to a
43 cleanup standard that will allow for unrestricted use of the site.

1 (3) Assessing an administrative penalty of up to \$500 per day for
2 failure to comply with the terms of the risk management plan.

3 (4) Performing actions required by the risk management plan and
4 recovering any and all costs from the person responsible for performance
5 of such actions.

6 (5) Commencing an action enjoining acts or practices set forth in the
7 approved risk management plans or requesting that the attorney general or
8 appropriate district or county attorney commence an action to enjoin such
9 actions that result in approved risk management plans not being
10 implemented or not being fully or properly implemented or that present a
11 substantial and imminent threat or hazard to human health or the
12 environment.

13 (g) Prior to the secretary's approval of the risk management plan, the
14 participant shall provide written notification to all property owners and
15 occupants within the site and provide proof of such notification to the
16 secretary. The secretary may choose based on public interest to initiate and
17 participate in public meetings to discuss the pending risk management
18 plan.

19 (h) Any person adversely affected by any order or decision of the
20 secretary pursuant to this act, within 15 days after service of the order or
21 decision, may request in writing a hearing. Hearings under this section
22 shall be conducted in accordance with the provisions of the Kansas
23 administrative procedure act. Any action of the secretary pursuant to this
24 section is subject to review in accordance with the act for judicial review
25 and civil enforcement of agency actions.

26 (i) As used in this section:

27 (1) "Long term care" means any activity, approved in the risk
28 management plan, that provides assurances that the contamination at the
29 site is not impacting human health;

30 (2) "owner" means any owner of record of property or authorized
31 representative;

32 (3) "participant" means any person who has submitted an application
33 for a risk management plan and the plan has been approved by the
34 secretary and successor in interest to the risk management plan agreement;

35 (4) "person" means any individual, trust, firm, joint stock company,
36 public or private corporation, limited liability company or partnership, the
37 federal government or any agency or instrumentality thereof, any state,
38 state agency, instrumentality, political or taxing subdivision thereof or any
39 interstate body;

40 (5) "property" means real property;

41 (6) "remedial activity" means any assessment, cleanup or other action
42 necessary or appropriate to respond to a release or threat of release of
43 environmental contamination at a site;

1 (7) "risk management plan" means a long term care plan approved by
2 the secretary and intended to protect human health and the environment at
3 a site where residual contamination is above cleanup standards;

4 (8) "risk management plan agreement" means an enforceable
5 agreement between the participant and the secretary that enacts the risk
6 management plan;

7 (9) "secretary" means the secretary of ~~health~~ *the Kansas department*
8 *of water* and environment; and

9 (10) "site" means all areas and media ~~to which~~ *where* environmental
10 contamination or pollution has been released, transported, migrated or ~~to~~
11 ~~which~~ *where* contamination may migrate.

12 (j) The secretary shall adopt rules and regulations to implement the
13 provisions of this act.

14 (k) The provisions of this section are declared to be severable and if
15 any provision, word, phrase or clause of the section or the application
16 thereof to any person shall be held invalid, such invalidity shall not affect
17 the validity of the remaining portions of this section or the application
18 thereof.

19 Sec. 157. K.S.A. 65-34,178 is hereby amended to read as follows: 65-
20 34,178. As used in this act:

21 (a) "Certificate of environmental liability release" or "CELR" means
22 a certificate issued by the department that releases the purchaser from
23 environmental liability for contamination existing at the time of issuance
24 of the CELR on a property from actions taken by the bureau of
25 environmental remediation under K.S.A. 65-159, 65-161 through 65-171z,
26 65-3401 et seq., 65-3430 et seq. and 65-3452a et seq., and amendments
27 thereto.

28 (b) "Department" means the Kansas department of ~~health~~ *water* and
29 environment.

30 (c) "Owner" means any owner of record of property or authorized
31 representative.

32 (d) "Person" means any individual, trust, firm, joint stock company,
33 public or private corporation, limited liability company or partnership; the
34 federal government or any agency or instrumentality thereof; any state, or
35 any agency, instrumentality or political or taxing subdivision thereof; or
36 any interstate body.

37 (e) "Property" means real property.

38 (f) "Purchaser" means any person who is acquiring property through
39 purchase, foreclosure or default. For purposes of this act, "purchaser" does
40 not include the federal government or a person who acquires property
41 through gifts, bequests or inheritance.

42 (g) "Secretary" means the secretary of ~~health~~ *the Kansas department*
43 *of water* and environment.

1 (h) "Site" means all areas and media to which environmental
 2 contamination or pollution has been released, transported or migrated.

3 Sec. 158. K.S.A. 65-4501 is hereby amended to read as follows: 65-
 4 4501. As used in this act, unless otherwise specifically defined, ~~the~~
 5 ~~following words and phrases shall have the meanings respectively ascribed~~
 6 ~~to them herein:~~

7 (a) "Department" ~~shall mean~~ means the Kansas department of ~~health~~
 8 ~~water~~ and environment.

9 (b) "Secretary" ~~shall mean~~ means the secretary of ~~health~~ the Kansas
 10 ~~department of water~~ and environment.

11 (c) "Person" ~~shall mean~~ means an individual, partnership, corporation
 12 or association.

13 (d) "Water supply system" ~~shall mean~~ means the system of pipes,
 14 structures and facilities through which water is obtained, treated and sold,
 15 distributed or otherwise offered to the public for household use or any use
 16 by humans.

17 (e) ~~"Waste water~~ Wastewater treatment facility" ~~shall mean~~ means the
 18 facility or group of units provided for the treatment of wastewater,
 19 including sewage or wastes or both.

20 (f) "Operator" ~~shall mean~~ means the person who has direct
 21 responsibility for supervising the operation of a water supply system or a
 22 wastewater treatment facility.

23 (g) "Certificate" ~~shall mean~~ means a certificate of competency issued
 24 by the secretary stating that the operator has met the requirements for the
 25 specified operator classification of the certification program.

26 Sec. 159. K.S.A. 65-5301 is hereby amended to read as follows: 65-
 27 5301. As used in this act:

28 (a) "Asbestos project" means an activity undertaken to remove or
 29 encapsulate friable asbestos containing materials.

30 (b) "Business entity" means a partnership, firm, association,
 31 corporation, sole proprietorship or other business concern.

32 (c) "License" means an authorization issued by the secretary
 33 permitting a business entity to engage in an asbestos project.

34 (d) "Secretary" means the secretary of ~~health~~ the Kansas *department*
 35 *of water* and environment.

36 (e) "Friable asbestos containing material" means any material that
 37 contains more than 1% asbestos, by weight, ~~which that~~ is applied to
 38 ceilings, walls, structural members, piping, ductwork or any other part of a
 39 building and ~~which that~~, when dry, may be crumbled, pulverized or
 40 reduced to powder by hand pressure.

41 (f) "Asbestos" means that asbestiform varieties of: Chrysotile,
 42 crocidolite, amosite, anthophyllite, tremolite and actinolite.

43 Sec. 160. K.S.A. 65-7003 is hereby amended to read as follows: 65-

1 7003. As used in K.S.A. 65-7001 through 65-7015, and amendments
2 thereto:

3 (a) "Act" means the Kansas chemical control act;

4 (b) "administer" means the application of a regulated chemical
5 whether by injection, inhalation, ingestion or any other means, directly
6 into the body of a patient or research subject, such administration to be
7 conducted by:

8 (1) A practitioner, or in the practitioner's presence, by such
9 practitioner's authorized agent; or

10 (2) the patient or research subject at the direction and in the presence
11 of the practitioner;

12 (c) "agent or representative" means a person who is authorized to
13 receive, possess, manufacture or distribute or in any other manner control
14 or has access to a regulated chemical on behalf of another person;

15 (d) "bureau" means the Kansas bureau of investigation;

16 (e) "department" means the Kansas department of ~~health~~ *water* and
17 environment;

18 (f) "director" means the director of the Kansas bureau of
19 investigation;

20 (g) "dispense" means to deliver a regulated chemical to an ultimate
21 user, patient or research subject by, or pursuant to the lawful order of, a
22 practitioner, including the prescribing, administering, packaging, labeling
23 or compounding necessary to prepare the regulated chemical for that
24 delivery;

25 (h) "distribute" means to deliver other than by administering or
26 dispensing a regulated chemical;

27 (i) "manufacture" means to produce, prepare, propagate, compound,
28 convert or process a regulated chemical directly or indirectly, by extraction
29 from substances of natural origin, chemical synthesis or a combination of
30 extraction and chemical synthesis, and includes packaging or repackaging
31 of the substance or labeling or relabeling of its container. The term
32 excludes the preparation, compounding, packaging, repackaging, labeling
33 or relabeling of a regulated chemical:

34 (1) By a practitioner as an incident to the practitioner's administering
35 or dispensing of a regulated chemical in the course of the practitioner's
36 professional practice; or

37 (2) by a practitioner, or by the practitioner's authorized agent under
38 the practitioner's supervision, for the purpose of, or as an incident to
39 research, teaching or chemical analysis and not for sale;

40 (j) "person" means individual, corporation, business trust, estate,
41 trust, partnership, association, joint venture, government, governmental
42 subdivision or agency, or any other legal or commercial entity;

43 (k) "practitioner" means a person licensed to practice medicine and

1 surgery, pharmacist, dentist, podiatrist, veterinarian, optometrist, or
2 scientific investigator or other person authorized by law to use a controlled
3 substance in teaching or chemical analysis or to conduct research with
4 respect to a controlled substance;

5 (1) "regulated chemical" means a chemical that is used directly or
6 indirectly to manufacture a controlled substance or other regulated
7 chemical, or is used as a controlled substance analog, in violation of the
8 state controlled substances act or this act. The fact that a chemical may be
9 used for a purpose other than the manufacturing of a controlled substance
10 or regulated chemical does not exempt ~~it~~ *such chemical* from the
11 provisions of this act. "Regulated chemical" includes:

- 12 (1) Acetic anhydride (CAS No. 108-24-7);
- 13 (2) benzaldehyde (CAS No. 100-52-7);
- 14 (3) benzyl chloride (CAS No. 100-44-7);
- 15 (4) benzyl cyanide (CAS No. 140-29-4);
- 16 (5) diethylamine and its salts (CAS No. 109-89-7);
- 17 (6) ephedrine, its salts, optical isomers and salts of optical isomers
18 (CAS No. 299-42-3), except products containing ephedra or ma huang,
19 ~~which~~ *that* do not contain any chemically synthesized ephedrine alkaloids,
20 and are lawfully marketed as dietary supplements under federal law;
- 21 (7) hydriodic acid (CAS No. 10034-85-2);
- 22 (8) iodine (CAS No. 7553-56-2);
- 23 (9) lithium (CAS No. 7439-93-2);
- 24 (10) methylamine and its salts (CAS No. 74-89-5);
- 25 (11) nitroethane (CAS No. 79-24-3);
- 26 (12) chloroephedrine, its salts, optical isomers, and salts of optical
27 isomers (CAS No. 30572-91-9);
- 28 (13) phenylacetic acid, its esters and salts (CAS No. 103-82-2);
- 29 (14) phenylpropanolamine, its salts, optical isomers, and salts of
30 optical isomers (CAS No. 14838-15-4);
- 31 (15) piperidine and its salts (CAS No. 110-89-4);
- 32 (16) pseudoephedrine, its salts, optical isomers, and salts of optical
33 isomers (CAS No. 90-82-4);
- 34 (17) red phosphorous (CAS No. 7723-14-0);
- 35 (18) sodium (CAS No. 7440-23-5); and
- 36 (19) thionylchloride (CAS No. 7719-09-7);
- 37 (20) gamma butyrolactone (GBL), including butyrolactone;
38 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-
39 2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-
40 butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid
41 lactone and 4-hydroxybutanoic acid lactone; CAS No. 96-48-0; and
- 42 (21) 1,4 butanediol, including butanediol; butane-1,4-diol; 1,4-
43 butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene

1 glycol; tetramethylene glycol; tetramethylene 1,4-diol; CAS No. 110-63-4;

2 (m) "regulated chemical distributor" means any person subject to the
3 provisions of the Kansas chemical control act who manufactures or
4 distributes a regulated chemical;

5 (n) "regulated chemical retailer" means any person who sells
6 regulated chemicals directly to the public;

7 (o) "regulated chemical transaction" means the manufacture of a
8 regulated chemical or the distribution, sale, exchange or other transfer of a
9 regulated chemical within or into the state or from this state into another
10 state; and

11 (p) "secretary" means the secretary of ~~health~~ *the Kansas department*
12 *of water and environment*.

13 Sec. 161. K.S.A. 68-1414 is hereby amended to read as follows: 68-
14 1414. Whenever it is necessary to replace, reconstruct, or repair any bridge
15 over any navigable river on any county road, ~~which~~ *if such* road connects
16 with a county road of another county within or outside this state, or to
17 protect any such bridge by changing the channel of the river or by the
18 erection of structures, such as levees, jetties or other structures necessary
19 to protect the new channel or such bridge, and ~~which~~ *such* bridge shall
20 have been destroyed or rendered impassable by flood, high water, fire or
21 other casualty, then the board of county commissioners is hereby
22 authorized and empowered to expend not to exceed the sum of \$160,000 to
23 pay the entire cost or the county's share of the cost of such replacement,
24 reconstruction or repair of such bridge or such change of channel or
25 erection of the structures hereinbefore described. No such change of
26 channel shall be made without first securing the approval of the chief
27 engineer of the *Kansas department of water and environment*, division of
28 water resources ~~of the Kansas department of agriculture~~. Such expenditure
29 may be made from any unallocated and available funds in the county road
30 and bridge fund or from revenue derived from the issuance of bonds, or
31 from the separate fund for the construction of roads and bridges on the
32 county secondary system or from two or more of such sources, and such
33 county is hereby authorized to issue bonds for such purpose. Such bonds
34 shall be issued, registered, sold, delivered and retired in accordance with
35 the provisions of the general bond law and may be issued without
36 submitting the question of their issuance to a vote of the electors. The
37 board of county commissioners may receive and expend any federal, state,
38 or other funds made available for such improvement which expenditure
39 may be in addition to the amount authorized to be expended by the county.
40 The provisions of K.S.A. 19-214, 19-215 and 19-216, and amendments
41 thereto, shall be applicable to any improvement made under the authority
42 conferred by this section. This act shall be construed as a separate and
43 additional method for the replacement, reconstruction and repair of bridges

1 and no other law of this state except as herein expressly provided shall
2 apply. The total amount expended by any county under the authority
3 conferred by this section plus the amount expended by such county under
4 the authority conferred by K.S.A. 68-1413, and amendments thereto, shall
5 not exceed the sum of \$160,000.

6 Sec. 162. K.S.A. 68-2203 is hereby amended to read as follows: 68-
7 2203. (a) ~~The term "Junk" shall mean~~ *means* old or scrap copper, brass,
8 rope, rags, batteries, paper, trash, rubber debris, waste, or junked,
9 dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other
10 old or scrap ferrous or nonferrous material.

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

20 (c) "Junkyard" ~~shall mean~~ *means* an establishment ~~which that~~ is
21 maintained, operated, or used for storing, keeping, buying, or selling junk,
22 or for the maintenance or operation of an automobile graveyard, and ~~the~~
23 ~~term shall include~~ "junkyard" *includes* garbage dumps.

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

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

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

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

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

38 Sec. 163. K.S.A. 74-2608 is hereby amended to read as follows: 74-
39 2608. The ~~Kansas water office~~ *department of water and environment*,
40 *division of water and environmental planning* shall:

41 (a) Collect and compile information pertaining to climate, water and
42 soil as related to the usage of water for agricultural, industrial and
43 municipal purposes and the availability of water supplies in the several

1 watersheds of the state, and, in so doing, the office shall collect and
2 compile the information obtainable from other agencies, instrumentalities
3 of the state, political subdivisions of the state and the federal government.;

4 (b) develop a state plan of water resources management, conservation
5 and development for water planning areas as determined by the ~~office~~
6 *division of water and environmental planning*, and cooperate with any
7 agency or instrumentality of the state or federal government now or
8 hereafter engaged in the development of plans or having developed plans
9 affecting any such area of the state.;

10 (c) develop and maintain guidelines for water conservation plans and
11 practices. Such guidelines shall:

12 (1) Not prejudicially or unreasonably affect the public interest;

13 (2) be technologically and economically feasible for each water user
14 to implement;

15 (3) be designed to curtail the waste of water;

16 (4) consider the use of other water if the use of freshwater is not
17 necessary;

18 (5) not require curtailment in water use ~~which~~ *that* will not benefit
19 other water users or the public interest;

20 (6) not result in the unreasonable deterioration of the quality of the
21 waters of the state;

22 (7) consider the reasonable needs of the water user at the time;

23 (8) not conflict with the provisions of the Kansas water appropriation
24 act and the state water planning act;

25 (9) be limited to practices of water use efficiency except for drought
26 contingency plans for municipal users; and

27 (10) take into consideration drought contingency plans for municipal
28 and industrial users.

29 When developing such guidelines, the ~~Kansas water office~~ *division of*
30 *water and environmental planning* shall consider existing guidelines of
31 groundwater management districts and the cost to benefit ratio effect of
32 any plan.; *and*

33 (d) the ~~Kansas water office~~ *division of water and environmental*
34 *planning*, with the approval of the Kansas water authority, shall establish
35 guidelines as to when conditions indicative of drought exist. When the
36 ~~Kansas water office~~ *division* determines that such conditions exist in an
37 area, it shall so advise the governor and shall recommend the assembling
38 of the governor's drought response team.

39 Sec. 164. K.S.A. 74-2609 is hereby amended to read as follows: 74-
40 2609. The Kansas ~~water office~~ *department of water and environment,*
41 *division of water and environmental planning* may:

42 (a) Seek and accept grants and other financial assistance that the
43 federal government and other public or private sources make available and

1 utilize the same for any purpose—~~which~~ *that* the office is required or
2 authorized to study or make recommendations concerning;

3 (b) contract with public agencies or with qualified private persons or
4 agencies to accomplish any purpose—~~which~~ *that* the office is required or
5 authorized to study or make recommendations concerning;

6 (c) for the purpose of providing public water supply storage in either
7 federally funded or nonfederally funded multipurpose small lakes, acquire
8 water rights under the Kansas water appropriation act.; *and*

9 (d) authorize the issuance of revenue bonds for the purpose of paying
10 all or part of the cost of acquiring a site, constructing, reconstructing,
11 improving and expanding large reservoir projects or to finance the
12 purchase of storage in existing reservoirs as provided by K.S.A. 82a-1360
13 ~~to through 82a-1368, inclusive and amendments thereto.~~

14 Sec. 165. K.S.A. 74-2622 is hereby amended to read as follows: 74-
15 2622. (a) There is hereby established within and as a part of the Kansas
16 ~~water office~~ *department of water and environment, division of water and*
17 *environmental planning*, the Kansas water authority. The authority shall be
18 composed of 24 members of whom 13 shall be appointed as follows: (1)
19 One member shall be appointed by the governor, subject to confirmation
20 by the senate as provided in K.S.A. 75-4315b, and amendments thereto.
21 Except as provided by K.S.A. 46-2601, and amendments thereto, such
22 person shall not exercise any power, duty or function as a member or
23 chairperson of the water authority until confirmed by the senate. Such
24 member shall serve at the pleasure of the governor and shall be the
25 chairperson of the authority; (2) except as provided by subsection (b), 10
26 members shall be appointed by the governor for terms of four years. Of the
27 members appointed under this provision, one shall be a representative of
28 large municipal water users, one shall be representative of small municipal
29 water users, one shall be a board member of a western Kansas
30 groundwater management district, one shall be a board member of a
31 central Kansas groundwater management district, one shall be a member
32 of the Kansas association of conservation districts, one shall be
33 representative of industrial water users, one shall be a member of the state
34 association of watershed districts, one shall have a demonstrated
35 background and interest in water use conservation and environmental
36 issues, and two shall be representative of the general public. The member
37 who is representative of large municipal water users shall be appointed
38 from three nominations submitted by the league of Kansas municipalities.
39 The member who is representative of small municipal water users shall be
40 appointed from three nominations submitted by the Kansas rural water
41 district's association. The member who is representative of a western
42 Kansas groundwater management district shall be appointed from three
43 nominations submitted by the presidents of the groundwater management

1 district boards No. 1, 3 and 4. The member who is representative of a
2 central Kansas groundwater management district shall be appointed from
3 three nominations submitted by the presidents of the groundwater
4 management district boards No. 2 and 5. The member who is
5 representative of industrial water users shall be appointed from three
6 nominations submitted by the Kansas association of commerce and
7 industry. The member who is representative of the state association of
8 watershed districts shall be appointed from three nominations submitted by
9 the state association of watershed districts. The member who is
10 representative of the Kansas association of conservation districts shall be
11 appointed from three nominations submitted by the state association of
12 conservation districts. If the governor cannot make an appointment from
13 the original nominations, the nominating authority shall be so advised and,
14 within 30 days thereafter, shall submit three new nominations. Members
15 appointed by the governor shall be selected with special reference to
16 training and experience with respect to the functions of the Kansas water
17 authority, and no more than six of such members shall belong to the same
18 political party; (3) one member shall be appointed by the president of the
19 senate for a term of two years; and (4) one member shall be appointed by
20 the speaker of the house of representatives for a term of two years. The
21 state geologist, the state biologist, the chief engineer of the *Kansas*
22 *department of water and environment*, division of water resources ~~of the~~
23 ~~Kansas department of agriculture~~, the director of the *Kansas department of*
24 *water and environment*, division of environment ~~of the department of~~
25 ~~health and environment~~ *and conservation*, the chairperson of the state
26 corporation commission, the secretary of commerce, the director of the
27 ~~Kansas water office~~ *department of water and environment, division of*
28 *water and environmental planning*, the secretary of wildlife, ~~and parks and~~
29 ~~tourism~~, the administrative officer of the state conservation commission,
30 the secretary of agriculture and the director of the agricultural experiment
31 stations of Kansas state university of agriculture and applied science shall
32 be nonvoting members ex officio of the authority. The director of the
33 ~~Kansas water office~~ *division of water and environmental planning* shall
34 serve as the secretary of the authority.

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

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

1 amendments thereto.

2 (d) The Kansas water authority shall:

3 (1) Consult with and be advisory to the governor, the legislature and
4 the director of the ~~Kansas water office~~ *division of water and*
5 *environmental planning*.

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

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

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

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

27 (6) Approve, prior to submission to the legislature by the ~~Kansas~~
28 ~~water office~~ *division of water and environmental planning* or its director:
29 (A) Any contract entered into pursuant to the state water plan storage act;
30 (B) any amendments to the state water plan or the state water planning act;
31 and (C) any other legislation concerning water resources of the state.

32 (7) Approve, before they become effective, any policy changes
33 proposed by the ~~Kansas water office~~ *division of water and environmental*
34 *planning* concerning the pricing of water for sale pursuant to the state
35 water plan storage act.

36 (8) Approve, before it becomes effective, any agreement entered into
37 with the federal government by the ~~Kansas water office~~ *division of water*
38 *and environmental planning*.

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

1 legislature.

2 (10) Approve, prior to adoption by the director of the ~~Kansas water~~
3 ~~office~~ *division of water and environmental planning*, rules and regulations
4 authorized by law to be adopted.

5 (11) Approve, prior to adoption by the director of the ~~Kansas water~~
6 ~~office~~ *division of water and environmental planning*, guidelines for
7 conservation plans and practices developed pursuant to ~~subsection (e) of~~
8 K.S.A. 74-2608(c), and amendments thereto.

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

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

16 Sec. 166. K.S.A. 74-99f04 is hereby amended to read as follows: 74-
17 99f04. (a) There is hereby established the Kansas geographic information
18 systems policy board within the office of information technology services.

19 (b) The board shall consist of 23 members:

20 (1) The governor shall appoint 11 members as follows: Five
21 representatives of local government, including cities, counties or local
22 government consortia of cities, counties, non-profit and private sector
23 enterprises. Such members may include, but are not limited to,
24 representatives from city and county commissions or planning councils,
25 tribal government, law enforcement, county clerks, county appraisers and
26 emergency planning divisions; two representatives of the board of regents
27 institutions; and two executives representing the private sector. Members
28 from the private sector may include, but are not limited to, representatives
29 from the trucking industry, utilities, telecommunications, publishers,
30 agriculturalists, oil and gas industry, chambers of commerce, aircraft and
31 auto industry and the banking community; and two representatives from
32 relevant statewide businesses or professional organizations, such as
33 statewide associations of groundwater management districts, emergency
34 planning, law enforcement, licensed surveyors and other relevant technical
35 professions or agriculture-related businesses.

36 (2) The remaining 12 members shall be:

37 (A) The executive chief information technology officer of the office
38 of information technology services or such officer's designee;

39 (B) the director of the ~~Kansas water office~~ *department of water and*
40 *environment, division of water and environmental planning*, or such
41 director's designee;

42 (C) the state biologist of the Kansas biological survey or the state
43 biologist's designee;

1 (D) the state geologist of the Kansas geological survey or the state
2 geologist's designee;

3 (E) the executive director of the Kansas historical society or such
4 executive director's designee;

5 (F) the secretary of agriculture or such secretary's designee;

6 (G) the secretary of health and environment or such secretary's
7 designee;

8 (H) the director of legislative research of the legislative research
9 department or such director's designee;

10 (I) the secretary of revenue or such secretary's designee;

11 (J) the secretary of transportation or such secretary's designee;

12 (K) the state librarian or such librarian's designee; and

13 (L) the executive director of the information network of Kansas or
14 such executive director's designee.

15 (c) Members appointed by the governor under subsection (b)(1) shall
16 be appointed for a four-year term and until such member's successors are
17 appointed and qualified, except as provided in subsection (d). Members
18 not appointed by the governor under subsection (b)(1) shall serve
19 consistent with their terms of office, employment or appointment.

20 (d) The governor may remove a member from the board for lack of
21 attendance or lack of participation.

22 (e) The governor shall select a chairperson and vice-chairperson from
23 among the members of the board who shall serve as chairperson and vice-
24 chairperson at the discretion of the governor. The board may elect other
25 officers among its members and may establish any committees deemed
26 necessary to discharge its duties.

27 (f) Board members shall not receive compensation, subsistence
28 allowance, mileage or associated expenses from the state. Officers or
29 employees of state agencies who serve on the board shall be authorized to
30 serve on the board as part of their duties.

31 Sec. 167. K.S.A. 2021 Supp. 75-3036 is hereby amended to read as
32 follows: 75-3036. (a) The state general fund is exclusively defined as the
33 fund into which shall be placed all public moneys and revenue coming into
34 the state treasury not specifically authorized by the constitution or by
35 statute to be placed in a separate fund, and not given or paid over to the
36 state treasurer in trust for a particular purpose, which unallocated public
37 moneys and revenue shall constitute the general fund of the state. Moneys
38 received or to be used under constitutional or statutory provisions or under
39 the terms of a gift or payment for a particular and specific purpose are to
40 be kept as separate funds and shall not be placed in the general fund or
41 ever become a part of it.

42 (b) The following funds shall be used for the purposes set forth in the
43 statutes concerning such funds and for no other governmental purposes. It

1 is the intent of the legislature that the following funds and the moneys
2 deposited in such funds shall remain intact and inviolate for the purposes
3 set forth in the statutes concerning such funds: Board of accountancy fee
4 fund, K.S.A. 1-204 and 75-1119b, and amendments thereto, and special
5 litigation reserve fund of the board of accountancy; bank commissioner fee
6 fund, K.S.A. 9-1703, 16a-2-302 and 75-1308, and amendments thereto,
7 bank investigation fund, K.S.A. 9-1111b, and amendments thereto,
8 consumer education settlement fund and litigation expense fund of the
9 state bank commissioner; securities act fee fund and investor education
10 and protection fund, K.S.A. 17-12a601, and amendments thereto, of the
11 office of the securities commissioner of Kansas; credit union fee fund,
12 K.S.A. 17-2236, and amendments thereto, of the state department of credit
13 unions; court reporters fee fund, K.S.A. 20-1a02, and amendments thereto,
14 and bar admission fee fund, K.S.A. 20-1a03, and amendments thereto, of
15 the judicial branch; fire marshal fee fund, K.S.A. 31-133a and 31-134, and
16 amendments thereto, and boiler inspection fee fund, K.S.A. 44-926, and
17 amendments thereto, of the state fire marshal; food service inspection
18 reimbursement fund, K.S.A. 36-512, and amendments thereto, of the
19 Kansas department of agriculture; wage claims assignment fee fund,
20 K.S.A. 44-324, and amendments thereto, and workmen's compensation fee
21 fund, K.S.A. 74-715, and amendments thereto, of the department of labor;
22 veterinary examiners fee fund, K.S.A. 47-820, and amendments thereto, of
23 the state board of veterinary examiners; mined-land reclamation fund,
24 K.S.A. 49-420, and amendments thereto, of the department of health and
25 environment; conservation fee fund and abandoned oil and gas well fund,
26 K.S.A. 55-155, 55-176, 55-192, 55-609, 55-711 and 55-901, and
27 amendments thereto, gas pipeline inspection fee fund, K.S.A. 66-1,155,
28 and amendments thereto, and public service regulation fund, K.S.A. 66-
29 1503, and amendments thereto, of the state corporation commission; land
30 survey fee fund, K.S.A. 58-2011, and amendments thereto, of the state
31 historical society; real estate recovery revolving fund, K.S.A. 58-3074, and
32 amendments thereto, of the Kansas real estate commission; appraiser fee
33 fund, K.S.A. 58-4107, and amendments thereto, and appraisal
34 management companies fee fund of the real estate appraisal board;
35 amygdalin (laetrole) enforcement fee fund, K.S.A. 65-6b10, and
36 amendments thereto; mortuary arts fee fund, K.S.A. 65-1718, and
37 amendments thereto, of the state board of mortuary arts; board of
38 barbering fee fund, K.S.A. 65-1817a, and amendments thereto, of the
39 Kansas board of barbering; cosmetology fee fund, K.S.A. 65-1951 and 74-
40 2704, and amendments thereto, of the Kansas state board of cosmetology;
41 healing arts fee fund, K.S.A. 65-2011, 65-2855, 65-2911, 65-5413, 65-
42 5513, 65-6910, 65-7210 and 65-7309, and amendments thereto, and
43 medical records maintenance trust fund, of the state board of healing arts;

1 other state fees fund, K.S.A. 65-4024b, and amendments thereto, of the
2 Kansas department for aging and disability services; board of nursing fee
3 fund, K.S.A. 74-1108, and amendments thereto, of the board of nursing;
4 dental board fee fund, K.S.A. 74-1405, and amendments thereto, and
5 special litigation reserve fund, of the Kansas dental board; optometry fee
6 fund, K.S.A. 74-1503, and amendments thereto, and optometry litigation
7 fund, of the board of examiners in optometry; state board of pharmacy fee
8 fund, K.S.A. 74-1609, and amendments thereto, and state board of
9 pharmacy litigation fund, of the state board of pharmacy; abstracters' fee
10 fund, K.S.A. 74-3903, and amendments thereto, of the abstracters' board of
11 examiners; athletic fee fund, K.S.A. 74-50,188, and amendments thereto,
12 of the department of commerce; hearing instrument board fee fund, K.S.A.
13 74-5805, and amendments thereto, and hearing instrument litigation fund
14 of the Kansas board of examiners in fitting and dispensing of hearing
15 instruments; commission on disability concerns fee fund, K.S.A. 74-6708,
16 and amendments thereto, of the governor's department; technical
17 professions fee fund, K.S.A. 74-7009, and amendments thereto, and
18 special litigation reserve fund of the state board of technical professions;
19 behavioral sciences regulatory board fee fund, K.S.A. 74-7506, and
20 amendments thereto, of the behavioral sciences regulatory board;
21 governmental ethics commission fee fund, K.S.A. 25-4119e, and
22 amendments thereto, of the governmental ethics commission; emergency
23 medical services board operating fund, K.S.A. 75-1514, and amendments
24 thereto, of the emergency medical services board; fire service training
25 program fund, K.S.A. 75-1514, and amendments thereto, of the university
26 of Kansas; uniform commercial code fee fund, K.S.A. 75-448, and
27 amendments thereto, of the secretary of state; prairie spirit rails-to-trails
28 fee fund of the Kansas department of wildlife, parks and tourism; water
29 marketing fund, K.S.A. 82a-1315c, and amendments thereto, of the Kansas
30 ~~water office~~ *department of water and environment, division of water and*
31 *environmental planning*; insurance department service regulation fund,
32 K.S.A. 40-112, and amendments thereto, of the insurance department; state
33 fair special cash fund, K.S.A. 2-220, and amendments thereto, of the state
34 fair board; scrap metal theft reduction fee fund, K.S.A. 2021 Supp. 50-
35 6,109a, and amendments thereto; and any other fund in which fees are
36 deposited for licensing, regulating or certifying a person, profession,
37 commodity or product.

38 (c) If moneys received pursuant to statutory provisions for a specific
39 purpose by a fee agency are proposed to be transferred to the state general
40 fund or a special revenue fund to be expended for general government
41 services and purposes in the governor's budget report submitted pursuant
42 to K.S.A. 75-3721, and amendments thereto, or any introduced house or
43 senate bill, the person or business entity who paid such moneys within the

1 preceding 24-month period shall be notified by the fee agency within 30
 2 days of such submission or introduction:

3 (1) By electronic means, if the fee agency has an electronic address
 4 on record for such person or business entity. If no such electronic address
 5 is available, the fee agency shall send written notice by first class mail; or

6 (2) any agency that receives fees from a tax, fee, charge or levy paid
 7 to the commissioner of insurance shall post the notification required by
 8 this subsection on such agency's website.

9 (d) Any such moneys that are wrongfully or by mistake placed in the
 10 general fund shall constitute a proper charge against such general fund. All
 11 legislative appropriations ~~which~~ *that* do not designate a specific fund from
 12 which they are to be paid shall be considered to be proper charges against
 13 the general fund of the state. All revenues received by the state of Kansas
 14 or any department, board, commission, or institution of the state of
 15 Kansas, and required to be paid into the state treasury shall be placed in
 16 and become a part of the state general fund, except as otherwise provided
 17 by law.

18 (e) The provisions of this section shall not apply to the 10% credited
 19 to the state general fund to reimburse the state general fund for accounting,
 20 auditing, budgeting, legal, payroll, personnel and purchasing services, and
 21 any and all other state governmental services, as provided in K.S.A. 75-
 22 3170a, and amendments thereto.

23 (f) Beginning on January 8, 2018, the director of the budget shall
 24 prepare a report listing the unencumbered balance of each fund in
 25 subsection (b) on June 30 of the previous fiscal year and January 1 of the
 26 current fiscal year. Such report shall be delivered to the secretary of the
 27 senate and the chief clerk of the house of representatives on or before the
 28 first day of the regular legislative session each year.

29 (g) As used in this section, "fee agency" ~~shall include~~ *includes* the
 30 state agencies specified in K.S.A. 75-3717(f), and amendments thereto,
 31 and any other state agency that collects fees for licensing, regulating or
 32 certifying a person, profession, commodity or product.

33 Sec. 168. K.S.A. 75-3084 is hereby amended to read as follows: 75-
 34 3084. (a) The department of health ~~and environment~~ was established by
 35 K.S.A. 75-5601 et seq., and amendments thereto.

36 (b) Within the department of health ~~and environment~~ there are ~~three~~
 37 *two* divisions: Division of public health, ~~the division of environment~~ and
 38 the division of health care finance.

39 (c) Within the division of public health there are various bureaus and
 40 programs ~~which~~ *that* carry out and administer the multiple functions of the
 41 department.

42 (d) Included among those bureaus of the division of public health is
 43 the bureau of family health. Within the bureau of family health there is the

1 child placing agency and residential programs section. Among other
2 functions, this bureau licenses and regulates foster care and other
3 residential facilities.

4 (e) The department for children and families was established by
5 K.S.A. 75-5301 et seq., and amendments thereto.

6 (f) Within the department for children and families there is an
7 economic and employment services section that, among other functions,
8 determines eligibility for services under title XIX of the social security act,
9 known as medicaid and eligibility for services for state funded medical
10 services.

11 (g) Except as otherwise provided by this order, beginning January 1,
12 2016 all the powers, duties and functions of the department for children
13 and families, economic and employment services section that, among other
14 functions, determines eligibility for services under title XIX of the social
15 security act, known as medicaid and eligibility for services for state funded
16 medical services are hereby transferred to and imposed upon the
17 department of health and environment and the secretary of the department
18 of health and environment.

19 (h) Except as otherwise provided by this order, beginning July 1,
20 2015, all the powers, duties and functions of the department of health and
21 environment, division of public health section for child placing agencies
22 and residential facilities—~~which~~ *that*, among other things, licenses and
23 regulates foster care and other residential facilities are hereby transferred
24 to and imposed upon the Kansas department for children and families and
25 the secretary of the department for children and families.

26 (i) The department for children and families shall be the successor in
27 every way to the powers, duties and functions of the bureau of family
28 health, child placing agency and residential programs section in which the
29 same were vested prior to the effective date of this order. Every act
30 performed in the exercise of such transferred power, duties and functions
31 by or under the authority of the department of health and environment,
32 division of public health, bureau of family health, child placing agency and
33 residential programs section shall be deemed to have the same force and
34 effect as if performed by the department of health and environment in
35 which such powers, duties, and functions were vested prior to the effective
36 date of this order.

37 (j) The department of health ~~and environment~~ shall be the successor
38 in every way to the powers, duties and functions of the department for
39 children and families concerning duties and functions of the department
40 for children and families, economic and employment services section that
41 determines eligibility for services under title XIX of the social security act
42 (medicaid) and eligibility for state funded medical services in which the
43 same were vested prior to the effective date of this order. Every act

1 performed in the exercise of such transferred power, duties and functions
2 by or under the authority of the department for children and families,
3 economic and employment services section that, among other functions,
4 determines eligibility for services under title XIX of the social security act,
5 known as medicaid and eligibility for services for state funded medical
6 services, that pertains to determining eligibility for medicaid and state
7 funded medical services shall be deemed to have the same force and effect
8 as if performed by the department for children and families in which such
9 powers, duties, and functions were vested prior to the effective date of
10 K.S.A. 75-3084 through 75-3089, and amendments thereto.

11 Sec. 169. K.S.A. 75-37,121 is hereby amended to read as follows: 75-
12 37,121. (a) There is created the office of administrative hearings within the
13 department of administration, to be headed by a director appointed by the
14 secretary of administration. The director shall be in the unclassified service
15 under the Kansas civil service act.

16 (b) The office may employ or contract with presiding officers, court
17 reporters and other support personnel as necessary to conduct proceedings
18 required by the Kansas administrative procedure act for adjudicative
19 proceedings of the state agencies, boards and commissions specified in
20 subsection (h). The office shall conduct adjudicative proceedings of any
21 state agency ~~which~~ that is specified in subsection (h) when requested by
22 such agency. Only a person admitted to practice law in this state or a
23 person directly supervised by a person admitted to practice law in this state
24 may be employed as a presiding officer. The office may employ regular
25 part-time personnel. Persons employed by the office shall be under the
26 classified civil service.

27 (c) If the office cannot furnish one of its presiding officers within 60
28 days in response to a requesting agency's request, the director shall
29 designate in writing a full-time employee of an agency other than the
30 requesting agency to serve as presiding officer for the proceeding, but only
31 with the consent of the employing agency. The designee must possess the
32 same qualifications required of presiding officers employed by the office.

33 (d) The director may furnish presiding officers on a contract basis to
34 any governmental entity to conduct any proceeding other than a
35 proceeding as provided in subsection (h).

36 (e) The secretary of administration may adopt rules and regulations:

37 (1) To establish procedures for agencies to request and for the
38 director to assign presiding officers. An agency may neither select nor
39 reject any individual presiding officer for any proceeding except in
40 accordance with the Kansas administrative procedure act;

41 (2) to establish procedures and adopt forms, consistent with the
42 Kansas administrative procedure act, the model rules of procedure, and
43 other provisions of law, to govern presiding officers; and

1 (3) to facilitate the performance of the responsibilities conferred upon
2 the office by the Kansas administrative procedure act.

3 (f) The director may implement the provisions of this section and
4 rules and regulations adopted under its authority.

5 (g) The secretary of administration may adopt rules and regulations to
6 establish fees to charge a state agency for the cost of using a presiding
7 officer.

8 (h) The following state agencies, boards and commissions shall
9 utilize the office of administrative hearings for conducting adjudicative
10 hearings under the Kansas administrative procedure act in which the
11 presiding officer is not the agency head or one or more members of the
12 agency head:

13 (1) On and after July 1, 2005: Kansas department for children and
14 families, juvenile justice authority, Kansas department for aging and
15 disability services, department of health and environment, Kansas public
16 employees retirement system, ~~Kansas water office~~ *department of water*
17 *and environment, division of water and environmental planning*, Kansas
18 department of agriculture division of animal health and Kansas insurance
19 department.

20 (2) On and after July 1, 2006: Emergency medical services board,
21 emergency medical services council and Kansas human rights
22 commission.

23 (3) On and after July 1, 2007: Kansas lottery, Kansas racing and
24 gaming commission, state treasurer, pooled money investment board,
25 Kansas department of wildlife, parks and tourism and state board of tax
26 appeals.

27 (4) On and after July 1, 2008: Department of human resources, state
28 corporation commission, Kansas department of ~~agriculture~~ *water and*
29 *environment, division of environment and conservation*, agricultural labor
30 relations board, department of administration, department of revenue,
31 board of adult care home administrators, Kansas state grain inspection
32 department, board of accountancy and Kansas wheat commission.

33 (5) On and after July 1, 2009, all other Kansas administrative
34 procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

35 (i) (1) Effective July 1, 2005, any presiding officer in agencies
36 specified in subsection (h)(1) ~~which~~ *that* conduct hearings pursuant to the
37 Kansas administrative procedure act, except those exempted pursuant to
38 K.S.A. 77-551, and amendments thereto, and support personnel for such
39 presiding officers, shall be transferred to and shall become employees of
40 the office of administrative hearings. Such personnel shall retain all rights
41 under the state personnel system and retirement benefits under the laws of
42 this state ~~which~~ *that* had accrued to or vested in such personnel prior to the
43 effective date of this section. Such person's services shall be deemed to

1 have been continuous. All transfers of personnel positions in the classified
2 service under the Kansas civil service act shall be in accordance with civil
3 service laws and any rules and regulations adopted thereunder. This
4 section shall not affect any matter pending before an administrative
5 hearing officer at the time of the effective date of the transfer, and such
6 matter shall proceed as though no transfer of employment had occurred.

7 (2) Effective July 1, 2006, any presiding officer in agencies specified
8 in subsection (h)(2)-~~which~~ that conduct hearings pursuant to the Kansas
9 administrative procedure act, except those exempted pursuant to K.S.A.
10 77-551, and amendments thereto, and support personnel for such presiding
11 officers, shall be transferred to and shall become employees of the office
12 of administrative hearings. Such personnel shall retain all rights under the
13 state personnel system and retirement benefits under the laws of this state
14 ~~which~~ that had accrued to or vested in such personnel prior to the effective
15 date of this section. Such person's services shall be deemed to have been
16 continuous. All transfers of personnel positions in the classified service
17 under the Kansas civil service act shall be in accordance with civil service
18 laws and any rules and regulations adopted thereunder. This section shall
19 not affect any matter pending before an administrative hearing officer at
20 the time of the effective date of the transfer, and such matter shall proceed
21 as though no transfer of employment had occurred.

22 (3) Effective July 1, 2007, any presiding officer in agencies specified
23 in subsection (h)(3)-~~which~~ that conduct hearings pursuant to the Kansas
24 administrative procedure act, except those exempted pursuant to K.S.A.
25 77-551, and amendments thereto, and support personnel for such presiding
26 officers, shall be transferred to and shall become employees of the office
27 of administrative hearings. Such personnel shall retain all rights under the
28 state personnel system and retirement benefits under the laws of this state
29 ~~which~~ that had accrued to or vested in such personnel prior to the effective
30 date of this section. Such person's services shall be deemed to have been
31 continuous. All transfers of personnel positions in the classified service
32 under the Kansas civil service act shall be in accordance with civil service
33 laws and any rules and regulations adopted thereunder. This section shall
34 not affect any matter pending before an administrative hearing officer at
35 the time of the effective date of the transfer, and such matter shall proceed
36 as though no transfer of employment had occurred.

37 (4) Effective July 1, 2008, any full-time presiding officer in agencies
38 specified in subsection (h)(4)-~~which~~ that conduct hearings pursuant to the
39 Kansas administrative procedure act, except those exempted pursuant to
40 K.S.A. 77-551, and amendments thereto, and support personnel for such
41 presiding officers, shall be transferred to and shall become employees of
42 the office of administrative hearings. Such personnel shall retain all rights
43 under the state personnel system and retirement benefits under the laws of

1 this state ~~which~~ *that* had accrued to or vested in such personnel prior to the
2 effective date of this section. Such person's services shall be deemed to
3 have been continuous. All transfers of personnel positions in the classified
4 service under the Kansas civil service act shall be in accordance with civil
5 service laws and any rules and regulations adopted thereunder. This
6 section shall not affect any matter pending before an administrative
7 hearing officer at the time of the effective date of the transfer, and such
8 matter shall proceed as though no transfer of employment had occurred.

9 (5) Effective July 1, 2009, any full-time presiding officer in agencies
10 specified in subsection (h)(5) ~~which~~ *that* conduct hearings pursuant to the
11 Kansas administrative procedure act, except those exempted pursuant to
12 K.S.A. 77-551, and amendments thereto, and support personnel for such
13 presiding officers, shall be transferred to and shall become employees of
14 the office of administrative hearings. Such personnel shall retain all rights
15 under the state personnel system and retirement benefits under the laws of
16 this state ~~which~~ *that* had accrued to or vested in such personnel prior to the
17 effective date of this section. Such person's services shall be deemed to
18 have been continuous. All transfers of personnel positions in the classified
19 service under the Kansas civil service act shall be in accordance with civil
20 service laws and any rules and regulations adopted thereunder. This
21 section shall not affect any matter pending before an administrative
22 hearing officer at the time of the effective date of the transfer, and such
23 matter shall proceed as though no transfer of employment occurred.

24 Sec. 170. K.S.A. 2021 Supp. 75-5133 is hereby amended to read as
25 follows: 75-5133. (a) Except as otherwise more specifically provided by
26 law, all information received by the secretary of revenue, the director of
27 taxation or the director of alcoholic beverage control from returns, reports,
28 license applications or registration documents made or filed under the
29 provisions of any law imposing any sales, use or other excise tax
30 administered by the secretary of revenue, the director of taxation, or the
31 director of alcoholic beverage control, or from any investigation conducted
32 under such provisions, shall be confidential, and it shall be unlawful for
33 any officer or employee of the department of revenue to divulge any such
34 information except in accordance with other provisions of law respecting
35 the enforcement and collection of such tax, in accordance with proper
36 judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

37 (b) The secretary of revenue or the secretary's designee may:

38 (1) Publish statistics, so classified as to prevent identification of
39 particular reports or returns and the items thereof;

40 (2) allow the inspection of returns by the attorney general or the
41 attorney general's designee;

42 (3) provide the post auditor access to all such excise tax reports or
43 returns in accordance with and subject to the provisions of K.S.A. 46-

1 1106(e), and amendments thereto;

2 (4) disclose taxpayer information from excise tax returns to persons
3 or entities contracting with the secretary of revenue where the secretary
4 has determined disclosure of such information is essential for completion
5 of the contract and has taken appropriate steps to preserve confidentiality;

6 (5) provide information from returns and reports filed under article 42
7 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,
8 to county appraisers as is necessary to ensure proper valuations of
9 property. Information from such returns and reports may also be
10 exchanged with any other state agency administering and collecting
11 conservation or other taxes and fees imposed on or measured by mineral
12 production;

13 (6) provide, upon request by a city or county clerk or treasurer or
14 finance officer of any city or county receiving distributions from a local
15 excise tax, monthly reports identifying each retailer doing business in such
16 city or county or making taxable sales sourced to such city or county,
17 setting forth the tax liability and the amount of such tax remitted by each
18 retailer during the preceding month, and identifying each business location
19 maintained by the retailer and such retailer's sales or use tax registration or
20 account number;

21 (7) provide information from returns and applications for registration
22 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-
23 3601, and amendments thereto, to a city or county treasurer or clerk or
24 finance officer to explain the basis of statistics contained in reports
25 provided by subsection (b)(6);

26 (8) disclose the following oil and gas production statistics received by
27 the department of revenue in accordance with K.S.A. 79-4216 et seq., and
28 amendments thereto: Volumes of production by well name, well number,
29 operator's name and identification number assigned by the state
30 corporation commission, lease name, leasehold property description,
31 county of production or zone of production, name of purchaser and
32 purchaser's tax identification number assigned by the department of
33 revenue, name of transporter, field code number or lease code, tax period,
34 exempt production volumes by well name or lease, or any combination of
35 this information;

36 (9) release or publish liquor brand registration information provided
37 by suppliers, farm wineries, microdistilleries and microbreweries in
38 accordance with the liquor control act. The information to be released is
39 limited to: Item number, universal numeric code, type status, product
40 description, alcohol percentage, selling units, unit size, unit of
41 measurement, supplier number, supplier name, distributor number and
42 distributor name;

43 (10) release or publish liquor license information provided by liquor

1 licensees, distributors, suppliers, farm wineries, microdistilleries and
2 microbreweries in accordance with the liquor control act. The information
3 to be released is limited to: County name, owner, business name, address,
4 license type, license number, license expiration date and the process agent
5 contact information;

6 (11) release or publish cigarette and tobacco license information
7 obtained from cigarette and tobacco licensees in accordance with the
8 Kansas cigarette and tobacco products act. The information to be released
9 is limited to: County name, owner, business name, address, license type
10 and license number;

11 (12) provide environmental surcharge or solvent fee, or both,
12 information from returns and applications for registration filed pursuant to
13 K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary
14 of ~~health~~ *of water* and environment, or the secretary's designee, for the sole
15 purpose of ensuring that retailers collect the environmental surcharge tax
16 or solvent fee, or both;

17 (13) provide water protection fee information from returns and
18 applications for registration filed pursuant to K.S.A. 82a-954, and
19 amendments thereto, to the secretary of the ~~state board of agriculture of~~
20 *water and environment* or the secretary's designee and the ~~secretary~~
21 *director* of the ~~Kansas water office~~ *department of water and environment,*
22 *division of water and environmental planning,* or the ~~secretary's~~ *director's*
23 designee, for the sole purpose of verifying revenues deposited to the state
24 water plan fund;

25 (14) provide to the secretary of commerce copies of applications for
26 project exemption certificates sought by any taxpayer under the enterprise
27 zone sales tax exemption pursuant to K.S.A. 79-3606(cc), and
28 amendments thereto;

29 (15) disclose information received pursuant to the Kansas cigarette
30 and tobacco act and subject to the confidentiality provisions of this act to
31 any criminal justice agency, as defined in K.S.A. 22-4701(c), and
32 amendments thereto, or to any law enforcement officer, as defined in
33 K.S.A. 2021 Supp. 21-5111, and amendments thereto, on behalf of a
34 criminal justice agency, when requested in writing in conjunction with a
35 pending investigation;

36 (16) provide to retailers tax exemption information for the sole
37 purpose of verifying the authenticity of tax exemption numbers issued by
38 the department;

39 (17) provide information concerning remittance by sellers, as defined
40 in K.S.A. 2021 Supp. 12-5363, and amendments thereto, of prepaid
41 wireless 911 fees from returns to the local collection point administrator,
42 as defined in K.S.A. 2021 Supp. 12-5363, and amendments thereto, for
43 purposes of verifying seller compliance with collection and remittance of

1 such fees;

2 (18) release or publish charitable gaming information obtained in
3 charitable gaming licensee and registration applications and renewals in
4 accordance with the Kansas charitable gaming act, K.S.A. 75-5171 et seq.,
5 and amendments thereto. The information to be released is limited to: The
6 name, address, phone number, license registration number and email
7 address of the organization, distributor or of premises;

8 (19) provide to the attorney general confidential information for
9 purposes of determining compliance with or enforcing K.S.A. 50-6a01 et
10 seq., and amendments thereto, the master settlement agreement referred to
11 therein and all agreements regarding disputes under the master settlement
12 agreement. The secretary and the attorney general may share the
13 information specified under this subsection with any of the following:

14 (A) Federal, state or local agencies for the purposes of enforcement
15 of corresponding laws of other states; and

16 (B) a court, arbitrator, data clearinghouse or similar entity for the
17 purpose of assessing compliance with or making calculations required by
18 the master settlement agreement or agreements regarding disputes under
19 the master settlement agreement, and with counsel for the parties or expert
20 witnesses in any such proceeding, if the information otherwise remains
21 confidential; and

22 (20) disclose taxpayer information that is received from income tax
23 returns to the department of commerce that may be disclosed pursuant to
24 the provisions of K.S.A. 2021 Supp. 74-50,227, and amendments thereto,
25 for the purpose of including such information in the database required by
26 K.S.A. 2021 Supp. 74-50,227, and amendments thereto.

27 (c) Any person receiving any information under the provisions of
28 subsection (b) shall be subject to the confidentiality provisions of
29 subsection (a) and to the penalty provisions of subsection (d).

30 (d) Any violation of this section shall be a class A, nonperson
31 misdemeanor, and if the offender is an officer or employee of this state,
32 such officer or employee shall be dismissed from office. Reports of
33 violations of this paragraph shall be investigated by the attorney general.
34 The district attorney or county attorney and the attorney general shall have
35 authority to prosecute any violation of this section if the offender is a city
36 or county clerk or treasurer or finance officer of a city or county.

37 Sec. 171. K.S.A. 75-5601 is hereby amended to read as follows: 75-
38 5601. (a) There is hereby created a department of health ~~and environment~~,
39 the head of which shall be the secretary of health ~~and environment~~, which
40 office is hereby created. The governor shall appoint the secretary of health
41 ~~and environment~~, subject to confirmation by the senate as provided in
42 K.S.A. 75-4315b, and amendments thereto, and the secretary shall serve at
43 the pleasure of the governor. Except as provided by K.S.A. 46-2601, and

1 amendments thereto, no person appointed as secretary shall exercise any
2 power, duty or function as secretary until confirmed by the senate. The
3 department of health ~~and environment~~ shall consist of the division of
4 public health; *and* the division of health care finance ~~and the division of~~
5 ~~environment~~. The secretary of health ~~and environment~~ shall receive an
6 annual salary fixed by the governor.

7 (b) The provisions of the Kansas governmental operations
8 accountability law apply to the department of health ~~and environment~~, and
9 the department is subject to audit, review and evaluation under such law.

10 Sec. 172. K.S.A. 75-5608 is hereby amended to read as follows: 75-
11 5608. (a) There is hereby established under the supervision of the secretary
12 of ~~health~~ *water* and environment; an office of laboratory services. The
13 office of laboratory services shall provide laboratory information and
14 perform laboratory tests and experiments as directed by the secretary ~~of~~
15 ~~health and environment~~ and shall exercise such other powers, duties and
16 functions as the secretary ~~of health and environment~~ may direct.

17 (b) The secretary *of water and environment* may adopt rules and
18 regulations for the collection and biological or chemical analysis of
19 samples received by the office of laboratory services. The secretary, by
20 adoption of rules and regulations, may fix fees for any biological or
21 chemical analysis services provided by the office of laboratory services
22 and waive any such fees whenever the secretary finds that waiver is in the
23 interest of protecting the public health and safety. The secretary shall
24 waive fees for such services provided to public health departments and
25 state hospitals. Fees charged and collected shall not exceed the actual cost
26 of the analysis and testing provided by the office of laboratory services.

27 (c) Fees collected under this section shall be remitted by the secretary
28 *of water and environment* to the state treasurer in accordance with the
29 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
30 each such remittance, the state treasurer shall deposit the entire amount in
31 the state treasury to the credit of the office of laboratory services operating
32 fund.

33 Sec. 173. K.S.A. 75-5608a is hereby amended to read as follows: 75-
34 5608a. (a) There is hereby created in the state treasury the office of
35 laboratory services operating fund. Expenditures from the office of
36 laboratory services operating fund shall be used by the *Kansas* department
37 of ~~health~~ *water* and environment only for the purposes of operating the
38 office of laboratory services. All such expenditures from the office of
39 laboratory services operating fund shall be made in accordance with
40 appropriations acts upon warrants of the director of accounts and reports
41 issued pursuant to vouchers approved by the secretary ~~of health~~ *of water*
42 and environment, or the secretary's designee.

43 (b) On or before the 10th day of each month, the director of accounts

1 and reports shall transfer from the state general fund to the office of
2 laboratory services operating fund interest earnings based on:

3 (1) The average daily balance of moneys in the office of laboratory
4 services operating fund, for the preceding month; and

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

7 Sec. 174. K.S.A. 75-5609a is hereby amended to read as follows: 75-
8 5609a. (a) The secretary of ~~health~~ *of water* and environment shall require
9 any person offered a position of employment in and any employee of the
10 office of laboratory services of the Kansas department of ~~health~~ *water* and
11 environment that will have access to a secured biological laboratory to be
12 fingerprinted and submit to a state and national criminal history record
13 check. Such person offered a position of employment or employee shall be
14 given written notice that a fingerprinting and state and national criminal
15 history record check is required as a condition of initial and continued
16 employment. The fingerprints shall be used to identify such person offered
17 a position of employment or employee and to determine whether such
18 person offered a position of employment or employee has a record of
19 criminal history in this state or other jurisdiction. The secretary of ~~health~~
20 ~~and environment~~ shall submit the fingerprints to the Kansas bureau of
21 investigation and the federal bureau of investigation for a state and
22 national criminal history record check. Local and state law enforcement
23 officers and agencies shall assist the secretary of ~~health and environment~~
24 in the taking and processing of fingerprints of such persons offered
25 positions of employment or employees.

26 (b) The secretary of ~~health~~ *of water* and environment shall use the
27 information obtained from fingerprinting and criminal history for the
28 purposes of verifying the identification of any person offered a position of
29 employment or employee in the official determination of the eligibility of
30 such person or employee to perform tasks within the office of laboratory
31 services. If criminal history record information or results of drug screening
32 is used to disqualify a person offered a position of employment or
33 terminate an employee, such person offered a position of employment or
34 employee shall be informed in writing of the purpose of such
35 disqualification or termination from employment.

36 (c) As a condition of continued employment, any employee who has
37 access to a secured biological laboratory in the office of laboratory
38 services of the Kansas department of ~~health~~ *water* and environment shall
39 be subject to state and national criminal history record checks at a
40 frequency determined by the secretary of *water and environment*.

41 Sec. 175. K.S.A. 75-5657 is hereby amended to read as follows: 75-
42 5657. (a) On and after January 1, 1990, the state of Kansas shall provide
43 state environmental protection grants to local health departments or other

1 local entities for the purpose of developing and implementing
2 environmental protection plans and programs. A local entity or the Kansas
3 department of ~~health~~ *water* and environment may enter into contracts to
4 develop, implement or carry out any elements of the local environmental
5 protection plan or program.

6 (b) The governing board of any local health department or other local
7 entity desiring to receive a state environmental protection grant pursuant to
8 this act shall indicate its intent to develop an environmental protection plan
9 to implement the environmental protection strategy of the state water plan.
10 An environmental protection plan should include, but not be limited to, the
11 sanitary code, subdivision water and wastewater plan, solid waste
12 management plan, hazardous waste management plan, public water supply
13 protection plan and nonpoint source pollution control plan.

14 (c) A local health department or other local entity may request
15 certification by the secretary *of water and environment* that it has an
16 approved environmental protection plan and is prepared to assume a
17 program of permitting, inspection, compliance and enforcement of
18 specified elements of the department's environmental protection plan. The
19 secretary shall provide guidance on achieving environmental results for
20 certification of local programs and audit annually each local program
21 based on achievement of environmental results.

22 (d) The secretary of ~~health~~ *of water* and environment may adopt such
23 rules and regulations as necessary for the administration of this section.

24 Sec. 176. K.S.A. 75-5672 is hereby amended to read as follows: 75-
25 5672. (a) As used in this section:

26 (1) "Department" means the *Kansas* department of ~~health~~ *water* and
27 environment.

28 (2) "Secretary" means the secretary of ~~health~~ *the Kansas department*
29 *of water* and environment.

30 (3) "Fund" means the natural resources damages trust fund.

31 (b) There is hereby created in the state treasury the natural resources
32 damages trust fund. All moneys received pursuant to subsections (d), (e)
33 and (f) shall be remitted to the state treasurer. Upon receipt of such
34 remittance, the state treasurer shall deposit the entire amount in the state
35 treasury and credit it to the natural resources damages trust fund.

36 (c) All moneys credited to the fund shall be used to pay the cost of:

37 (1) The design, review, implementation or oversight of the
38 implementation of natural resources and environmental restoration plans;

39 (2) contracting for services needed to supplement the department's
40 staff expertise in natural resource restoration activities;

41 (3) mitigation of adverse environment impacts;

42 (4) emergency or long-term remedial activities;

43 (5) legal costs, including expert witness fees, incurred in the recovery

1 of fund expenditures;

2 (6) state cost share for restoration activities undertaken in conjunction
3 with the federal government or others; and

4 (7) administrative costs necessary to administer the fund.

5 (d) There is hereby created the natural resources restoration activities
6 federal account in the natural resources damages trust fund. All moneys
7 received from the federal government that are designated for natural
8 resource restoration activities shall be credited to such account.

9 (e) There is hereby created the natural resources restoration activities
10 general account in the natural resources damages trust fund. All moneys
11 received solely by the state as cost recoveries, settlements, grants and
12 donations from other sources that are designated for natural resource
13 restoration activities shall be credited to such account. All moneys credited
14 to such account shall be used for the purposes as designated in the granting
15 or collection document.

16 (f) There is hereby created the emergency response activities account
17 in the natural resources damages trust fund. All moneys received by the
18 secretary in the form of gifts, grants, reimbursements, appropriations, cost
19 recoveries or funds collected from other sources that are designated for
20 emergency response activities in accordance with this act shall be credited
21 to such account.

22 (g) All expenditures from the natural resources damages trust fund
23 shall be made in accordance with appropriations acts upon warrants of the
24 director of accounts and reports issued pursuant to vouchers approved by
25 the secretary or by a person or persons designated by the secretary.

26 (h) On or before the 10th of each month, the director of accounts and
27 reports shall transfer from the state general fund to the natural resources
28 damages trust fund interest earnings based on:

29 (1) The average daily balance of moneys in the natural resources
30 damages trust fund for the preceding month; and

31 (2) the net earnings of the pooled money investment portfolio for the
32 preceding month.

33 Sec. 177. K.S.A. 82a-220 is hereby amended to read as follows: 82a-
34 220. (a) As used in this act:

35 (1) "Conservation project" means any project or activity that the
36 director of the Kansas ~~water office~~ *department of water and environment,*
37 *division of water and environmental planning* determines will assist in
38 restoring, protecting, rehabilitating, improving, sustaining or maintaining
39 the banks of the Arkansas, Kansas or Missouri rivers from the effects of
40 erosion;

41 (2) "director" means the director of the Kansas ~~water office~~
42 *department of water and environment, division of water and*
43 *environmental planning;* and

1 (3) "state property" means real property currently owned in full or in
2 part by the state in the Arkansas, Kansas or Missouri rivers in Kansas, in
3 and along the bed of the river to the ordinary high water mark on the banks
4 of such rivers.

5 (b) (1) The director is hereby authorized to negotiate and grant
6 easements on state property for construction and maintenance of
7 conservation projects with cooperating landowners in such projects for the
8 expected life of the project and with such terms and conditions as the
9 director, after consultation with the Kansas department of agriculture, the
10 Kansas department of ~~health~~ water and environment, the Kansas
11 department of wildlife, ~~and parks and tourism~~ and the Kansas department
12 of ~~agriculture~~ water and environment, division of *environment and*
13 conservation, may deem appropriate.

14 (2) Notice of the easement shall be given to the county or counties ~~in~~
15 ~~which~~ where the easement is proposed and to any municipality or other
16 governmental entity that, in the opinion of the director, holds a riparian
17 interest in the river and may have an interest in the project or results
18 thereof. Those persons or entities receiving notice shall have a period, not
19 to exceed 30 days, to provide comment on the proposed easement to the
20 director.

21 (3) In the event such an easement is proposed to be granted on state
22 property owned or managed by any other agency of the state, the director
23 shall give notice of the proposed easement and project to that agency and
24 shall jointly negotiate any easement so granted.

25 (4) A copy of all easements so entered shall be filed by the director
26 with the office of the secretary of state and the office of the register of
27 deeds for the county or counties ~~in which~~ where the easement is located.

28 (c) The ~~director~~ *secretary of water and environment* shall adopt rules
29 and regulations necessary to carry out the provisions of this act.

30 Sec. 178. K.S.A. 82a-301 is hereby amended to read as follows: 82a-
31 301. (a) (1) Except as provided in subsections (c) and (d), without the prior
32 written consent or permit of the chief engineer of the *Kansas department*
33 *of water and environment*, division of water resources ~~of the Kansas~~
34 ~~department of agriculture~~, it shall be unlawful for any person, partnership,
35 association, corporation or agency or political subdivision of the state
36 government to:

37 (A) Construct, modify or add to any dam;

38 (B) construct, modify or add to any water obstruction in a designated
39 stream; or

40 (C) change or diminish the course, current, or cross section of any
41 designated stream within this state.

42 (2) Any application for any permit or consent shall be made in
43 writing in such form as specified by the chief engineer.

1 (3) Revetments for the purpose of stabilizing a caving bank ~~which~~
2 *that* are properly placed shall not be construed as obstructions for the
3 purposes of this section.

4 (b) As used in K.S.A. 82a-301 et seq., and amendments thereto:

5 (1) "Dam" means any artificial barrier including appurtenant works
6 with the ability to impound water, waste water or other liquids that has a
7 height of 25 feet or more; or has a height of six feet or greater and a
8 storage volume at the top of the emergency spillway elevation of 50 or
9 more acre feet. The height of a dam or barrier shall be measured from the
10 lowest elevation of the streambed, downstream toe or outside limit of the
11 dam to the elevation of the top of the dam.

12 (2) "Designated stream" means a natural or man-made channel that
13 conveys drainage or runoff from a watershed having an area of:

14 (A) One or more square miles in zone one, which includes all
15 geographic points located in or east of Washington, Clay, Dickinson,
16 Marion, Harvey, Sedgwick or Sumner counties;

17 (B) two or more square miles in zone two, which includes all
18 geographic points located west of zone one and in or east of Smith,
19 Osborne, Russell, Barton, Stafford, Pratt or Barber counties; or

20 (C) three or more square miles in zone three, which includes all
21 geographic points located west of zone two.

22 (c) (1) The prior written consent or permit of the chief engineer shall
23 not apply to water obstructions that meet the following requirements:

24 (A) The change in the cross section of a designated stream is
25 obstructed less than 5% and the water obstruction or change is contained
26 within a land area measuring 25 feet or less along the stream length; or

27 (B) (i) the water obstruction is not a dam as defined in subsection (b);

28 (ii) the water obstruction is not located within an incorporated area;

29 (iii) every part of the water obstruction, and any water impounded by
30 such obstruction, is located more than 300 feet from any property
31 boundary; and

32 (iv) the watershed area above the water obstruction is five square
33 miles or less.

34 (2) If the water obstruction does not meet the requirements of
35 subsection (c)(1)(B)(iii), but meets all other requirements of subsection (c)
36 (1)(B), such water obstruction may be exempted from the permitting
37 requirements of subsection (a) if the chief engineer determines such water
38 obstruction has minimal impact upon safety and property based upon a
39 review of the information, to be provided by the owner, including:

40 (A) An aerial photo or topographic map depicting the location of the
41 proposed project, the location of the stream, the layout of the water
42 obstruction, the property lines and names and addresses of adjoining
43 property owners; and

1 (B) the principal dimensions of the project including, but not limited to,
2 to, the height above streambed.

3 (3) Notwithstanding any other provision of this section, the chief
4 engineer may require a permit for any water obstruction described in this
5 subsection if the chief engineer determines such permit is necessary for the
6 protection of life or property.

7 (d) The prior written consent or permit of the chief engineer shall not
8 be required for construction or modification of a hazard class A dam that:

9 (1) Has a height of less than 30 feet and a storage volume at the top
10 of the emergency spillway elevation of less than 125 acre feet, and the dam
11 location and dimensions have been registered with the division of water
12 resources in a written form prescribed by the chief engineer; or

13 (2) is a wastewater storage structure for a confined feeding facility
14 that has been approved by the secretary of ~~health of water~~ and
15 environment pursuant to K.S.A. 65-171d, and amendments thereto.

16 (e) *Any structure that meets the provisions of subsection (b)(1) shall
17 be considered a stream obstruction and not a dam if the primary purpose
18 of the structure is to serve as a:*

19 (1) *Dry detention road fill for state, county or municipal government;*
20 *or*

21 (2) *low head dam that has a maximum height below the lowest
22 stream bank.*

23 Sec. 179. K.S.A. 82a-301a is hereby amended to read as follows:
24 82a-301a. It is the intent of the legislature by this act to provide for the
25 exclusive regulation of construction, operation and maintenance of all
26 dams or other water obstructions by the state to the extent required for the
27 protection of public safety. All dams or other water obstructions are
28 declared to be under the jurisdiction of the *Kansas department of water
29 and environment*, division of water resources ~~of the Kansas department of
30 agriculture~~ and the chief engineer thereof. The chief engineer or ~~his or her~~
31 *the chief engineer's* authorized representative shall supervise the
32 construction, modification, operation and maintenance of dams or other
33 water obstructions for the protection of life and property.

34 Sec. 180. K.S.A. 82a-303a is hereby amended to read as follows:
35 82a-303a. The chief engineer of the *Kansas department of water and
36 environment*, division of water resources ~~of the Kansas department of
37 agriculture~~ shall adopt and may from time to time amend rules and
38 regulations in order to establish standards for the construction,
39 modification, operation and maintenance of dams and other water
40 obstructions and to administer and enforce the provisions of this act.

41 Sec. 181. K.S.A. 82a-303b is hereby amended to read as follows:
42 82a-303b. (a) (1) In order to secure conformity with adopted rules and
43 regulations and to assure compliance with the terms, conditions or

1 restrictions of any consent or permit granted pursuant to the provisions of
 2 K.S.A. 82a-301 through 82a-303, and amendments thereto, the chief
 3 engineer or an authorized representative of the chief engineer shall have
 4 the power and the duty to inspect any dam or other water obstruction.
 5 Upon a finding pursuant to K.S.A. 82a-303c(a), and amendments thereto,
 6 by the chief engineer that a dam is unsafe, the chief engineer shall order an
 7 annual inspection of the dam until it is either in compliance with all
 8 applicable provisions of this act, any rules and regulations promulgated
 9 pursuant to this act, permit conditions and orders of the chief engineer; or
 10 the dam is removed. The safety inspection shall be conducted by the chief
 11 engineer or authorized representative and the cost shall be paid by the dam
 12 owner. The class and size of a dam shall be defined by rules and
 13 regulations adopted by the chief engineer pursuant to K.S.A. 82a-303a,
 14 and amendments thereto. For inspections conducted by the chief engineer
 15 or the chief engineer's authorized representative, inspection fees are as
 16 follows:

17	Size of Dam	Inspection fee
18	Class 1	\$1,500
19	Class 2	\$1,500
20	Class 3	\$2,500
21	Class 4	\$4,000

22 (2) Each hazard class C dam shall be required to have a safety
 23 inspection conducted by *or under the direct supervision of* a licensed
 24 professional engineer qualified in design, construction, maintenance and
 25 operation of dams once every three years, unless otherwise ordered by the
 26 chief engineer.

27 (3) Each hazard class B dam shall be required to have a safety
 28 inspection conducted by *or under the direct supervision of* a licensed
 29 professional engineer qualified in design, construction, maintenance and
 30 operation of dams once every five years unless otherwise ordered by the
 31 chief engineer.

32 (4) Within 60 days of the date of inspection, a report of the inspection
 33 shall be provided to the chief engineer by the licensed professional
 34 engineer who conducted *or supervised* the inspection. The report shall
 35 document the physical condition of the dam, describing any deficiencies
 36 observed, an analysis of the capacity of the dam and its spillway works,
 37 compliance of the dam with approved plans and permit conditions,
 38 changes observed in the condition of the dam since the previous
 39 inspection, an assessment of the hazard classification of the dam including
 40 a statement that the engineer either agrees or disagrees with the current
 41 classification, and any other information relevant to the safety of the dam
 42 or specifically requested by the chief engineer.

43 (5) Upon failure of a dam owner to comply with the applicable

1 inspection interval, the chief engineer or such chief engineer's authorized
2 representative shall conduct a mandatory inspection of the dam and the
3 costs as established by this act for the inspection shall be paid by the
4 owner, in addition to any other remedies provided for violations of this act.

5 (6) The failure to file a complete and timely report as required by the
6 provisions of this act, or the failure to submit the fees assessed for
7 inspections conducted by the chief engineer or the chief engineer's
8 authorized representative shall be deemed a violation of this act and
9 subject to the penalties provided by K.S.A. 82a-305a, and amendments
10 thereto.

11 (b) For the purpose of inspecting any dam or other water obstruction,
12 the chief engineer or an authorized representative of the chief engineer
13 shall have the right of access to private property. Costs for any work ~~which~~
14 *that* may be required by the chief engineer or the authorized representative
15 prior to or as a result of the inspection of a dam or other water obstruction
16 shall be paid by the owner, governmental agency or operator of such dam
17 or other water obstruction.

18 (c) All fees collected by the chief engineer pursuant to this section
19 shall be remitted to the state treasurer as provided in K.S.A. 82a-328, and
20 amendments thereto.

21 Sec. 182. K.S.A. 82a-305a is hereby amended to read as follows:
22 82a-305a. (a) Any person, partnership, association, corporation or agency
23 or political subdivision of the state government who violates any provision
24 of this act or of any rule and regulation or order issued pursuant thereto
25 shall be deemed guilty of a class C misdemeanor. Each day that any such
26 violation occurs after notice of the original violation is served upon the
27 violator by the chief engineer by restricted mail shall constitute a separate
28 offense.

29 (b) Upon request of the chief engineer, the attorney general shall
30 bring suit in the name of the state of Kansas in any court of competent
31 jurisdiction to enjoin (1) the unlawful construction, modification,
32 operation or maintenance of any dam or other water obstruction, or (2) the
33 unlawful change or diminution of the course, current or cross section of a
34 river or stream. Such court may require the removal or modification of any
35 such dam or other water obstruction by mandatory injunction.

36 (c) *In addition to any other penalty provided by law, any person who*
37 *commits a violation of K.S.A. 82a-301 et seq., and amendments thereto, or*
38 *any rule and regulation adopted thereunder, may be subject to a civil*
39 *penalty of not less than \$100 nor more than \$1,000 per violation. In the*
40 *case of a continuing violation, each day such violation continues may be*
41 *deemed a separate violation. Such civil penalty may be assessed in*
42 *addition to any other penalty provided by law.*

43 (d) *No civil penalty shall be imposed pursuant to this section except*

1 *on written order of the chief engineer or duly authorized agent of the chief*
 2 *engineer. Such order shall state the nature of the violation, the factual*
 3 *basis for the finding, the penalty to be imposed and the appropriate*
 4 *procedure for appeal of the order, as established by K.S.A. 82a-1901, and*
 5 *amendments thereto.*

6 *(e) Any person aggrieved by an order of the chief engineer, or the*
 7 *chief engineer's duly authorized agent, pursuant to this section may*
 8 *request a hearing or review as provided by K.S.A. 82a-1901, and*
 9 *amendments thereto, and, upon exhaustion of administrative remedies,*
 10 *may appeal to the district court in the manner provided by the Kansas*
 11 *judicial review act.*

12 *(f) There is hereby created in the state treasury the water structures*
 13 *emergency fund. All moneys collected by the chief engineer pursuant to*
 14 *this section shall be deposited in the state treasury in accordance with*
 15 *K.S.A. 75-4215, and amendments thereto. Upon receipt of each such*
 16 *remittance, the state treasurer shall deposit the entire amount in the state*
 17 *treasury to the credit of the water structures emergency fund. All moneys*
 18 *credited to the water structures emergency fund may be expended for the*
 19 *emergency repair and rehabilitation of any water structure when the chief*
 20 *engineer determines that other funds are not available and such repair or*
 21 *rehabilitation is necessary to protect the public's health, safety and*
 22 *welfare. The maximum unencumbered balance for the water structures*
 23 *emergency fund shall be \$300,000. Once the water structure emergency*
 24 *fund has reached the maximum unencumbered balance, then the state*
 25 *treasurer shall credit any moneys received in excess of \$300,000 to the*
 26 *water structures fund pursuant to K.S.A. 82a-328.*

27 Sec. 183. K.S.A. 82a-326 is hereby amended to read as follows: 82a-
 28 326. When used in this act:

29 (a) "Water development project" means any project or plan ~~which~~
 30 *that* requires a permit pursuant to K.S.A. 24-126, 24-1213; *or* 82a-301 et
 31 seq., and amendments thereto, or the multipurpose small lakes program
 32 act;

33 (b) "environmental review agencies" means the:

34 (1) Kansas department of wildlife; *and* parks ~~and~~ tourism;

35 (2) Kansas forest service;

36 (3) state biological survey;

37 (4) Kansas department of ~~health~~ water and environment;

38 (5) state historical society;

39 (6) Kansas department of ~~agriculture~~ water and environment, division
 40 of *environment and* conservation; and

41 (7) state corporation commission.

42 Sec. 184. K.S.A. 82a-328 is hereby amended to read as follows: 82a-
 43 328. There is hereby created in the state treasury the water structures fund.

1 The chief engineer of the *Kansas department of water and environment*,
2 division of water resources, ~~Kansas department of agriculture~~ shall remit
3 all moneys received under K.S.A. 82a-302, 82a-303b and 24-126, and
4 amendments thereto, to the state treasurer in accordance with the
5 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
6 each such remittance, the state treasurer shall deposit the entire amount in
7 the state treasury to the credit of the water structures fund. All
8 expenditures from the water structures fund shall be made in accordance
9 with appropriation acts upon warrants of the director of accounts and
10 reports issued pursuant to vouchers approved by the secretary of
11 ~~agriculture~~ *of water and environment* or by a person designated by the
12 secretary.

13 Sec. 185. K.S.A. 82a-405 is hereby amended to read as follows: 82a-
14 405. Any landowner owning land in the state of Kansas, not within the
15 corporate limits in any city in this state, who shall lawfully by the
16 construction of a dam across a dry watercourse or any stream or
17 watercourse draining an area not exceeding 10 square miles, form upon
18 such landowner's own land one or more reservoirs, having along the axis
19 of the dam at the lowest point in the natural bed of a stream or watercourse
20 a depth of not less than 10 feet and a storage capacity at spillway level,
21 including the volume of any excavation in the reservoir area below such
22 level, of not less than five acre feet, for the collection and storage of
23 surface water or flood detention storage, and who shall maintain such dam
24 or dams in a condition satisfactory to the chief engineer of the *Kansas*
25 *department of water and environment*, division of water resources ~~in the~~
26 ~~Kansas department of agriculture~~, shall be entitled to an exemption from
27 taxes levied upon such land in the amount prescribed by K.S.A. 79-201g,
28 and amendments thereto.

29 Sec. 186. K.S.A. 82a-603 is hereby amended to read as follows: 82a-
30 603. Whenever a petition as provided in the preceding section is filed with
31 the county clerk, the county clerk shall thereupon give notice to the county
32 commissioners of the filing and pendency of such petition and the county
33 commissioners shall forthwith fix a time within 30 days from date of filing
34 of the petition, for a hearing of the same and the county clerk shall at least
35 seven days before date fixed for such hearing, give or send by mail,
36 written notice thereof to each of the petitioners, and shall transmit to the
37 chief engineer of the *Kansas department of water and environment*,
38 division of water resources, ~~Kansas department of agriculture~~, one copy of
39 the petition and notice of the date set for its consideration.

40 Sec. 187. K.S.A. 82a-612 is hereby amended to read as follows: 82a-
41 612. As used in this act, unless the context clearly requires otherwise:

42 (a) "District" means a rural water district organized pursuant to this
43 act;

- 1 (b) "board" means the governing body of a district;
- 2 (c) the terms "board of county commissioners" and "county clerk"
- 3 shall mean, respectively, the board of county commissioners and county
- 4 clerk of the county ~~in which~~ *where* the greatest portion of the territory of
- 5 any existing or proposed rural water district is located;
- 6 (d) "participating member" means an individual, firm, partnership,
- 7 association or corporation ~~and that~~:
- 8 (1) ~~Which~~ has subscribed to one or more benefit units of such district;
- 9 or
- 10 (2) ~~which~~ is charged a franchise fee for water service ~~which that~~ is
- 11 paid, either directly or indirectly through another water provider, to such
- 12 district;
- 13 (e) "chief engineer" means the chief engineer of the *Kansas*
- 14 *department of water and environment*, division of water resources, ~~Kansas~~
- 15 ~~department of agriculture~~.
- 16 Sec. 188. K.S.A. 82a-701 is hereby amended to read as follows: 82a-
- 17 701. ~~When~~ *As* used in this act, unless the context indicates otherwise, ~~the~~
- 18 ~~following words shall have the following meanings:~~
- 19 (a) "Person" ~~shall mean and include~~ *means* a natural person, a
- 20 partnership, an organization, a corporation, a municipality and any agency
- 21 of the state or federal government.
- 22 (b) "Chief engineer" means the chief engineer of the *Kansas*
- 23 *department of water and environment*, division of water resources ~~of the~~
- 24 ~~Kansas department of agriculture~~.
- 25 (c) "Domestic uses" means the use of water by any person or by a
- 26 family unit or household for household purposes, or for the watering of
- 27 livestock, poultry, farm and domestic animals used in operating a farm,
- 28 and for the irrigation of lands not exceeding a total of two acres in area for
- 29 the growing of gardens, orchards and lawns.
- 30 (d) "Vested right" means the right of a person under a common law or
- 31 statutory claim to continue the use of water having actually been applied to
- 32 any beneficial use, including domestic use, on or before June 28, 1945, to
- 33 the extent of the maximum quantity and rate of diversion for the beneficial
- 34 use made thereof, and shall include the right to take and use water for
- 35 beneficial purposes where a person is engaged in the construction of works
- 36 for the actual application of water to a beneficial use on June 28, 1945,
- 37 provided such works shall be completed and water is actually applied for
- 38 such use within a reasonable time thereafter by such person, such person's
- 39 heirs, successors or assigns. ~~Such a right~~ "Vested right" does not include,
- 40 ~~however~~, those common law claims under which a person has not applied
- 41 water to any beneficial use within the periods of time set out in this
- 42 subsection.
- 43 (e) "Appropriator" means ~~and includes~~ a person who has an

1 appropriation right that has been perfected in conformity with article 7 of
2 chapter 82a of the Kansas Statutes Annotated, and amendments thereto.

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

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

17 Sec. 189. K.S.A. 82a-731 is hereby amended to read as follows: 82a-
18 731. There is hereby created in the state treasury the water appropriation
19 certification fund. The chief engineer of the *Kansas department of water*
20 *and environment*, division of water resources ~~of the Kansas department of~~
21 ~~agriculture~~ shall remit all moneys received under K.S.A. 82a-708a, 82a-
22 708b ~~and~~, 82a-727, ~~and amendments thereto~~, and K.S.A. 82a-741, and
23 amendments thereto, to the state treasurer in accordance with the
24 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
25 each such remittance, the state treasurer shall deposit the entire amount in
26 the state treasury to the credit of the water appropriation certification fund.
27 All expenditures from the water appropriation certification fund shall be
28 made in accordance with appropriation acts upon warrants of the director
29 of accounts and reports issued pursuant to vouchers approved by the
30 secretary of ~~agriculture~~ *water and environment* or by a person designated
31 by the secretary.

32 Sec. 190. K.S.A. 82a-732 is hereby amended to read as follows: 82a-
33 732. (a) The owner of a water right or permit to appropriate water for
34 beneficial use, except for domestic use, shall file or cause to be filed an
35 annual water use report for the previous calendar year on a form
36 prescribed by the chief engineer of the *Kansas department of water and*
37 *environment*, division of water resources ~~of the Kansas department of~~
38 ~~agriculture~~ on or before March 1 following the end of the previous
39 calendar year. The report shall completely and accurately set forth such
40 water use information as requested by the chief engineer.

41 (b) Any owner of a water right or permit to appropriate water for
42 beneficial use, except for domestic use, who fails to timely file a water use
43 report or other documents required under the provisions of subsection (a)

1 shall be subject to a civil penalty in an amount not to exceed \$1,000 per
2 water right. In addition to assessing a civil penalty as provided in this
3 section, in the event the owner of a water right or permit to appropriate
4 water for beneficial use fails to file or cause to be filed an annual water use
5 report by June 1 of the calendar year ~~in which~~ when it is due, the chief
6 engineer may issue an order indefinitely suspending all water use under
7 such water right or permit to appropriate water for beneficial use until such
8 time as the annual water use report has been submitted or the chief
9 engineer has determined that water use has been otherwise sufficiently
10 documented with the division. The chief engineer upon a finding that the
11 owner of a water right or permit to appropriate water for beneficial use has
12 failed to file or cause to be filed such a report may impose a civil penalty,
13 suspend the water right indefinitely, or require use of telemetry for the
14 purpose of documentation.

15 (c) Any person filing a document knowing it to contain any false
16 information as to a material matter shall be guilty of a class C
17 misdemeanor.

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

21 (e) This section shall be a part of and supplemental to the water
22 appropriation act, K.S.A. 82a-701 et seq., and amendments thereto.

23 Sec. 191. K.S.A. 82a-733 is hereby amended to read as follows: 82a-

24 733. (a) The chief engineer may require an applicant for a permit to
25 appropriate water for beneficial use or the owner of a water right or permit
26 to appropriate water for beneficial use to adopt and implement
27 conservation plans and practices. The chief engineer shall not mandate the
28 adoption and implementation of conservation plans and practices except
29 pursuant to a finding that such plans and practices will assure public
30 benefit and promote public interest. In selecting the applications, water
31 rights or permits for which conservation plans and practices are required to
32 be adopted and implemented, the chief engineer shall give priority to: (1)
33 Water users that share a common source of supply that could be
34 insufficient during times of drought; (2) water users whose use is
35 significantly higher than their peers from the same geographical area with
36 comparable circumstances; and (3) water users who apply for any state
37 administered grant, loan or cost-share moneys for water-related projects.
38 Prior to requiring the adoption and implementation of conservation plans
39 and practices, the chief engineer shall assess the availability of technical
40 assistance and inform the owner of a water right or permit to appropriate
41 water for beneficial use or the applicant for such a permit who is required
42 to adopt and implement a conservation plan and practices of the available
43 sources of technical assistance to prepare the conservation plan.

1 (b) The chief engineer shall allow the owner of a water right or
2 permit to appropriate water for beneficial use or the applicant for such a
3 permit a minimum of 60 days to prepare a required conservation plan. The
4 time allowed to prepare the required conservation plan may be extended
5 by the chief engineer for good cause shown by the applicant. The chief
6 engineer shall provide the owner of the water right or permit to appropriate
7 water for beneficial use or the applicant for such a permit a reasonable
8 time to implement the conservation plan and, for good cause shown, such
9 as the need to apply extensive land treatment practices, the chief engineer
10 may extend the time for implementation for a period of up to five years.

11 (c) Plans and practices required pursuant to this section shall be
12 consistent with the guidelines for conservation plans and practices
13 developed and maintained by the ~~Kansas water office~~ *department of water*
14 *and environment, division of water and environmental planning* pursuant
15 to ~~subsection (e) of K.S.A. 74-2608(c)~~, and amendments thereto. If
16 requested by the owner of the water right or permit to appropriate water
17 for beneficial use or the applicant for such a permit, the chief engineer, in
18 consultation with the director of the ~~Kansas water office~~ *division of water*
19 *and environmental planning*, shall determine whether such plans and
20 practices are consistent with the guidelines adopted by the ~~Kansas water~~
21 ~~office~~ *division of water and environmental planning*. The ~~Kansas water~~
22 ~~office~~ *division of water and environmental planning* shall provide, or
23 arrange to provide, technical assistance for water users required to adopt
24 and implement conservation plans and practices pursuant to this section.

25 (d) Before any state agency makes any loan or grant, or provides any
26 cost-share funds, for any water-related projects to any person or entity, the
27 state agency may require the person or entity to submit to, and have
28 approved by, the chief engineer a water conservation plan consistent with
29 the guidelines for conservation plans and practices developed and
30 maintained by the ~~Kansas water office~~ *division of water and*
31 *environmental planning* pursuant to ~~subsection (e) of K.S.A. 74-2608(c)~~,
32 and amendments thereto.

33 (e) As used in this section, "water-related projects" ~~shall include~~
34 *includes*, but *is not be* limited to, the following: Interconnections between
35 water supply systems; development of new water supply and delivery
36 systems; improvements or repairs to an existing water supply system,
37 sanitary sewer system or water treatment system, ~~which that~~ would
38 significantly increase the amount of water used; small lakes development,
39 improvement or repair; and development of other small impoundments for
40 public water supply or irrigation.

41 (f) The chief engineer may approve the conservation plans and
42 practices required pursuant to the provisions of this section on such terms,
43 conditions and limitations as deemed necessary to carry out the provisions

1 of this section. The implementation of the conservation plan and practices
 2 as approved or any subsequent approved modification shall constitute a
 3 condition of the water right or permit to appropriate water for beneficial
 4 use.

5 (g) Any conservation plans and practices required pursuant to this
 6 section with regard to any groundwater right or permit to appropriate
 7 groundwater from within the boundaries of a groundwater management
 8 district shall be subject to approval by both the chief engineer and the
 9 board of directors of the groundwater management district unless such
 10 plans and practices are incorporated in the groundwater management
 11 district's management program ~~which~~ *that* has been approved by the chief
 12 engineer pursuant to K.S.A. 82a-1029, and amendments thereto.

13 (h) The chief engineer may delegate authority to implement and
 14 enforce any of the provisions of this section to a groundwater management
 15 district on such terms as may be appropriate and necessary to carry out the
 16 provisions of this section within the boundaries of such district.

17 (i) The chief engineer may delegate to any city ~~which~~ *that* has
 18 conservation plans meeting state guidelines the authority to require
 19 domestic water users within such city to adopt and implement
 20 conservation plans and practices so that such city can require compliance
 21 from private domestic well owners within the city limits.

22 (j) This section shall be *a* part of and supplemental to the Kansas
 23 water appropriation act.

24 Sec. 192. K.S.A. 2021 Supp. 82a-736 is hereby amended to read as
 25 follows: 82a-736. (a) It is hereby recognized that an opportunity exists to
 26 improve water management by enabling multi-year flexibility in the use of
 27 water authorized to be diverted under a groundwater water right, provided
 28 that such flexibility neither impairs existing water rights, nor increases the
 29 total amount of water diverted, so that such flexibility has no long-term
 30 negative effect on the source of supply. It is therefore declared necessary
 31 and advisable to permit the establishment of multi-year flex accounts for
 32 groundwater water rights, together with commensurate protections for
 33 existing water rights and their source of supply.

34 (b) As used in this section:

35 (1) "Alternative base average usage" means an allocation based on
 36 net irrigation requirements calculated pursuant to subsection (c)(1)(D)(ii)
 37 that may be used in place of the base average usage.

38 (2) "Base water right" means a water right under which an applicant
 39 applies to the chief engineer to establish a multi-year flex account and
 40 where all of the following conditions exist:

41 (A) The authorized source of supply is groundwater; and

42 (B) the water right is not currently the subject of a multi-year
 43 allocation due to a change approval that allows an expansion of the

1 authorized place of use.

2 (3) "Multi-year flex account" means a term permit that suspends a
3 base water right during its term, except when the term permit may be no
4 longer exercised because of an order of the chief engineer, and is subject to
5 the terms and conditions as provided in subsection (e).

6 (4) "Base average usage" means: (A) The average amount of water
7 actually diverted for the authorized beneficial use under the base water
8 right during calendar years 2000 through 2009, excluding:

9 (i) Any amount diverted in any such year that exceeded the amount
10 authorized by the base water right;

11 (ii) any amount applied to an unauthorized place of use; and

12 (iii) diversions in calendar years when water was diverted under a
13 multi-year allocation with an expansion of the authorized place of use due
14 to a change approval;

15 (B) if water use records are inadequate to accurately determine actual
16 water use or upon demonstration of good cause by the applicant, the chief
17 engineer may calculate the base average usage with less than all 10
18 calendar years during 2000 and 2009. In no case shall the base average
19 usage be calculated with less than five calendar years during 2000 and
20 2009; or

21 (C) if the holder of the base water right shows to the satisfaction of
22 the chief engineer that water conservation reduced water use under the
23 base water right during calendar years 2000 through 2009, then the base
24 average usage shall be calculated with the five calendar years immediately
25 before the calendar year when water conservation began.

26 (5) "Chief engineer" means the chief engineer of the *Kansas*
27 *department of water and environment*, division of water resources ~~of the~~
28 ~~department of agriculture~~.

29 (6) "Flex account acreage" means the maximum number of acres
30 lawfully irrigated during a calendar year, except for any acres irrigated
31 under a multi-year allocation that allowed for an expansion of the
32 authorized place of use due to a change approval and any of the following
33 conditions are met:

34 (A) The calendar year is 2000 through 2009;

35 (B) if water conservation reduced water use under the base water
36 right during calendar years 2000 through 2009, the calendar year is a year
37 within the five calendar years immediately prior to the calendar year when
38 water conservation began; or

39 (C) if an application to appropriate water was approved after
40 December 31, 2004, the calendar year is any during the perfection period.

41 (7) "Net irrigation requirement" means the net irrigation requirement
42 for 50% chance rainfall of the county that corresponds with the location of
43 the authorized place of use of the base water right as provided in K.A.R. 5-

1 5-12, on the effective date of this act.

2 (c) (1) Any holder of a base water right that has not been deposited or
3 placed in a safe deposit account in a chartered water bank may establish a
4 multi-year flex account where the holder may deposit, in advance, the
5 authorized quantity of water from such water right for any five consecutive
6 calendar years, except when the chief engineer determines a shorter period
7 is necessary for compliance with a local enhanced management area or an
8 intensive groundwater use control area and the corrective controls in the
9 area do not prohibit the use of multi-year flex accounts, and subject to all
10 of the following:

11 (A) The water right must be vested or shall have been issued a
12 certificate of appropriation;

13 (B) the withdrawal of water pursuant to the water right shall be
14 properly and adequately metered;

15 (C) the water right is not deemed abandoned and is in compliance
16 with the terms and conditions of its certificate of appropriation, all
17 applicable provisions of law and orders of the chief engineer;

18 (D) the amount of water deposited in the multi-year flex account shall
19 not exceed the greatest of the following:

20 (i) 500% of the base average usage;

21 (ii) 500% of the product of the annual net irrigation requirement
22 multiplied by the flex account acreage, multiplied by 110%, but not greater
23 than five times the maximum annual quantity authorized by the base water
24 right;

25 (iii) if the authorized place of use is located wholly within the
26 boundaries of a groundwater management district, an amount that shall not
27 increase the long-term average use of the groundwater right as specified by
28 rule or regulation promulgated pursuant to K.S.A. 82a-1028(o), and
29 amendments thereto; or

30 (iv) pursuant to subparagraph (F), the amount computed in (i), (ii) or
31 (iii) plus any deposited water remaining in a multi-year flex account up to
32 100% of the base average usage or alternative base average usage;

33 (E) if the multi-year flex account is approved for less than five
34 calendar years, the amount of water deposited in the multi-year flex
35 account shall be prorated based on the number of calendar years approved
36 and otherwise calculated as required by subsection (c)(1)(D)(i), (ii) or (iii);
37 and

38 (F) any deposited water remaining in a multi-year flex account up to
39 100% of the base average usage or alternative base average usage may be
40 added to the deposit amount calculated in subparagraph (D) if the base
41 water right is enrolled in another multi-year flex account during the
42 calendar year ~~in which~~ when the existing multi-year flex account expires.
43 The total amount of water deposited in any multi-year flex account shall

1 not exceed 500% of the authorized quantity of the base water right.

2 (2) The provisions of K.A.R. 5-5-11 are limited to changes in annual
3 authorized quantity and shall not apply to this subsection.

4 (d) The chief engineer shall implement a program providing for the
5 issuance of term permits to holders of groundwater water rights who have
6 established flex accounts in accordance with this section. Such term
7 permits shall authorize the use of water in a flex account at any time
8 during the consecutive calendar years for which the application for the
9 term permit authorizing a multi-year flex account is made, without annual
10 limits on such use.

11 (e) Term permits provided for by this section shall be subject to the
12 following:

13 (1) A separate term permit shall be required for each point of
14 diversion authorized by the base water right.

15 (2) The quantity of water authorized for diversion shall be limited to
16 the amount deposited pursuant to subsection (c)(1)(D).

17 (3) The rate of diversion for each point of diversion authorized under
18 the term permit shall not exceed the rate of diversion for each point of
19 diversion authorized under the base water right.

20 (4) The authorized place of use shall be the place of use or a
21 subdivision of the place of use for the base water right. Any approval of an
22 application to change the place of use of the base water right shall
23 automatically result in a change to the place of use for the term permit.

24 (5) The point of diversion authorized by the term permit shall be
25 specified by referencing one point of diversion authorized by the base
26 water right at the time the multi-year flex account term permit application
27 is filed with the chief engineer or at the time any approvals changing such
28 referenced point of diversion of the base water right are approved during
29 the multi-year flex account period. For a base water right with multiple
30 points of diversion, each point of diversion authorized by a term permit
31 shall receive a specific assignment of a maximum authorized quantity of
32 water, assigned proportionately to the authorized annual quantities of the
33 respective points of diversion under the base water right.

34 (6) The chief engineer may establish, by rules and regulations, criteria
35 for such term permits.

36 (7) Except as explicitly provided for by this section, such term
37 permits shall be subject to all provisions of the Kansas water appropriation
38 act, and rules and regulations adopted under such act, and nothing in this
39 section shall authorize impairment of any vested right or prior
40 appropriation right by the exercise of such term permit.

41 (f) An application for a multi-year flex account shall be filed with the
42 chief engineer on or before December 31 of the first year of the multi-year
43 flex account term for which the application is being made.

1 (g) All costs of administration of this section shall be paid from fees
2 for term permits provided for by this section. Any appropriation or transfer
3 from any fund other than the water appropriation certification fund for the
4 purpose of paying such costs shall be repaid to the fund from where such
5 appropriation or transfer is made. At the time of repayment, the secretary
6 of ~~agriculture~~ *water and environment* shall certify to the director of
7 accounts and reports the amount to be repaid and the fund to be repaid.
8 Upon receipt of such certification, the director of accounts and reports
9 shall promptly transfer the amount certified to the specified fund.

10 (h) The fee for a multi-year flex account term permit shall be the
11 same as specified for other term permits in K.S.A. 82a-708c, and
12 amendments thereto.

13 (i) The chief engineer shall have full authority pursuant to K.S.A.
14 82a-706c, and amendments thereto, to require any additional measuring
15 devices and any additional reporting of water use for term permits issued
16 pursuant to this section. Failure to comply with any measuring or reporting
17 requirement may result in a penalty, up to and including the revocation of
18 the term permit and the suspension of the base water right for the duration
19 of the term permit period.

20 (j) The chief engineer shall submit a written report on the
21 implementation of this section to the house standing committee on
22 agriculture and natural resources and the senate standing committee on
23 natural resources on or before February 1 of each year.

24 (k) This section shall be *a* part of and supplemental to the Kansas
25 water appropriation act.

26 Sec. 193. K.S.A. 82a-737 is hereby amended to read as follows: 82a-
27 737. (a) As used in this section:

28 (1) "Chief engineer" means the chief engineer of the *Kansas*
29 *department of water and environment*, division of water resources ~~of the~~
30 ~~department of agriculture~~.

31 (2) "Secretary" means the secretary of ~~agriculture~~ *the Kansas*
32 *department of water and environment*.

33 (b) Any person who commits any of the following may incur a civil
34 penalty as provided by this section:

35 (1) Any violation of the Kansas water appropriation act, K.S.A. 82a-
36 701 et seq., and amendments thereto, or any rule and regulation adopted
37 thereunder;

38 (2) any violation of an order issued pursuant to K.S.A. 82a-1038, and
39 amendments thereto, relating to an intensive groundwater use control area;
40 or

41 (3) any violation of a term, condition or limitation imposed by the
42 chief engineer as authorized by law, including, but not limited to: (A)
43 Diversion of water from an unauthorized point of diversion; (B) failure to

1 limit the use of water to the authorized place of use; (C) failure to submit
2 or comply with the terms of conservation plans as required pursuant to
3 K.S.A. 82a-733, and amendments thereto; (D) failure to comply with the
4 maximum annual quantity or rate of diversion authorized; (E) failure to
5 properly install, maintain or assure the accuracy of acceptable water
6 measurement devices; (F) failure to comply with orders related to
7 minimum desirable stream flow, unlawful diversion, impairment of senior
8 water rights or waste of water; or (G) failure to limit the use of water to an
9 authorized type of use.

10 (c) The amount of the civil penalty provided for by this section shall
11 be not less than \$100 nor more than \$1,000 per violation. In the case of a
12 continuing violation, each day such violation continues may be deemed a
13 separate violation. Such civil penalty may be assessed in addition to any
14 other penalty provided by law.

15 (d) The chief engineer or the chief engineer's duly authorized agent,
16 upon a finding that a person has committed a violation specified in
17 subsection (b), may order the modification or suspension of the person's
18 water right or use of water, in addition to any other penalty provided by
19 law.

20 (e) No civil penalty or suspension or modification of a water right or
21 use of water shall be imposed pursuant to this section except on the written
22 order of the chief engineer or duly authorized agent of the chief engineer.
23 Such order shall state the nature of the violation, the factual basis for the
24 finding, the penalty to be imposed and the appropriate procedure for
25 appeal of the order, as established by K.S.A. 82a-1901, and amendments
26 thereto.

27 (f) Any person aggrieved by an order of the chief engineer, or the
28 chief engineer's duly authorized agent, pursuant to this section may request
29 a hearing or review as provided by K.S.A. 82a-1901, and amendments
30 thereto, and, upon exhaustion of administrative remedies, may appeal to
31 the district court in the manner provided by the Kansas judicial review act.

32 (g) The provisions of this section shall be a part of and supplemental
33 to the Kansas water appropriation act.

34 Sec. 194. K.S.A. 82a-738 is hereby amended to read as follows: 82a-
35 738. The chief engineer of the *Kansas department of water and*
36 *environment*, division of water resources ~~of the department of agriculture~~
37 and the state geological survey shall study and develop recommendations
38 regarding:

39 (a) The use of water banking as it pertains to sand and gravel pits;

40 (b) calculation of evapotranspiration and its effects on consumptive
41 use from sand and gravel pits, with special emphasis on salt cedar
42 (tamarisk); and

43 (c) the pollution control and flood control impacts of diverting water

1 runoff into sand and gravel pits. ~~On or before January 20, 2006, the chief~~
2 ~~engineer and the state geological survey shall submit a report of the study~~
3 ~~and recommendations to the house standing committee on environment~~
4 ~~and the senate standing committee on natural resources.~~

5 Sec. 195. K.S.A. 82a-739 is hereby amended to read as follows: 82a-
6 739. The Kansas ~~water office~~ *department of water and environment,*
7 *division of water and environmental planning* shall purchase one water
8 flow measurement device, and any required data recording device for use
9 with such water flow measurement device, and shall provide for the
10 permanent installation of such devices below the dam of the Cedar Bluff
11 reservoir in accordance with this section. The water flow measurement
12 device and any required data recording device shall be installed at a
13 downstream, man-made channel or drop structure. Prior to installing any
14 such water flow measurement device and any required data recording
15 device, the ~~Kansas water office~~ *division of water and environmental*
16 *planning* shall obtain a written authorization from all owners of the
17 property at the location where the water flow measurement device and any
18 required data recording device are to be installed. All data collected by
19 such water flow measurement device shall be made available to the
20 general public electronically through the internet on a real time basis as it
21 is collected ~~and shall be reported to the senate committee on natural~~
22 ~~resources, the senate committee on ways and means subcommittee on the~~
23 ~~Kansas water office, the house committee on environment, and the house~~
24 ~~agriculture and natural resources budget committee during the 2007~~
25 ~~regular session of the legislature.~~

26 Sec. 196. K.S.A. 82a-762 is hereby amended to read as follows: 82a-
27 762. As used in this act:

28 (a) "Bank boundary" means the geographic area where a water bank
29 operates and conducts the functions of a water bank and may encompass
30 more than one hydrologic unit.

31 (b) "Bank charter" means a document that sets out the articles of
32 incorporation and principal functions of a water bank.

33 (c) "Bankable water right" means a water right that has been
34 determined pursuant to K.S.A. 82a-764, and amendments thereto, to be
35 bankable.

36 (d) "Chief engineer" means the chief engineer of the division.

37 (e) "Conservation element" means the portion of a deposit that is
38 taken out of use for the duration of the deposit and is not allowed to be
39 withdrawn and used by subsequent users.

40 (f) "Deposit," other than as used in "safe deposit account," refers to
41 the deposit of a water right, or portion of a water right, in a water bank for
42 the purpose of having the bank lease water from such water right, or
43 portion of a water right, to another person or entity.

1 (g) "Division" means the *Kansas department of water and*
2 *environment*, division of water resources ~~of the Kansas department of~~
3 ~~agriculture~~.

4 (h) "Hydrologic unit" means a defined area from which water rights
5 authorizing diversion of water from a source of supply may be deposited
6 and from which water from the same source of supply may be leased, in
7 accordance with the provisions of this act, without causing impairment of
8 existing water rights or a significantly different hydrological effect to other
9 users of water from the same source or hydraulically connected sources of
10 supply.

11 (i) "Linked water rights" means two or more water rights that
12 authorize common points of diversion or a common place of use, or both.

13 (j) "Safe deposit account" means a personal account held in a water
14 bank where unused water from a bankable water right is placed for use in
15 future years.

16 (k) "Term permit" means a permit to appropriate water for a specified
17 period of time.

18 (l) "Water bank" means a private not-for-profit corporation that: (1)
19 Leases water from water rights that have been deposited in the bank; and
20 (2) provides safe deposit accounts. A "water bank" may be a groundwater
21 bank or a surface water bank, or both.

22 Sec. 197. K.S.A. 82a-767 is hereby amended to read as follows: 82a-
23 767. (a) Not later than five years after the establishment of a water bank or
24 pursuant to subsection (e), the director of the ~~Kansas water office~~
25 *department of water and environment, division of water and*
26 *environmental planning* shall convene a team to evaluate the operation of
27 the bank. The team shall consist of:

28 (1) The director of the ~~Kansas water office~~ *division of water and*
29 *environmental planning*, or the director's designee, who shall serve as
30 chairperson of the team;

31 (2) the director of the Kansas geological survey, or the director's
32 designee;

33 (3) two members who represent water right holders and water users
34 who have used the bank's services, which members shall be selected by the
35 governing body of the bank;

36 (4) members selected by the chief engineer as follows: (A) Two
37 members engaged in teaching or research at institutions of postsecondary
38 education in subjects involving water resources, including but not limited
39 to water resources engineering and hydrology; (B) a member who is an
40 economist with knowledge and experience in water resources; (C) one
41 member having knowledge and experience in water law; and (D) two
42 members having knowledge and experience in water policy issues and
43 residing outside the bank boundary, who shall represent the public interest;

1 (5) one representative of each groundwater management district
2 located in whole or in part within the bank boundary selected by the board
3 of directors of such district; and

4 (6) one representative of each water assurance district located in
5 whole or in part within the bank boundary selected by the board of
6 directors of such district.

7 (b) The staff of the ~~Kansas water office~~ *division of water and*
8 *environmental planning* shall provide staff assistance to the evaluation
9 team.

10 (c) Not more than one year after a team is convened pursuant to this
11 section, the team shall submit a report of its evaluation and
12 recommendations to the governor, the ~~Kansas water office~~ *division of*
13 *water and environmental planning*, the Kansas water authority, the
14 secretary of agriculture, the chief engineer and the senate standing
15 committee on natural resources and the house standing committee on
16 environment, or the successors to such committees regarding:

17 (1) The operations and policies of the bank and whether they are
18 consistent with the provisions of this act, the state water plan and all
19 applicable statutes, rules and regulations, findings and orders of the chief
20 engineer, groundwater management district policies and water assurance
21 district operations plans;

22 (2) whether the operations of the bank are achieving the goals and
23 objectives of water banking as set out in the state water plan and whether
24 changes could be made to further those goals and objectives;

25 (3) the bank's impact on the entire area of all hydrologic units, any
26 parts of which are encompassed in the bank's boundary;

27 (4) any other matters the team determines relevant to the future of
28 water banking in the state;

29 (5) whether the charter of the bank should lapse, or the bank should
30 become chartered; and

31 (6) the terms under which the bank's charter should be allowed to
32 lapse, if the team recommends that the charter not be extended.

33 (d) Unless otherwise provided by law, the chief engineer, in
34 accordance with the recommendations of the team, may extend the charter
35 of the bank or may allow the bank charter to lapse under the terms
36 recommended by the team.

37 (e) If a bank is chartered, such charter shall be subject to review not
38 less than every five years by a team convened as prescribed in subsection
39 (a). The review team shall submit a report on the matters listed in
40 subsections (c)(1) through (c)(4).

41 Sec. 198. K.S.A. 82a-771 is hereby amended to read as follows: 82a-
42 771. Each water bank shall pay all costs incurred by the division and by
43 the ~~Kansas water office~~ *department of water and environment, division of*

1 *water and environmental planning* for assistance and services provided
2 pursuant to this act, including, but not limited to, costs for personnel
3 necessary to provide such assistance and services.

4 Sec. 199. K.S.A. 82a-773 is hereby amended to read as follows: 82a-
5 773. (a) There is hereby created in the state treasury the water office cost
6 fund. The director of the Kansas ~~water office~~ *department of water and*
7 *environment, division of water and environmental planning*, shall remit to
8 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
9 and amendments thereto, all moneys received by the ~~water office~~ *division*
10 *of water and environmental planning* to reimburse costs as required by
11 K.S.A. 82a-771, and amendments thereto. Upon receipt, the state treasurer
12 shall deposit the entire amount in the state treasury and credit it to the
13 water office cost fund.

14 (b) Moneys in the water office cost fund shall be expended only for
15 the ~~Kansas water office's~~ *division of water and environmental planning's*,
16 costs of providing assistance and services as provided by this act.

17 (c) On or before the 10th of each month, the director of accounts and
18 reports shall transfer from the state general fund to the water office cost
19 fund interest earnings based on:

20 (1) The average daily balance of moneys in the water office cost fund
21 for the preceding month; and

22 (2) the net earnings rate for the pooled money investment portfolio
23 for the preceding month.

24 (d) All expenditures from the water office cost fund shall be made in
25 accordance with appropriation acts upon warrants of the director of
26 accounts and reports issued pursuant to vouchers approved by the director
27 of the Kansas ~~water office~~ *division of water and environmental planning*,
28 for the purposes set forth in this section.

29 Sec. 200. K.S.A. 82a-902 is hereby amended to read as follows: 82a-
30 902. The following words when used in this act, shall have the meaning
31 ascribed in this section, except where the context clearly indicates a
32 different meaning:

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

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

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

43 (d) "Office" means the Kansas ~~water office~~ *department of water and*

1 *environment, division of water and environmental planning.*

2 Sec. 201. K.S.A. 82a-903 is hereby amended to read as follows: 82a-
3 903. In accordance with the policies and long-range goals and objectives
4 established by the legislature, the office shall formulate on a continuing
5 basis a comprehensive state water plan for the management, conservation
6 and development of the water resources of the state. Such state water plan
7 shall include sections corresponding with water planning areas as
8 determined by the office. ~~The Kansas water office and the Kansas water~~
9 ~~authority shall seek advice from the general public and from committees~~
10 ~~consisting of individuals with knowledge of and interest in water issues in~~
11 ~~the water planning areas. The plan shall set forth the recommendations of~~
12 ~~the office for the management, conservation and development of the water~~
13 ~~resources of the state, including the general location, character, and extent~~
14 ~~of such existing and proposed projects, programs, and facilities as are~~
15 ~~necessary or desirable in the judgment of the office to accomplish such~~
16 ~~policies, goals and objectives. The plan shall specify standards for~~
17 ~~operation and management of such projects, programs, and facilities as are~~
18 ~~necessary or desirable. The plan shall be formulated and used for the~~
19 ~~general purpose of accomplishing the coordinated management,~~
20 ~~conservation and development of the water resources of the state. The~~
21 ~~Kansas department of water and environment, division of water resources~~
22 ~~of the Kansas department of agriculture, state geological survey, the~~
23 ~~Kansas department of water and environment, division of environment~~
24 ~~and conservation of the department of health and environment, department~~
25 ~~of wildlife; and parks and tourism, Kansas department of agriculture-~~
26 ~~division of conservation and all other interested state agencies shall~~
27 cooperate with the office in formulation of such plan.

28 Sec. 202. K.S.A. 82a-905 is hereby amended to read as follows: 82a-
29 905. Prior to the submission of the state water plan or any section thereof
30 or any amendment thereto to the Kansas water authority, the legislature
31 and the governor, the office shall hold public hearings at such place or
32 places as may be convenient to the area affected, to consider the state
33 water plan or one or more sections thereof or amendments thereto, and to
34 hear protests or petitions of all interested persons. Notice of such hearing
35 shall be published at least twice prior to such hearing in the Kansas
36 register. The office shall send, by United States mail, a reasonable notice
37 of hearing to (1) such agencies of the state as have an interest in the
38 management, conservation and development of the water resources of the
39 state, (2) the county clerk of each county affected by the proposed plan, (3)
40 the agencies of the federal government having an interest in water
41 resources management, conservation and development, and (4) such
42 persons, public or private, as have requested notification in writing from
43 the office. In addition, the office may send notice of a scheduled hearing to

1 any person or persons it deems proper. The office shall furnish a summary
 2 of the proposed plan to those persons it is required by law to notify of a
 3 public hearing and to such other persons as request a summary. The
 4 records of hearings shall be public records and open for inspection at the
 5 ~~Kansas water~~ office. The office shall give due consideration to the matters
 6 presented at such public hearing and shall then present the plan to the
 7 Kansas water authority. Upon approval by the authority, the office shall
 8 submit the plan to the legislature and the governor. Provisions in this
 9 section concerning notice and summary shall be directive and not
 10 jurisdictional.

11 Sec. 203. K.S.A. 82a-906 is hereby amended to read as follows: 82a-
 12 906. The ~~Kansas water~~ office, with the approval of the Kansas water
 13 authority, annually shall submit to the legislature and to the governor an
 14 ~~up-dated~~ *updated* water plan containing recommendations ~~which~~ *that* are
 15 necessary to achieve the long-range goals and objectives for the
 16 management, conservation and development of the waters of the state as
 17 set forth in K.S.A. 82a-927, and amendments thereto.

18 Sec. 204. K.S.A. 82a-922 is hereby amended to read as follows: 82a-
 19 922. All expenditures from appropriations for the office shall be made in
 20 accordance with the applicable appropriation act upon warrants of the
 21 director of accounts and reports issued pursuant to vouchers approved by
 22 the director of the ~~Kansas water~~ office or by a person or persons
 23 designated by the director.

24 Sec. 205. K.S.A. 82a-923 is hereby amended to read as follows: 82a-
 25 923. The ~~office~~ *secretary of water and environment* shall adopt, amend,
 26 promulgate, and enforce such rules and regulations as are necessary and
 27 proper to carry out the provisions of this act. Such rules and regulations
 28 shall be filed in the office of the secretary of state as provided by law. The
 29 ~~Kansas water office~~ *Kansas department of water and environment* may
 30 prepare and distribute, free or at cost, compilations of its rules and
 31 regulations.

32 Sec. 206. K.S.A. 82a-954 is hereby amended to read as follows: 82a-
 33 954. (a) On and after ~~July 1, 1989~~ *July 1, 2022*, there is hereby imposed a
 34 water protection fee at the rate of:

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

37 (2) subject to the provisions of subsection (c), ~~three~~ *five* cents per
 38 1,000 gallons of water appropriated for industrial use pursuant to a permit
 39 granted in accordance with the Kansas water appropriation act; and

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

43 (b) As used in this section, "industrial use" and "stockwatering" ~~have~~

1 ~~the meanings~~ *mean the same as* provided by rules and regulations of the
2 chief engineer of the *Kansas department of water and environment*,
3 division of water resources ~~of the Kansas department of agriculture~~ and the
4 determination of gallons used shall be based upon figures supplied to the
5 secretary of revenue by the division of water resources.

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

18 (d) The fee imposed by subsection (a)(1) shall be paid quarterly by
19 the public water supplier and shall be transmitted to the department of
20 revenue not later than 45 days following the end of each quarter. The
21 public water supplier may collect the fee directly from each consumer to
22 which water is sold at retail or may pay the amount owed to the
23 department from moneys in its operating or other fund available for that
24 purpose. The fees imposed by subsections (a)(2) and (3) shall be paid by
25 the owner of the permit. If any retailer or permit owner fails to pay the fee
26 required to be collected and paid under this section, there shall be added,
27 to the unpaid balance of the fee, penalty and interest as prescribed under
28 K.S.A. 79-3615, and amendments thereto, for the late payment of sales
29 tax.

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

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

43 (g) An owner of an industrial use permit who has a contract with the

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

5 Sec. 207. K.S.A. 82a-1042 is hereby amended to read as follows:
6 82a-1042. To further implement the provisions of the groundwater
7 management district act, if the secretary of ~~agriculture water and~~
8 ~~environment~~ or the chief engineer of the *Kansas department of water and*
9 *environment*, division of water resources ~~of the Kansas department of~~
10 ~~agriculture~~ propose rules and regulations that may change an adopted local
11 groundwater management program or impact water use in a groundwater
12 management district, the secretary or chief engineer shall notify the
13 groundwater management district board of directors of such requested
14 management program change or proposed rules and regulations and
15 provide a copy of such requested management program change or
16 proposed rules and regulations to the board. Upon such notice, the board
17 of directors shall prepare a response of intended board actions. The board
18 of directors shall follow the provisions of K.S.A. 82a-1029, and
19 amendments thereto, for revising active groundwater management
20 programs.

21 Sec. 208. K.S.A. 82a-1101 is hereby amended to read as follows:
22 82a-1101. ~~The state water resources board Kansas department of water~~
23 ~~and environment, division of water and environmental planning,~~
24 ~~established pursuant to K.S.A. 1977 Supp. 74-2605 et seq. section 3, and~~
25 ~~amendments thereto,~~ is hereby designated as the state agency for bank
26 stabilization projects. ~~From and after the effective date of this act,~~ All bank
27 stabilization projects ~~which that~~ involve more than one political
28 subdivision of the state; shall receive approval of the ~~state board~~ *division*
29 *of water and environmental planning* and be included in the state water
30 plan before work shall commence thereon, but this provision shall not
31 affect any project ~~which that~~ has been approved or ~~on which~~ work *that*
32 was commenced prior ~~thereto~~ *to such effective date*. The designated state
33 agency shall cooperate with federal agencies on any projects initiated and
34 shall aid in initiation of projects it shall approve.

35 Sec. 209. K.S.A. 82a-1103 is hereby amended to read as follows:
36 82a-1103. ~~The state water resources board Kansas department of water~~
37 ~~and environment, division of water and environmental planning~~ shall be
38 responsible for administrative costs incurred in connection with
39 applications for approval of bank stabilization projects; and shall have
40 authority to plan, contract, acquire land and easements, apportion costs and
41 provide assurances that project operation and maintenance funds will be
42 available, but not obligate the state of Kansas, in any case, beyond
43 available appropriations made therefor by the legislature.

1 Sec. 210. K.S.A. 82a-1203 is hereby amended to read as follows:
 2 82a-1203. As used in this act, unless the context otherwise requires:

3 (a) "Construction of water wells" means all acts necessary to
 4 obtaining groundwater by any method for any use including, without
 5 limitation, the location of and excavation for the well.

6 (b) "Person" means any individual, association, firm, partnership,
 7 corporation or governmental entity.

8 (c) "Sand point" or "well point" means any driven well ~~which~~ *that* is
 9 25 feet or less in depth and is constructed by manually driving into the
 10 ground a drive point fitted to the lower end of tightly connected sections of
 11 pipe that are 2 inches or less in diameter.

12 (d) "Domestic uses" means the use of water by any person, family
 13 unit or household for household purposes, the watering of livestock,
 14 poultry, farm and domestic animals used in operating a farm or the
 15 irrigation of lands not exceeding a total of two acres in area for the
 16 growing of gardens, orchards or lawns.

17 (e) "Secretary" means the secretary of ~~health~~ *the Kansas department*
 18 *of water* and environment.

19 (f) "Water well" means any excavation that is drilled, cored, bored,
 20 washed, driven, dug, jetted or otherwise constructed, when the intended
 21 use of such excavation is for the location, diversion, artificial recharge or
 22 acquisition of groundwater.

23 (g) "Water well contractor" or "contractor" means any person who
 24 constructs, reconstructs or treats a water well. ~~The term shall~~ *"Water well*
 25 *contractor" or "contractor" does not include:*

26 (1) An individual while in the act of constructing a water well on land
 27 ~~which~~ *that* is owned by such individual and is used by such individual for
 28 domestic purposes at such individual's place of abode, but only when the
 29 well is constructed in compliance with prescribed minimum well standards
 30 as provided in this act; or

31 (2) an individual who performs labor or services for a licensed water
 32 well contractor at such contractor's direction and under such contractor's
 33 supervision.

34 Sec. 211. K.S.A. 82a-1214 is hereby amended to read as follows:
 35 82a-1214. Any person who shall willfully violate any lawful rule or
 36 regulation of the secretary relating to water well contracting, or who shall
 37 engage in the business of constructing, reconstructing or treating water
 38 wells without first having obtained a license as in this act required, or who
 39 shall knowingly violate any provisions of this act, shall be guilty of a class
 40 B misdemeanor and subject to the penalties therefor as provided by law. In
 41 addition, the secretary of ~~health and environment~~ is hereby authorized to
 42 apply to the district court for enforcement of this act or rules and
 43 regulations adopted under this act in accordance with the provisions of the

1 Kansas judicial review act.

2 Sec. 212. K.S.A. 82a-1216 is hereby amended to read as follows:
3 82a-1216. (a) Any person who violates any provision of the Kansas
4 groundwater exploration and protection act, any rules and regulations
5 adopted thereunder or any order issued by the secretary thereunder shall
6 incur in addition to other penalties provided by law, a civil penalty not to
7 exceed \$5,000 for each violation. In the case of a continuing violation
8 every day such violation continues shall be deemed a separate violation.

9 (b) The secretary ~~of the department of health and environment~~ or the
10 director of the *Kansas department of water and environment*, division of
11 environment *and conservation*, if designated by the secretary, upon a
12 finding that a person has violated any provision of the Kansas groundwater
13 exploration and protection act, or any order issued or rule and regulation
14 adopted thereunder, may: (1) Issue a written order requiring that necessary
15 remedial or preventive action be taken within a reasonable time period; (2)
16 assess a civil penalty for each violation within the limits provided in this
17 section ~~which~~ *and such penalty* shall constitute an actual and substantial
18 economic deterrent to the violation for which assessed; or (3) both issue
19 such order and assess such penalty. The order shall specify the provisions
20 of the act or rules and regulations alleged to be violated and the facts
21 constituting each violation. Such order shall include the right to a hearing.
22 Any such order shall become final unless, within 15 days after service of
23 the order, the person named therein shall request in writing a hearing by
24 the secretary. If a hearing is requested, the secretary shall notify the alleged
25 violator or violators of the date, place and time of the hearing.

26 (c) No civil penalty shall be imposed under this section except after
27 notification by issuance and service of the written order and hearing, if a
28 hearing is requested, in accordance with the provisions of the Kansas
29 administrative procedure act.

30 (d) Any person aggrieved by an order of the secretary made under
31 this section may appeal such order to the district court in the manner
32 provided by the Kansas judicial review act.

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

38 (f) Nothing in this act shall be construed to abridge, limit or otherwise
39 impair the right of any person to damages or other relief on account of
40 injury to persons or property and to maintain any action or other
41 appropriate proceeding therefor.

42 Sec. 213. K.S.A. 82a-1301 is hereby amended to read as follows:
43 82a-1301. As used in this act, unless the context otherwise requires:

1 (a) "Director" means the director of the Kansas ~~water office~~
2 *department of water and environment, division of water and*
3 *environmental planning.*

4 (b) "Chief engineer" means the chief engineer of the *Kansas*
5 *department of water and environment, division of water resources* ~~of the~~
6 ~~Kansas department of agriculture.~~

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

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

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

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

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

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

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

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

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

35 Sec. 214. K.S.A. 82a-1303 is hereby amended to read as follows:
36 82a-1303. (a) Notwithstanding any other provisions in the statutes of this
37 state, the director, in the manner provided in K.S.A. 82a-1304, and
38 amendments thereto, shall be authorized, subject to approval of the
39 authority, to acquire on behalf of the state a water reservation right to
40 divert and store the waters of all streams flowing into the conservation
41 storage water supply capacity or into the conservation storage water
42 quality capacity of any reservoirs ~~in which~~ *where* the state controls storage
43 space whether under contracts with the federal government or otherwise. A

1 water reservation right for waters flowing into the conservation storage
2 water supply capacity shall be in an amount sufficient to insure a yield of
3 water from the reservoir for beneficial use through a drought having a 2%
4 chance of occurrence in any one year with the reservoir in operation. A
5 water reservation right for waters flowing into the conservation storage
6 water quality capacity shall be in an annual amount equal to the volume of
7 the conservation storage water quality capacity, as agreed upon by the
8 director ~~of the Kansas water office~~ and the chief engineer. The rights of the
9 state under this section and those ~~which~~ *that* are acquired under K.S.A.
10 82a-1304, and amendments thereto, shall be subject to all vested rights,
11 appropriation rights, applications filed for permits to appropriate water and
12 other vested property interests acquired prior to the state's acquisition, but
13 not to those acquired thereafter. The chief engineer shall provide as a
14 condition to a water reservation right acquired under K.S.A. 82a-1304, and
15 amendments thereto, for waters flowing into the conservation storage
16 water quality capacity in any reservoir that the state may divert and store
17 inflows under such right only at times when the inflows exceed certain
18 threshold levels, to be agreed upon jointly by the chief engineer and the
19 director ~~of the Kansas water office~~.

20 (b) Whenever the authority shall determine that it is in the public
21 interest to acquire, reserve or purchase water located in another state for
22 this state's conservation storage water supply capacity, it shall authorize
23 the director to enter into contract negotiations to acquire, reserve or
24 purchase such water. Any such contract shall be subject to final approval
25 of the authority.

26 Sec. 215. K.S.A. 82a-1311a is hereby amended to read as follows:
27 82a-1311a. (a) The date of receipt of each application submitted pursuant
28 to K.S.A. 82a-1310a, and amendments thereto, shall be stamped thereon
29 and authenticated as directed by the director. Applicants shall notify the
30 director in writing that they wish to commence negotiations for a contract
31 to withdraw and use water. Within 10 days after the completion of
32 negotiations for a contract to withdraw and use water, the director shall
33 transmit to the chairperson of the authority a copy of the proposed
34 contract.

35 (b) Upon request of the chairperson of the authority, the director shall
36 transmit all available information necessary to determine whether or not to
37 approve a contract to purchase water from the state's conservation water
38 supply capacity or to use surplus waters for minimum streamflow
39 requirements, unless an emergency exists.

40 (c) In order to determine whether a proposed contract for the sale of
41 water from the state's conservation water supply capacity is in the interest
42 of the people of the state of Kansas and whether the benefits to the state
43 for approving the contract outweigh the benefits to the state for not

1 approving the contract, the authority shall consider all matters pertaining
2 to such questions, including:

- 3 (1) The present and future water supply needs of the applicant;
- 4 (2) any current beneficial uses being made of the noncontracted water
5 proposed to be diverted;
- 6 (3) any reasonably foreseeable future beneficial uses of the water;
- 7 (4) the economic, environmental, public health and welfare and other
8 benefits or adverse impact of approving the contract;
- 9 (5) alternative sources of water available to the applicant;
- 10 (6) the preliminary plan of design, construction and operation of any
11 works or facilities used in conjunction with carrying the water to its point
12 of use;
- 13 (7) whether the proposed purchase is consistent with the state water
14 plan approved by the legislature;
- 15 (8) the date of receipt of the application to contract for withdrawal
16 and use of water;
- 17 (9) minimum streamflow requirements; and
- 18 (10) whether the applicant has adopted and implemented a water
19 conservation plan.

20 (d) The authority may require an applicant for a contract for the sale
21 of water from the state's conservation water supply capacity to adopt and
22 implement conservation plans and practices. Such plans and practices shall
23 be consistent with the guidelines for conservation plans and practices
24 developed and maintained by the ~~Kansas water office~~ *department of water*
25 *and environment, division of water and environmental planning* pursuant
26 to ~~subsection (c) of K.S.A. 74-2608(c), and amendments thereto.~~ Prior to
27 approval of an application, the director ~~of the Kansas water office,~~ in
28 consultation with the chief engineer, shall determine whether such plans
29 and practices are consistent with the guidelines adopted by the ~~Kansas~~
30 ~~water office~~ *division of water and environmental planning*.

31 (e) The authority may approve or reject the proposed contract and
32 may recommend purchase of water from an alternative source. The
33 authority may approve a contract for a smaller amount of water than
34 requested and may approve a contract upon such terms, conditions and
35 limitations as it deems necessary for the protection of the public interest of
36 the state as a whole.

37 Sec. 216. K.S.A. 82a-1315b is hereby amended to read as follows:
38 82a-1315b. (a) The director, subject to approval of the authority, shall
39 acquire or develop conservation storage water supply capacity in
40 impoundments deemed necessary to implement the state water plan.

41 (b) That portion of all moneys received by the state treasurer pursuant
42 to K.S.A. 82a-1315a, and amendments thereto, ~~which that~~ is not
43 attributable to: (1) The annual repayment on water storage costs in federal

1 reservoirs as computed under ~~subsection (a)(1)~~ of K.S.A. 82a-1308a(a)(1),
2 and amendments thereto; (2) the operation, maintenance and repair costs
3 associated with the state's conservation water supply capacity; and (3) the
4 costs in administering and enforcing the provisions of this act, shall be
5 deposited in the state treasury to the credit of the state conservation storage
6 water supply fund, which is hereby established. The director shall provide
7 the treasurer with an accounting of the total remittances and shall deposit
8 money only to the credit of the state conservation storage water supply
9 fund after the full amount of the costs attributable to the water marketing
10 fund from the preceding calendar year have been repaid. For purposes of
11 calculating the rate in K.S.A. 82a-1308a, and amendments thereto,
12 effective beginning calendar year 1986, all moneys received pursuant to
13 this act since 1975 shall be credited for repayment of the components in
14 the following order: paragraphs (1), (4), (3), (2); *then* (5) of ~~subsection (a)~~
15 ~~of~~ K.S.A. 82a-1308a(a), and amendments thereto.

16 (c) The state conservation storage water supply fund shall serve in
17 part as a savings fund to further the purpose of this act and the fund shall
18 be credited amounts for interest earned thereon in accordance with
19 subsection (e). The director may accept or receive moneys from any
20 source, governmental or private, for the purposes for which expenditures
21 may be made from this fund. The director shall remit all such moneys to
22 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
23 and amendments thereto. Upon receipt of each such remittance, the state
24 treasurer shall deposit the entire amount in the state treasury to the credit
25 of the state conservation storage water supply fund.

26 (d) All expenditures from the state conservation storage water supply
27 fund shall be made in accordance with appropriation acts upon warrants of
28 the director of accounts and reports issued pursuant to vouchers approved
29 by the director ~~of the Kansas water office~~ or by a person or persons
30 designated by the director and shall be used solely for the purpose of
31 acquisition, development or maintenance of conservation storage water
32 supply in impoundments deemed necessary to implement the state water
33 plan, including expenditures related to the issuance of revenue bonds for
34 such purposes and nonwater supply benefits associated with such
35 purposes.

36 (e) On or before the 10th of each month, the director of accounts and
37 reports shall transfer from the state general fund to the conservation
38 storage water supply fund interest earnings based on:

39 (1) The average daily balance of moneys in the conservation storage
40 water supply fund for the preceding month; and

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

43 Sec. 217. K.S.A. 82a-1315c is hereby amended to read as follows:

1 82a-1315c. (a) There is hereby created in the state treasury the water
2 marketing fund. The director ~~of the Kansas water office~~ may accept or
3 receive moneys from any source, governmental or private, for the purposes
4 for which expenditures may be made from the water marketing fund. The
5 director shall remit all moneys so received to the state treasurer in
6 accordance with the provisions of K.S.A. 75-4215, and amendments
7 thereto. Upon receipt of each such remittance, the state treasurer shall
8 deposit the entire amount in the state treasury to the credit of the water
9 marketing fund.

10 (b) Moneys credited to the water marketing fund shall be used for the
11 following purposes:

12 (1) Payment to the federal government of annual capital costs
13 associated with water supply storage space in reservoirs under the state
14 water plan storage act;

15 (2) repayment to the state general fund for moneys advanced to make
16 annual capital cost payments for water supply storage space in reservoirs
17 under the state water plan storage act;

18 (3) payment to the federal government of annual operation,
19 maintenance and repair costs associated with the water supply storage
20 space under the state water plan storage act;

21 (4) payment of administration and enforcement costs of the state
22 associated with the state water plan storage act;

23 (5) an annual set-aside to a reserve account which is hereby created as
24 part of this fund of an amount specified by the director ~~of the Kansas water~~
25 ~~office~~ but not more than ~~1¢~~ \$0.01 per 1,000 gallons of water sold, such
26 reserve to be used to meet any shortfall in revenue or unusual expenses
27 relating to operation, maintenance and repair costs; and

28 (6) deposit of receipts as required under K.S.A. 82a-1315b, and
29 amendments thereto.

30 (c) All expenditures from the water marketing fund shall be made in
31 accordance with appropriation acts upon warrants of the director of
32 accounts and reports issued pursuant to vouchers approved by the director
33 ~~of the Kansas water office~~ or by a person designated by the director.

34 Sec. 218. K.S.A. 82a-1332 is hereby amended to read as follows:
35 82a-1332. The Kansas ~~water office~~ *department of water and environment,*
36 *division of water and environmental planning,* with advice from basin
37 advisory committees, eligible water right holders and the chief engineer
38 and with approval of the Kansas water authority, may negotiate and enter
39 into contracts for assurance storage from federal reservoirs to be used for
40 water assurance.

41 Sec. 219. K.S.A. 82a-1333 is hereby amended to read as follows:
42 82a-1333. Before a water assurance district is organized, and upon the
43 request of the Kansas ~~water office~~ *department of water and environment,*

1 *division of water and environmental planning*, the chief engineer shall
 2 determine the eligible water rights of the proposed district. In determining
 3 whether a water right may benefit, the chief engineer shall consider the
 4 following factors:

- 5 (a) The annual quantity and rate of diversion authorized by the water
 6 right and the frequency and the distribution of such use with time;
- 7 (b) the consumptive use, location and source of the water right; and
- 8 (c) such other factors as may be necessary to fully determine and
 9 understand the degree of such benefits.

10 Sec. 220. K.S.A. 82a-1335 is hereby amended to read as follows:
 11 82a-1335. (a) Before any water assurance district is organized, a petition
 12 shall be filed in the office of the secretary of state, signed by the eligible
 13 water right holders of water rights totaling more than 20% of the combined
 14 quantities of all eligible water rights within the proposed district as shown
 15 by a verified enumeration of the eligible water right holders and the total
 16 combined quantities of all eligible water rights taken by the chief engineer.
 17 A verified copy of the enumeration shall be attached to and filed with the
 18 petition in the office of the secretary of state.

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

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

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

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

29 (4) a statement of the number of persons that will constitute the board
 30 of directors of the district, which shall be an uneven number of not less
 31 than three nor more than nine, together with the names and addresses of
 32 the persons who will constitute the original steering committee;

33 (5) any other matter deemed essential; and

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

36 The petition shall be in substantially the following form:

37 BEFORE THE SECRETARY OF STATE OF THE STATE OF KANSAS

38 In the Matter of _____ Water Assurance District Number _____,
 39 _____ and _____ counties, Kansas.

40 PETITION

41 Come now the undersigned persons, or authorized representatives, and
 42 state that they are eligible water right holders within the proposed
 43 boundaries of the aforementioned water assurance district, hereinafter more

1 fully described, and that each signer states that the signer's respective post
 2 office address is set forth beside the signer's name. That the purposes for
 3 which this district is organized are (state purposes). That a steering
 4 committee for the organization of the district is hereby fixed and
 5 constituted with five members; that the names of persons who will serve
 6 on the original steering committee, of which the first named shall be acting
 7 chairperson, and their respective addresses are as follows:

8 (List names and addresses.)

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

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

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

20 Sec. 221. K.S.A. 82a-1345 is hereby amended to read as follows:
 21 82a-1345. (a) The water assurance district shall impose a charge against
 22 each member of the water assurance district. The total of such charges
 23 shall be sufficient to enable the district to pay the state the full annual
 24 amortized cost to the state of acquiring the assurance storage from the
 25 federal government by purchase or trade, the cost of operation and
 26 maintenance of the assurance storage, the cost of state administration and
 27 enforcement of the assurance program. The water assurance district also
 28 may impose a charge against each member of the district in an amount
 29 sufficient to cover district operating costs. The water assurance district
 30 shall impose any charges necessary for the payment of the principal of and
 31 interest on revenue bonds issued by the ~~Kansas water office~~ *department of*
 32 *water and environment, division of water and environmental planning*
 33 pursuant to the provisions of Chapter 394 of the Laws of 1986. The water
 34 assurance district shall determine the amount of the charge for each
 35 member and shall remit moneys collected to the ~~Kansas water office~~
 36 *division of water and environmental planning* for deposit in the fund
 37 created pursuant to K.S.A. 82a-1364. Charges to be paid by members of a
 38 water assurance district may vary and shall be based on the principle of
 39 having each member pay for the pro rata quantity authorized to each
 40 member from the assurance program. In determining the charge, the
 41 governing body of the district shall adopt rules ~~which~~ *that* establish
 42 guidelines for prospective members.

43 (b) The director of the ~~Kansas water office~~ *division of water and*

1 *environmental planning* shall request releases of assurance water by the
2 federal government under the agreements with the federal government that
3 govern operations of reservoirs containing assurance storage.

4 (c) No member below a reservoir shall divert water from releases of
5 assurance water unless the member has a conservation plan ~~which~~ *that* has
6 been approved in the manner provided by K.S.A. 82a-1348, *and*
7 *amendments thereto*, and ~~which~~ *that* is in effect at the time of the desired
8 diversion.

9 (d) An entity ~~which~~ *that* becomes a holder of a water right in a river
10 basin after an assurance program is in place for that basin shall become a
11 member if the chief engineer determines that sufficient additional water
12 may be yielded from assurance reservoirs to benefit the potential new
13 member.

14 (e) ~~The director secretary of the Kansas water office~~ *water and*
15 *environment* and the chief engineer each shall adopt any rules and
16 regulations necessary to carry out the purposes and procedures of this act.
17 ~~The director secretary~~ and the chief engineer shall consider the advice of
18 any existing assurance districts in the preparation of any rules and
19 regulations adopted pursuant to this subsection.

20 (f) Any holder of a water right below a reservoir aggrieved by a
21 decision of the chief engineer under this act by being either included or
22 excluded as a member in the assurance program may appeal to the district
23 court under K.S.A. 82a-724, and amendments thereto.

24 (g) Payments required under a contract between a water assurance
25 district and the ~~Kansas water office~~ *division of water and environmental*
26 *planning* shall be for storage capacity contracted in federal reservoirs.
27 Nothing in this act shall be deemed to authorize any suit against the state
28 or any agency of the state or person employed by the state on an implied
29 contract or for negligence or any other tort. The director of the ~~Kansas~~
30 ~~water office~~ *division of water and environmental planning* may sue to
31 enforce any claim arising out of a contract. Payment of the assessment
32 shall be a condition imposed on every member and the chief engineer is
33 authorized to declare the suspension of any use of assurance water where a
34 payment is not made.

35 (h) Rights of members to receive assurance water may not be
36 transferred separately from their water rights.

37 Sec. 222. K.S.A. 82a-1347 is hereby amended to read as follows:
38 82a-1347. If any eligible water right holder in a water assurance district
39 organized under the provisions of this act requests an opportunity to
40 renegotiate any existing contracts for the purchase of water supply under
41 the terms of K.S.A. 82a-1301 et seq., and amendments thereto, the Kansas
42 water authority and the ~~Kansas water office~~ *department of water and*
43 *environment, division of water and environmental planning* shall conduct

1 such negotiations on a timely basis and on the provisions for which
2 negotiations are requested.

3 Sec. 223. K.S.A. 82a-1348 is hereby amended to read as follows:
4 82a-1348. Each member of a water assurance district shall adopt
5 conservation plans and practices for such member. Such plans and
6 practices shall be consistent with the guidelines for conservation plans and
7 practices developed and maintained by the ~~Kansas water office~~
8 *department of water and environment, division of water and*
9 *environmental planning* pursuant to K.S.A. 74-2608, and amendments
10 thereto. Prior to entering into a contract with an assurance district, the
11 director of the ~~Kansas water office~~ *division of water and environmental*
12 *planning*, in consultation with the chief engineer, shall determine whether
13 such plans and practices are consistent with the guidelines for conservation
14 plans and practices adopted by the ~~Kansas water office~~ *division of water*
15 *and environmental planning*.

16 Sec. 224. K.S.A. 82a-1349 is hereby amended to read as follows:
17 82a-1349. (a) There is hereby created in the state treasury the water supply
18 storage assurance fund. The director of the ~~Kansas water office~~
19 *department of water and environment, division of water and*
20 *environmental planning*, may accept or receive moneys from water
21 assurance districts for the purposes for which expenditures may be made
22 from the water supply storage assurance district fund. The director shall
23 remit all moneys so received to the state treasurer at least monthly. Upon
24 receipt of any such remittance the state treasurer shall deposit the entire
25 amount in the state treasury and credit such amount to the water supply
26 storage assurance fund. Moneys deposited to the credit of the water supply
27 storage assurance fund ~~which~~ *that* are received from a water assurance
28 district shall be credited to a separate subaccount.

29 (b) Moneys in such subaccounts may be expended for the following
30 purposes:

31 (1) Payment to the federal government of annual capital costs of
32 water supply storage in federal reservoirs under the water assurance
33 program act;

34 (2) payment and reimbursement to the water marketing fund for water
35 supply storage space previously paid for with revenue from the water
36 marketing fund, if such storage space has been transferred to the water
37 assurance program;

38 (3) payment and reimbursement to the state general fund for water
39 supply storage space previously paid for with revenue from the state
40 general fund, if such storage space has been transferred to the water
41 assurance program;

42 (4) payment and reimbursement to the state water plan fund for water
43 supply storage space previously paid for with revenue from the state water

1 plan fund, if such storage space has been transferred to the water assurance
2 program;

3 (5) payment to the federal government of annual operation,
4 maintenance and repair costs associated with the water supply storage
5 space dedicated for the use of water assurance districts; and

6 (6) payment and reimbursement to the water marketing fund and the
7 state general fund for costs incurred by the state for the administration and
8 enforcement of applicable state laws governing the operations and
9 management of the water assurance program as provided in contracts with
10 water assurance districts.

11 (c) All expenditures from the water supply storage assurance fund
12 shall be made in accordance with appropriation acts upon warrants issued
13 pursuant to vouchers approved by the director of the ~~Kansas water office~~
14 *division of water and environmental planning*, or by a person designated
15 by the director.

16 Sec. 225. K.S.A. 82a-1360 is hereby amended to read as follows:
17 82a-1360. As used in K.S.A. 82a-1360 ~~to through~~ 82a-1368, ~~inclusive and~~
18 ~~amendments thereto~~, unless the context otherwise requires:

19 (a) "Director" means the director of the ~~Kansas water office~~
20 *department of water and environment, division of water and*
21 *environmental planning*.

22 (b) "Revenue bonds" means bonds issued pursuant to this act and
23 payable as to both principal and interest from (1) the revenue derived from
24 water supply contracts with water users who will derive benefits from the
25 construction of a large reservoir project or from the purchase of space in
26 existing reservoirs; (2) the revenue from participants in water assurance
27 programs; (3) in the discretion of the director, the proceeds of any grant-in-
28 aid ~~which that~~ may be received from any source; or (4) any one or more of
29 the foregoing.

30 (c) "Large reservoir project" means a structure that has been planned,
31 authorized and constructed by the federal government or the state of
32 Kansas ~~which that~~ contains waters for conservation storage water supply.

33 Sec. 226. K.S.A. 82a-1361 is hereby amended to read as follows:
34 82a-1361. (a) The ~~Kansas water office~~ *department of water and*
35 *environment, division of water and environmental planning* is hereby
36 authorized to issue and sell revenue bonds for the purpose of paying all or
37 part of the cost of acquiring a site or sites, constructing, reconstructing,
38 improving and expanding large reservoir projects or to finance the
39 purchase of storage in existing reservoirs. The revenue bonds may be
40 issued from time to time and sold in amounts ~~which that~~ the director
41 deems necessary for such purposes.

42 (b) Prior to the issuance of the revenue bonds, the director shall adopt
43 a resolution or resolutions in the name and on behalf of the ~~Kansas water~~

1 ~~office, which~~ *division of water and environmental planning*. Such
2 resolution or resolutions, unless otherwise provided therein, shall take
3 effect immediately and:

4 (1) Determine an interest rate or rates to be paid on the principal of
5 the revenue bonds not in excess of the maximum rate of interest prescribed
6 by K.S.A. 10-1009, and amendments thereto;

7 (2) determine that the revenue bonds will be term or serial bonds or
8 any combination thereof maturing not later than 40 years from the date of
9 issuance;

10 (3) make provision for charges in water supply contracts with water
11 users who will derive benefits from the construction of a large reservoir
12 project or from the purchase of space in existing reservoirs and fix charges
13 to participants in water assurance programs in an amount necessary to
14 assure the prompt payment of the principal of and interest on the revenue
15 bonds as they become due, to maintain any required reserves and to
16 provide for any deficits resulting from failure to receive sums payable to
17 ~~the Kansas water office~~ *division of water and environmental planning* by
18 such water users or participants in water assurance programs or resulting
19 from any other cause, and shall sell the revenue bonds in the manner
20 provided by K.S.A. 10-106, and amendments thereto, at a price of not less
21 than 90% of the par value thereof; and

22 (4) register the revenue bonds with the state treasurer.

23 (c) Prior to the issuance of the revenue bonds, the director may:

24 (1) Pledge to the payment of the principal and interest on the revenue
25 bonds the gross revenues derived from water supply contracts with water
26 users from revenue from participants in water assurance programs or from
27 any one or more or all of such sources;

28 (2) pledge to the payment of the principal of and interest on the
29 revenue bonds the proceeds of any grant-in-aid, gift, donation, bequest or
30 other such fund, or the income from any of such sources obtained by the
31 ~~Kansas water office~~ *division of water and environmental planning*, directly
32 or in trust;

33 (3) pledge to the payment of the principal of and interest on any
34 revenue bonds issued to acquire conservation water supply storage
35 capacity in federal reservoirs, if moneys otherwise authorized to be
36 pledged are insufficient, moneys appropriated from the following, in
37 descending order of priority: The state water plan fund created by K.S.A.
38 82a-951 and amendments thereto, the state economic development
39 initiatives fund created by K.S.A. 79-4804 and amendments thereto or the
40 state general fund;

41 (4) create and maintain: (A) Revenue bond funds adequate to
42 promptly pay both the principal of and interest on the revenue bonds when
43 they become due; and (B) a reasonable reserve fund; and

1 (5) covenant or contract with respect to any and all matters consistent
2 with the authority granted herein necessary and convenient in the
3 determination of the director to sell the revenue bonds and obtain the most
4 favorable interest rate thereon, including, but not limited to, maturities,
5 priority of liens, number of issuances, special funds for security,
6 redemption privileges, investments of the proceeds of the revenue bonds
7 and any other funds pledged to the payment thereof or held as security
8 therefor, security agreements, trust indentures, paying agencies,
9 registration provisions and conversion privileges.

10 Sec. 227. K.S.A. 82a-1362 is hereby amended to read as follows:
11 82a-1362. (a) Revenue bonds issued hereunder, including refunding
12 revenue bonds authorized hereunder, shall be special obligations of the
13 ~~Kansas water office~~ *department of water and environment, division of*
14 *water and environmental planning* in accordance with their terms and shall
15 not constitute an indebtedness of the state of Kansas or the ~~Kansas water~~
16 ~~office~~ *division of water and environmental planning*, nor shall they
17 constitute indebtedness within the meaning of any constitutional or
18 statutory provision limiting the incurring of indebtedness.

19 (b) All contracts, agreements and covenants contained in the
20 resolution authorizing the issuance of revenue bonds shall be binding in all
21 respects upon the ~~Kansas water office~~ *division of water and environmental*
22 *planning*, its officials, agents, employees and successors. Such agreements,
23 contracts and covenants shall be enforceable by appropriate legal action
24 brought pursuant to the terms of the resolution authorizing the issuance of
25 revenue bonds.

26 Sec. 228. K.S.A. 82a-1363 is hereby amended to read as follows:
27 82a-1363. The ~~Kansas water office~~ *department of water and environment,*
28 *division of water and environmental planning*, may issue revenue bonds
29 for the purpose of refunding revenue bonds issued hereunder pursuant to
30 the terms and authority of K.S.A. 10-116a, and amendments thereto.

31 Sec. 229. K.S.A. 82a-1364 is hereby amended to read as follows:
32 82a-1364. The proceeds derived from the sale of all revenue bonds issued
33 under this act shall be deposited to the credit of the ~~Kansas water office~~
34 *department of water and environment, division of water and*
35 *environmental planning* in either an account administered pursuant to
36 K.S.A. 75-4251 et seq., and amendments thereto, or in an account arranged
37 pursuant to K.S.A. 75-3799, and amendments thereto, and used solely for
38 the purposes for which the revenue bonds are authorized. The director is
39 authorized to make all contracts and execute all instruments ~~which~~ *that* in
40 the director's discretion may be deemed necessary or advisable for the
41 purpose of acquiring a site or sites, constructing, reconstructing, improving
42 and expanding large reservoir projects or to finance the purchase of space
43 in existing reservoirs and to provide for the manner of disbursement of the

1 funds for such purposes. Other than contracts with federal, state or local
2 governmental units, contracts authorized by this act shall be made pursuant
3 to K.S.A. 75-3739 or 75-3799, and amendments thereto. Nothing
4 contained in this act shall be construed as placing in the state treasury any
5 money collected under this act or requiring such action, and the legislature
6 hereby declares that funds deposited under this section shall not be subject
7 to the provisions of section 24 of article 2 of the Kansas constitution.

8 Sec. 230. K.S.A. 82a-1367 is hereby amended to read as follows:
9 82a-1367. (a) This act constitutes full and complete authority for the
10 purposes set out in this act, and no procedure or proceedings other than
11 those required by this act shall be necessary for the performance of the
12 provisions thereof. The powers conferred by this act shall be in addition
13 and supplemental to and not in substitution for, and the limitations
14 imposed by this act shall not affect, the powers conferred on the Kansas
15 ~~water office~~ *department of water and environment, division of water and*
16 *environmental planning* by any other law.

17 (b) The provisions of this act are severable, and if any provision,
18 section, subsection, sentence, clause or phrase of this act, including, but
19 not limited to, the provisions relating to any of the sources of revenues for
20 payment of bonds authorized pursuant to this act are for any reason held to
21 be unconstitutional or otherwise invalid by any court of competent
22 jurisdiction, such decision shall not affect the validity of the remaining
23 portions of this act. The legislature hereby declares that it would have
24 passed this act and each provision, section, subsection, sentence, clause or
25 phrase thereof irrespective of the fact that any one or more of the same are
26 declared invalid.

27 Sec. 231. K.S.A. 82a-1368 is hereby amended to read as follows:
28 82a-1368. Prior to the issuance of any revenue bonds under authority of
29 this act and after the adoption of a resolution authorizing any revenue
30 bonds under this act, the director shall cause to be published once in the
31 Kansas register a notice to all persons interested that the Kansas ~~water~~
32 ~~office~~ *department of water and environment, division of water and*
33 *environmental planning* has determined to issue revenue bonds under
34 authority of this act. The notice shall state the amount or maximum
35 amount of revenue bonds to be issued pursuant to such resolution, together
36 with a brief statement of the purposes for which the proceeds are to be
37 used, and further, that unless an action to contest the legality of the
38 proposed revenue bonds shall be filed in a court of law within 30 days
39 from the date of such publication, the right to contest the legality of any
40 revenue bonds issued in compliance with the proceedings taken by the
41 ~~Kansas water office~~ *division of water and environmental planning* prior to
42 the date of such publication and the right to contest the validity of the
43 provisions of such proceedings shall cease to exist and no court shall

1 thereafter have authority to inquire into such matters. After the expiration
2 of the 30 days, no one shall have any right to commence an action
3 contesting the validity of such revenue bonds or the provisions of such
4 proceedings and all revenue bonds shall be conclusively presumed to be
5 legal, and no court shall thereafter have authority to inquire into such
6 matters.

7 Sec. 232. K.S.A. 82a-1370 is hereby amended to read as follows:
8 82a-1370. (a) To provide financing to acquire conservation water supply
9 storage in federal reservoirs, the pooled money investment board is
10 authorized and directed to loan to the director of the ~~Kansas water office~~
11 *department of water and environment, division of water and*
12 *environmental planning*, upon request therefor, sufficient funds for such
13 purpose. The pooled money investment board is authorized and directed to
14 use any moneys in the operating accounts, investment accounts or other
15 investments, of the state of Kansas to provide funds for such loan. On the
16 loan date of such loan, the pooled money investment board shall transfer
17 the loan amount to the director of the ~~Kansas water office~~ *division of*
18 *water and environmental planning* by depositing the same in the state
19 treasury to the credit of the water supply storage acquisition financing
20 fund.

21 (b) Such loan shall bear interest from the date of the loan at an annual
22 rate of interest ~~which~~ *that* is not less than the average yield before taxes
23 received on 91-day United States treasury bills as determined by the
24 federal reserve banks as fiscal agents of the United States at its most recent
25 public offering of such bills in effect on January 1 of such year. The
26 principal and interest thereon shall be payable in accordance with
27 subsection (c). Such loan shall not be deemed to be an indebtedness or
28 debt of the state of Kansas within the meaning of section 6 of article 11 of
29 the constitution of the state of Kansas.

30 (c) The principal and interest on any loan made under this section,
31 shall be payable in accordance with appropriations acts from the following
32 sources, in descending order of priority:

33 (1) Amounts received under contracts entered into pursuant to the
34 state water plan storage act or the water assurance program act, if the
35 water supply storage capacity purchased with the loan proceeds is to be
36 used to service such contracts;

37 (2) state water plan fund created by K.S.A. 82a-951, and amendments
38 thereto;

39 (3) the state economic development initiatives fund created by K.S.A.
40 79-4804, and amendments thereto; and

41 (4) the state general fund.

42 (d) There is hereby created in the state treasury the water supply
43 storage acquisition financing fund. On or before the 10th day of each

1 month, the director of accounts and reports shall transfer from the state
 2 general fund to the water supply storage acquisition financing fund interest
 3 earnings based on:

4 (1) The average daily balance of moneys in the water supply storage
 5 acquisition financing fund for the preceding month; and

6 (2) the net earnings rate for the pooled money investment portfolio
 7 for the preceding month.

8 (e) All expenditures from the water supply storage acquisition
 9 financing fund shall be made for the purpose of financing the acquisition
 10 of water supply storage in federal reservoirs and for the purpose of paying
 11 the principal and interest on the loan received under this section in
 12 accordance with appropriation acts upon warrants of the director of
 13 accounts and reports issued pursuant to vouchers approved by the director
 14 of the ~~Kansas water office~~ *division of water and environmental planning*,
 15 or by a person designated by the director.

16 Sec. 233. K.S.A. 82a-1402 is hereby amended to read as follows:
 17 82a-1402. As used in this act, unless the context otherwise requires:

18 (a) "Authority" means the Kansas water authority;

19 (b) "Director" means the director of the ~~Kansas water office~~
 20 *department of water and environment, division of water and*
 21 *environmental planning*.

22 (c) "Naturally" means arising from a phenomenon of nature.

23 (d) "Operational program" means weather modification activity
 24 conducted to increase rainfall or suppress hail damage whether such
 25 activity is conducted not-for-profit, for profit or purely for research.

26 (e) "Person" means ~~and includes~~ a natural person, a partnership, an
 27 organization, a corporation, a municipality and any department or agency
 28 of the state.

29 (f) "Research and development operation" or "research and
 30 development project" means an operation ~~which~~ *that* is conducted solely to
 31 advance scientific and technical knowledge.

32 (g) "Weather modification activity" means any operation or
 33 experimental process ~~which~~ *that* has as its objective inducing change, by
 34 artificial means, in the composition, behavior, or dynamics of clouds and
 35 the atmosphere.

36 Sec. 234. K.S.A. 82a-1501 is hereby amended to read as follows:
 37 82a-1501. As used in the water transfer act:

38 (a) (1) "Water transfer" means the diversion and transportation of
 39 water in a quantity of 2,000 acre feet or more per year for beneficial use at
 40 a point of use outside a 35-mile radius from the point of diversion of such
 41 water. In determining the amount of water transferred in the case of a
 42 water transfer supplying water to multiple public water supply systems or
 43 other water users, the amount of water transferred shall be considered to be

1 the aggregate amount of water ~~which~~ *that* will be supplied by the transfer
2 to all public water supply systems and other water users whose points of
3 use are located outside a 35-mile radius from the point of diversion of such
4 water.

5 (2) "Water transfer" does not include a release of water from a
6 reservoir to the water's natural watercourse for use within the natural
7 watercourse or watershed, made under the authority of the state water plan
8 storage act ~~(, K.S.A. 82a-1301 et seq., and amendments thereto)~~, or the
9 water assurance program act ~~(, K.S.A. 82a-1330 et seq., and amendments~~
10 ~~thereto)~~.

11 (b) "Point of diversion" means:

12 (1) The point where the longitudinal axis of the dam crosses the
13 center line of the stream in the case of a reservoir;

14 (2) the location of the headgate or intake in the case of a direct
15 diversion from a river, stream or other watercourse;

16 (3) the location of a well in the case of groundwater diversion; or

17 (4) the geographical center of the points of diversion in the case of
18 multiple diversion points.

19 (c) "Point of use" means the geographical center of each water user's
20 proposed or authorized place of use where any water authorized by the
21 proposed transfer will be used.

22 (d) "Chief engineer" means the chief engineer of the *Kansas*
23 *department of water and environment*, division of water resources ~~of the~~
24 ~~Kansas department of agriculture~~.

25 (e) "Secretary" means the secretary of the *Kansas* department of
26 ~~health~~ *water and environment*, or the director of the *Kansas department of*
27 *water and environment*, division of environment ~~of the department of~~
28 ~~health and environment and conservation~~, if designated by the secretary.

29 (f) "Director" means the director of the ~~Kansas water office~~
30 *department of water and environment*, *division of water and*
31 *environmental planning*.

32 (g) "Panel" means the water transfer hearing panel.

33 (h) "Party" means: (1) The applicant; or (2) any person who
34 successfully intervenes pursuant to K.S.A. 82a-1503, and amendments
35 thereto, and actively participates in the hearing. "Party" does not mean a
36 person who makes a limited appearance for the purpose of presenting a
37 statement for or against the water transfer.

38 (i) "Commenting agencies" means groundwater management districts
39 and state natural resource and environmental agencies, including but not
40 limited to the *Kansas* department of ~~health~~ *water and environment*, the
41 ~~Kansas water office~~ *division of water and environmental planning*, the
42 *Kansas water authority*, the *Kansas* department of wildlife, *and parks and*
43 ~~tourism~~ and the division of water resources ~~of the Kansas department of~~

1 agriculture.

2 (j) "Public water supply system" means any water supply system,
3 whether publicly or privately owned, for which a permit is required
4 pursuant to K.S.A. 65-163, and amendments thereto.

5 Sec. 235. K.S.A. 82a-1502 is hereby amended to read as follows:
6 82a-1502. (a) No person shall make a water transfer in this state unless and
7 until the transfer is approved pursuant to the provisions of this act. No
8 water transfer shall be approved ~~which~~ *that* would reduce the amount of
9 water required to meet the present or any reasonably foreseeable future
10 beneficial use of water by present or future users in the area from which
11 the water is to be taken for transfer unless: (1) The panel determines that
12 the benefits to the state for approving the transfer outweigh the benefits to
13 the state for not approving the transfer; (2) the chief engineer recommends
14 to the panel and the panel concurs that an emergency exists ~~which~~ *that*
15 affects the public health, safety or welfare; or (3) the governor has
16 declared that an emergency exists ~~which~~ *that* affects the public health,
17 safety or welfare. Whenever an emergency exists, a water transfer may be
18 approved by the panel on a temporary basis for a period of time not to
19 exceed one year under rules and regulations adopted by the chief engineer.
20 The emergency approval shall be subject to the terms, conditions and
21 limitations specified by the panel.

22 (b) No water transfer shall be approved under the provisions of this
23 act: (1) If such transfer would impair water reservation rights, vested
24 rights, appropriation rights or prior applications for permits to appropriate
25 water; and (2) unless the presiding officer determines that the applicant has
26 adopted and implemented conservation plans and practices that: (A) Are
27 consistent with the guidelines developed and maintained by the Kansas
28 ~~water office~~ *department of water and environment, division of water and*
29 *environmental planning* pursuant to K.S.A. 74-2608, and amendments
30 thereto; (B) have been in effect for not less than 12 consecutive months
31 immediately prior to the filing of the application on which the hearing is
32 being held; and (C) if the transfer is for use by a public water supply
33 system, include the implementation of a rate structure ~~which~~ *that*
34 encourages the efficient use of water that is determined by the presiding
35 officer to be effective and if designed, implemented and maintained
36 properly, will result in wise use and responsible conservation and
37 management of water used by the system.

38 (c) To determine whether the benefits to the state for approving the
39 transfer outweigh the benefits to the state for not approving the transfer,
40 the presiding officer shall consider all matters pertaining thereto, including
41 specifically:

42 (1) Any current beneficial use being made of the water proposed to
43 be diverted, including minimum desirable streamflow requirements;

- 1 (2) any reasonably foreseeable future beneficial use of the water;
 - 2 (3) the economic, environmental, public health and welfare and other
3 impacts of approving or denying the transfer of the water;
 - 4 (4) alternative sources of water available to the applicant and present
5 or future users for any beneficial use;
 - 6 (5) whether the applicant has taken all appropriate measures to
7 preserve the quality and remediate any contamination of water currently
8 available for use by the applicant;
 - 9 (6) the proposed plan of design, construction and operation of any
10 works or facilities used in conjunction with carrying the water from the
11 point of diversion, which plan shall be in sufficient detail to enable all
12 parties to understand the impacts of the proposed water transfer;
 - 13 (7) the effectiveness of conservation plans and practices adopted and
14 implemented by the applicant and any other entities to be supplied water
15 by the applicant;
 - 16 (8) the conservation plans and practices adopted and implemented by
17 any persons protesting or potentially affected by the proposed transfer,
18 which plans and practices shall be consistent with the guidelines for
19 conservation plans and practices developed and maintained by the ~~Kansas~~
20 ~~water office~~ *division of water and environmental planning* pursuant to
21 K.S.A. 74-2608, and amendments thereto; and
 - 22 (9) any applicable management program, standards, policies and rules
23 and regulations of a groundwater management district.
- 24 Sec. 236. K.S.A. 2021 Supp. 82a-1602 is hereby amended to read as
25 follows: 82a-1602. In order to provide public water supply storage and
26 water related recreational facilities in the state, there is hereby established
27 a multipurpose small lakes program. The program shall be administered by
28 the division. Except as otherwise provided by this act, ~~the division, with~~
29 ~~the approval~~ of the secretary; shall adopt all rules and regulations
30 necessary to implement the provisions of this act.
- 31 Sec. 237. K.S.A. 2021 Supp. 82a-1603 is hereby amended to read as
32 follows: 82a-1603. When used in this act:
- 33 (a) "Chief engineer" means the chief engineer of the *Kansas*
34 *department of water and environment*, division of water resources ~~of the~~
35 ~~department of agriculture~~.
 - 36 (b) "Class I funded project" means a proposed new project or
37 renovation of an existing project located within the boundaries of an
38 organized watershed district that is receiving or is eligible to receive
39 financial participation from the division for the flood control storage
40 portion of the project.
 - 41 (c) "Class II funded project" means a proposed new project or
42 renovation of an existing project that is receiving or is eligible to receive
43 financial participation from the federal government.

1 (d) "Class III funded project" means a proposed new project or
2 renovation of an existing project located outside the boundaries of an
3 organized watershed district that is not receiving or is not eligible to
4 receive financial participation from the division or the federal government
5 except as provided in K.S.A. 82a-1606, and amendments thereto.

6 (e) "Division" means the *Kansas department of water and*
7 *environment*, division of *environment and conservation*, established ~~within~~
8 ~~the Kansas department of agriculture~~ in ~~K.S.A. 74-5,126 section 4~~, and
9 amendments thereto.

10 (f) "Flood control storage" means storage space in reservoirs to hold
11 flood waters.

12 (g) "Future use public water supply storage" means storage space that
13 the ~~Kansas water office~~ *department of water and environment, division of*
14 *water and environmental planning*, determines will be needed within the
15 next 20 years for use by public water supply users in an area but for which
16 there is no current sponsor.

17 (h) "General plan" means a preliminary engineering report describing
18 the characteristics of the project area, the nature and methods of dealing
19 with the soil and water problems within the project area and the projects
20 proposed to be undertaken by the sponsor within the project area. Such
21 plan shall include: Maps, descriptions and other data as may be necessary
22 for the location, identification and establishment of the character of the
23 work to be undertaken; a cost-benefit analysis of alternatives to the
24 project, including, but not limited to, nonstructural flood control options
25 and water conservation and reuse to reduce need for new water supply
26 storage; and any other data and information as the chief engineer may
27 require.

28 (i) "Land right" means real property as that term is defined by the
29 laws of the state of Kansas and all rights thereto and interest therein and
30 includes any road, highway, bridge, street, easement or other right-of-way
31 thereon.

32 (j) "Multipurpose small lake project" means a dam and lake
33 containing: (1) Flood control storage; and (2) either public water supply
34 storage or recreation features, or both.

35 (k) "Public water supply" means a water supply for municipal,
36 industrial or domestic use.

37 (l) "Public water supply storage" means storage of water for
38 municipal, industrial or domestic use.

39 (m) "Recreation feature" means water storage and related facilities
40 for activities such as swimming, fishing, boating, camping or other related
41 activities.

42 (n) "Renovation" means repair or restoration of an existing lake that
43 contains water storage space for use as a public water supply and that has

1 either recreational purposes or flood control purposes, or both.

2 (o) "Secretary" means the secretary of the Kansas department of
3 ~~agriculture~~ *water and environment*.

4 (p) "Sponsor" means: (1) Any political subdivision of the state that
5 has the power of taxation and the right of eminent domain; (2) any public
6 wholesale water supply district; or (3) any rural water district.

7 (q) "Water user" means any city, rural water district, wholesale water
8 district or any other political subdivision of the state that is in the business
9 of furnishing municipal or industrial water to the public.

10 Sec. 238. K.S.A. 82a-1604 is hereby amended to read as follows:
11 82a-1604. (a) The state may participate with a sponsor in the development,
12 construction or renovation of a class I multipurpose small lake project if
13 the sponsor has a general plan ~~which~~ *that* has been submitted to and
14 approved by the chief engineer in the manner provided by K.S.A. 24-1213
15 and 24-1214, and amendments thereto. If the ~~Kansas water office~~
16 *department of water and environment, division of water and*
17 *environmental planning* determines that additional public water supply
18 storage shall be needed in that area of the state within 20 years from the
19 time such project is to be completed and a water user is not available to
20 finance public water supply storage, the state may include future use
21 public water supply storage in the project. ~~The Kansas water office~~
22 *division of water and environmental planning* shall apply for a water
23 appropriation right sufficient to insure a dependable yield from the public
24 water supply storage. ~~The Kansas water office~~ *division of water and*
25 *environmental planning* shall be exempt from all applicable fees imposed
26 pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such
27 applications. ~~The Kansas water office~~ *secretary of water and environment*
28 shall have authority to adopt rules and regulations relative to the inclusion
29 of public water supply storage in proposed projects under this act and the
30 disposition of state-owned water rights and associated public water supply
31 storage space in such projects.

32 (b) The sponsor of such class I project shall be responsible for
33 acquiring land rights and for the costs of operation and maintenance of
34 such project. The state may provide up to 50% of the engineering and
35 construction costs and up to 50% of the costs of land rights associated with
36 recreation features. Subject to the provisions of subsections (a) and (c), the
37 state may pay up to 100% of the engineering and construction costs of
38 flood control and public water supply storage. All other costs of such
39 project, including land, construction, operation and maintenance shall be
40 paid by the sponsor.

41 (c) The state shall not participate in the costs of public water supply
42 storage in a renovation project unless the ~~Kansas water office~~ *division of*
43 *water and environmental planning* determines that renovation is the most

1 cost effective alternative for such storage. The state shall be authorized to
2 pay only up to 50% of the engineering and construction costs of public
3 water supply storage in such a renovation project.

4 (d) ~~The Kansas water office~~ *division of water and environmental*
5 *planning* may recover the state's costs incurred in providing public water
6 supply storage in such class I project, and interest on such costs, by selling
7 such storage and the associated water rights. Interest on such costs shall be
8 computed at a rate per annum equal to the average of the monthly net
9 earnings rate for the pooled money investment portfolio for the preceding
10 calendar year for each year of storage.

11 Sec. 239. K.S.A. 82a-1605 is hereby amended to read as follows:
12 82a-1605. (a) The state may participate with a sponsor in the development,
13 construction or renovation of a class II multipurpose small lake project if
14 the sponsor has a general plan ~~which~~ *that* has been submitted to and
15 approved by the chief engineer in the manner provided by K.S.A. 24-1213
16 and 24-1214, and amendments thereto. If the ~~Kansas water office~~
17 *department of water and environment, division of water and*
18 *environmental planning* determines that additional public water supply
19 storage shall be needed in that area of the state within 20 years from the
20 time such project is to be completed and a water user is not available to
21 finance public water supply storage, the state may include future use
22 public water supply storage in the project. ~~The Kansas water office~~
23 *division of water and environmental planning* shall apply for a water
24 appropriation right sufficient to insure a dependable yield from public
25 water supply storage. ~~The Kansas water office~~ *division of water and*
26 *environmental planning* shall be exempt from all applicable fees imposed
27 pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such
28 applications. ~~The Kansas water office~~ *secretary of water and environment*
29 shall have authority to adopt rules and regulations relative to the inclusion
30 of public water supply storage in proposed projects under this act and the
31 disposition of state-owned water rights and associated public water supply
32 storage space in such projects.

33 (b) In a class II project, the state may assume initial financial
34 obligations for public water supply storage in watersheds by entering into
35 long-term contracts with the federal government. In order to provide
36 security to the federal government, the state may grant assignments of
37 water rights, either appropriation rights or water reservation rights;
38 assignments of rights under existing or prospective water purchase
39 contracts; assignments, mortgages or other transfers of interests in real
40 property held by the state and devoted to the specific small lake project for
41 which security is sought; or may provide other security that is permissible
42 under state law and acceptable by the federal government. Instead of
43 contracting to repay costs under long-term contracts, the state may pay all

1 of the required costs of the public water supply storage in a lump sum.

2 (c) The sponsor of such class II project shall be responsible for
3 acquiring land rights and for the costs of operation and maintenance of
4 such project. The state or federal government may provide up to 50% of
5 the engineering and construction costs and up to 50% of the costs of land
6 rights associated with recreation features. Subject to the provisions of
7 subsection (d), the state may pay up to 100% of the engineering and
8 construction costs of flood control and public water supply storage. All
9 other costs of such project, including land, construction, operation and
10 maintenance shall be paid by the sponsor.

11 (d) The state shall not participate in the costs of public water supply
12 storage in a renovation project unless the ~~Kansas water office~~ *division of*
13 *water and environmental planning*, determines that renovation is the most
14 cost effective alternative for such storage. The state shall be authorized to
15 pay only up to 50% of the engineering and construction costs of public
16 water supply storage in such a renovation project.

17 (e) The ~~Kansas water office~~ *division of water and environmental*
18 *planning* may recover the state's costs incurred in providing public water
19 supply storage in such class II project, and interest on such costs, by
20 selling such storage and the associated water rights. Interest on such costs
21 shall be computed at a rate per annum equal to the average of the monthly
22 net earnings rate for the pooled money investment portfolio for the
23 preceding calendar year for each year of storage.

24 Sec. 240. K.S.A. 82a-1606 is hereby amended to read as follows:
25 82a-1606. (a) The state may participate with a sponsor in the development,
26 construction or renovation of a class III multipurpose small lake project if
27 the sponsor has a general plan ~~which~~ *that* has been submitted to and
28 approved by the chief engineer in the manner provided by K.S.A. 24-1213
29 and 24-1214, and amendments thereto. If public water supply storage is
30 included in the project, the sponsor of such class III project shall pay for
31 100% of the costs associated with the public water supply storage portion
32 of such project unless the ~~Kansas water office~~ *department of water and*
33 *environment, division of water and environmental planning* determines
34 that additional public water supply storage shall be needed in that area of
35 the state within 20 years from the time such project is to be completed and
36 a sponsor is not available to finance 100% of the costs associated with the
37 public water supply storage, the state may participate in the future use
38 public water supply storage costs of the project. If the state participates in
39 the public water supply storage costs, the ~~Kansas water office~~ *division of*
40 *water and environmental planning* shall apply for a water appropriation
41 right sufficient to insure a dependable yield from public water supply
42 storage. The ~~Kansas water office~~ *division of water and environmental*
43 *planning* shall be exempt from all applicable fees imposed pursuant to

1 K.S.A. 82a-701 et seq., and amendments thereto, for such applications.
2 The ~~Kansas water office~~ *secretary of water and environment* shall have
3 authority to adopt rules and regulations relative to the inclusion of public
4 water supply storage in proposed projects under this act and the disposition
5 of state-owned water rights and associated public water supply storage
6 space in such projects.

7 (b) The sponsor of such class III project shall be responsible for
8 acquiring land rights and for the costs of operation and maintenance of the
9 project. The state may provide up to 50% of the engineering and
10 construction costs and up to 50% of the costs of land rights associated with
11 recreation features. Subject to the provisions of subsection (c), the state
12 may pay up to 100% of the engineering and construction costs of flood
13 control storage and public water supply storage. All other costs of such
14 project, including land, construction, operation and maintenance, shall be
15 paid by the sponsor.

16 (c) The state shall not participate in the costs of public water supply
17 storage in a renovation project unless the ~~Kansas water office~~ *division of*
18 *water and environmental planning* determines that renovation is the most
19 cost effective alternative for such storage. The state shall be authorized to
20 pay only up to 50% of the engineering and construction costs of public
21 water supply storage in such a renovation project.

22 (d) The ~~Kansas water office~~ *division of water and environmental*
23 *planning* may recover the state's costs incurred in providing public water
24 supply storage in such class III project, and interest on such costs, by
25 selling such storage and the associated water rights. Interest on such costs
26 shall be computed at a rate per annum equal to the average of the monthly
27 net earnings rate for the pooled money investment portfolio for the
28 preceding calendar year for each year of storage.

29 Sec. 241. K.S.A. 82a-1608 is hereby amended to read as follows:
30 82a-1608. (a) If state financial participation is approved for a multipurpose
31 small lake project, the ~~Kansas department of agriculture~~ *division of*
32 *conservation* shall require a local nonpoint source management plan for
33 the watersheds draining into the proposed lake. Such plan shall be
34 submitted to and approved by the ~~Kansas department of agriculture~~
35 *division of conservation* before any state funds may be used for the
36 proposed project.

37 (b) If public water supply storage is included in such a project, the
38 sponsor shall have a water conservation plan ~~which~~ *that* has been
39 submitted to and approved by the chief engineer.

40 (c) Any funding provided by the state shall include money necessary
41 to pay for cost-sharing expenses incurred for nonpoint source management
42 pursuant to the plan required by subsection (a).

43 Sec. 242. K.S.A. 82a-1609 is hereby amended to read as follows:

1 82a-1609. (a) Before the ~~Kansas department of agriculture~~ division of
2 ~~conservation~~ requests any appropriation for any multipurpose small lake
3 project, the chief engineer shall review the cost-benefit analysis of
4 alternatives to the project and shall:

5 (1) Submit the general plan to the appropriate state environmental
6 review agencies pursuant to K.S.A. 82a-325, 82a-326 and 82a-327, and
7 amendments thereto, for review and comment as provided by those
8 sections; and

9 (2) publish notice of the review in the Kansas register, make the
10 general plan available to the public and receive public comments on the
11 proposed project for a period of 30 days following publication of the
12 notice.

13 (b) If, in the review, a reasonable, less expensive alternative to the
14 proposed project is identified and the ~~Kansas department of agriculture~~
15 ~~division of conservation~~ nevertheless requests an appropriation for the
16 proposed project, the division shall submit its reasons for proceeding with
17 participation in the project, together with substantiating documentation,
18 with the budget estimate and program statement for such project.

19 (c) This section shall be a part of and supplemental to the
20 multipurpose small lakes program act.

21 Sec. 243. K.S.A. 2021 Supp. 82a-1702 is hereby amended to read as
22 follows: 82a-1702. (a) The state shall provide financial assistance to
23 certain public corporations for part of the costs or reimbursement of part of
24 the costs of installation of water development projects that derive general
25 benefits to the state as a whole or to a section thereof beyond the
26 boundaries of such public corporation.

27 (b) (1) Any public corporation shall be eligible for state financial
28 assistance for a part of the costs it becomes actually and legally obligated
29 to pay for all lands, easements and rights-of-way for the water
30 development projects in the event the Kansas department of ~~agriculture~~
31 *water and environment*, division of *environment and conservation* shall
32 find that:

33 (A) Such public corporation has made application for approval of
34 such financial assistance with the ~~Kansas department of agriculture~~
35 *division of environment and conservation* in such form and manner as the
36 ~~Kansas department of agriculture~~ division of ~~conservation~~ may require,
37 which application each public corporation is hereby authorized to make;

38 (B) such works will confer general flood control benefits beyond the
39 boundaries of such public corporation in excess of 20% of the total flood
40 control benefits of the works;

41 (C) such works are consistent with the state water plan;

42 (D) such public corporation will need such financial assistance for
43 actual expenditures within the fiscal year next following; and

1 (E) the legislature has appropriated funds for the payment of such
2 sum.

3 (2) The payment authorized hereunder shall be limited to an amount
4 equal to the total costs the public corporation shall become actually and
5 legally obligated to spend for lands, easements and rights-of-way for such
6 water resource development works, multiplied by the ratio that the flood
7 control benefits conferred beyond the boundaries of the public corporation
8 bear to the total flood control benefits of the project. Such findings shall
9 each be made at and in such manner as is provided by procedural rules and
10 regulations that shall be adopted by the ~~Kansas department of agriculture~~
11 ~~division of conservation~~ with the approval of the secretary of *water and*
12 *environment*.

13 (c) Any public corporation receiving financial assistance under this
14 section shall apply those sums toward the satisfaction of the legal
15 obligations for the specific lands, easements and rights-of-way for which it
16 receives them or toward the reimbursement of those accounts from which
17 those legal obligations were satisfied, in whole or in part, and it shall
18 return to the state any sums that are not in fact so applied. In ascertaining
19 costs of lands, easements and rights-of-way under this section, the ~~Kansas~~
20 ~~department of agriculture~~ division of *environment and* conservation shall
21 not consider any costs that relate to land treatment measures or any costs
22 for which federal aid for construction costs is granted pursuant to the
23 watershed protection and flood prevention acts or pursuant to any other
24 federal acts.

25 Sec. 244. K.S.A. 82a-1703 is hereby amended to read as follows:
26 82a-1703. The governing body of each public corporation eligible for state
27 financial assistance under the provisions of this act shall make application
28 for state payment each year to the Kansas department of ~~agriculture~~ *water*
29 *and environment*, division of *environment and* conservation in such form
30 and manner as the ~~Kansas department of agriculture~~ ~~division of~~
31 ~~conservation~~ *secretary of water and environment* may prescribe by its rules
32 and regulations. Each year the ~~Kansas department of agriculture~~ division
33 of *environment and* conservation shall determine what persons are eligible
34 to receive financial assistance from the state, and the amounts thereof,
35 pursuant to this act. In the event the ~~Kansas department of agriculture~~
36 division of *environment and* conservation shall determine that any such
37 application, including the amounts thereof, is proper and in compliance
38 with this act and is supported by a resolution as provided in K.S.A. 82a-
39 1704, and amendments thereto, the ~~Kansas department of agriculture~~
40 division of *environment and* conservation may submit a request therefor as
41 a part of its annual budget requests and estimates. Each such request shall
42 be separately stated and identified. The budget item for each project shall
43 contain the name of the project, the name of the public corporation ~~to~~

1 ~~which~~ *that* the item relates, the county or counties ~~in which~~ *where* such
 2 public corporation is located, the identification of the agreement or
 3 resolution supporting the request, and the amount of state payment
 4 requested therefor.

5 Sec. 245. K.S.A. 82a-1704 is hereby amended to read as follows:
 6 82a-1704. In order that any public corporation eligible for state payments
 7 under the provisions of this act may receive payment from the state, the
 8 governing body of the public corporation shall adopt and transmit to the
 9 Kansas department of ~~agriculture~~ *water and environment*, division of
 10 *environment and* conservation an appropriate resolution requesting the
 11 ~~Kansas department of agriculture~~ division of *environment and*
 12 conservation to approve payment to the requesting body of a sum or sums
 13 to be named within the limits of and for the purposes defined in this act.
 14 The resolution shall show the total cost allocated to the requesting body
 15 for providing the lands, easements, and rights-of-way for the works of
 16 improvement of the requesting body and shall pledge that all money
 17 received from the state under authority of this act will be applied solely to
 18 the purposes specified in this act.

19 Sec. 246. K.S.A. 82a-1803 is hereby amended to read as follows:
 20 82a-1803. (a) There is hereby established in the state treasury the
 21 *Arkansas river water conservation projects fund*, to be administered by the
 22 director of the Kansas ~~water office~~ *department of water and environment*,
 23 *division of water and environmental planning*. ~~The water conservation~~
 24 ~~projects fund is hereby redesignated as the Arkansas river water~~
 25 ~~conservation projects fund.~~

26 (b) Revenue from the following sources shall be credited to the
 27 Arkansas river water conservation projects fund:

28 (1) Amounts provided for by K.S.A. 82a-1801, and amendments
 29 thereto; and

30 (2) moneys received from any source by the state in the form of gifts,
 31 grants, reimbursements or appropriations for use for the purposes of the
 32 fund.

33 (c) Moneys credited to the Arkansas river water conservation projects
 34 fund shall be expended only for conservation projects, utilization
 35 efficiency, administrative requirements and delivery projects, and similar
 36 types of projects, in those areas of the state lying in the upper Arkansas
 37 river basin and directly impacted by the provisions of the Arkansas river
 38 compact between this state and the state of Colorado.

39 (d) The types of projects that may be funded under ~~subsection (a)(1)~~
 40 ~~of~~ K.S.A. 82a-1801(a)(1), and amendments thereto, include:

41 (1) Efficiency improvements to canals or laterals owned by a ditch
 42 company or projects to improve the operational efficiency or management
 43 of such canals or laterals;

1 (2) water use efficiency devices, tailwater systems or irrigation
2 system efficiency upgrades;

3 (3) water measurement flumes, meters, gauges, data collection
4 platforms or related monitoring equipment;

5 (4) artificial recharge or purchase of water rights for stream recovery
6 or aquifer restoration;

7 (5) maintenance of the Arkansas river channel; or

8 (6) monitoring and enforcement of Colorado's compliance with the
9 Arkansas river compact.

10 Moneys credited to the fund may be expended to reimburse costs of
11 projects described by this subsection that were required by the division of
12 water resources and commenced on or after July 1, 1994.

13 Sec. 247. K.S.A. 82a-1804 is hereby amended to read as follows:
14 82a-1804. (a) There is hereby established in the state treasury the
15 Republican river water conservation projects — Nebraska moneys fund to
16 be administered by the director of the ~~Kansas water office~~ *department of*
17 *water and environment, division of water and environmental planning.*

18 (b) Revenue from the following sources shall be credited to the
19 Republican river water conservation projects — Nebraska moneys fund:

20 (1) Amounts provided for by K.S.A. 82a-1801, and amendments
21 thereto; and

22 (2) moneys received from any source by the state in the form of gifts,
23 grants, reimbursements or appropriations for use for the purposes of the
24 fund.

25 (c) Moneys credited to the Republican river water conservation
26 projects — Nebraska moneys fund shall be expended only for
27 conservation projects, utilization efficiency, administrative requirements
28 and delivery projects, and similar types of projects set forth in subsection
29 (g), in those areas of the state lying in the lower Republican river basin
30 between the Kansas/Nebraska border and Milford dam in all or parts of
31 Clay, Cloud, Dickinson, Geary, Jewell, Mitchell, Republic, Riley, Smith
32 and Washington counties.

33 (d) There is hereby established in the state treasury the Republican
34 river water conservation projects — Colorado moneys fund to be
35 administered by the director of the ~~Kansas water office~~ *division of water*
36 *and environmental planning.*

37 (e) Revenue from the following sources shall be credited to the
38 Republican river water conservation projects — Colorado moneys fund:

39 (1) Amounts provided for by K.S.A. 82a-1801, and amendments
40 thereto; and

41 (2) moneys received from any source by the state in the form of gifts,
42 grants, reimbursements or appropriations for use for purposes of the fund.

43 (f) Moneys credited to the Republican river water conservation

1 projects — Colorado moneys fund shall be expended only for conservation
 2 projects, utilization efficiency, administrative requirements and delivery
 3 projects, and similar types of projects set forth in subsection (g), in those
 4 areas of the state lying in the upper Republican river basin in northwest
 5 Kansas in all or parts of Cheyenne, Decatur, Norton, Phillips, Rawlins,
 6 Sheridan, Sherman and Thomas counties.

7 (g) The types of projects that may be funded under ~~paragraphs (2) and~~
 8 ~~(3) of subsection (a) of K.S.A. 82a-1801(a)(2) and (3)~~, and amendments
 9 thereto, include:

10 (1) Efficiency improvements to canals or laterals managed and paid
 11 for by an irrigation district or projects to improve the operational
 12 efficiency or management of such canals or laterals;

13 (2) water use efficiency upgrades;

14 (3) implementation of water conservation of irrigation and other types
 15 of water uses;

16 (4) implementation of water management plans or actions by water
 17 rights holders;

18 (5) water measurement flumes, meters, gauges, data collection
 19 platforms or related monitoring equipment and upgrades;

20 (6) artificial recharge, funding a water transition assistance program;
 21 the purchase of water rights for stream recovery or aquifer restoration and
 22 cost share for state or federal conservation programs that save water;

23 (7) maintenance of the channel and the tributaries of the Republican
 24 river;

25 (8) reservoir maintenance or the purchase, lease, construction or other
 26 acquisition of existing or new storage space in reservoirs;

27 (9) purchase, lease or other acquisition of a water right; and

28 (10) expenses incurred to construct and operate off-stream storage.

29 Sec. 248. K.S.A. 82a-1805 is hereby amended to read as follows:
 30 82a-1805. (a) (1) Any person or entity may apply to the director of the
 31 ~~Kansas water office~~ *department of water and environment, division of*
 32 *water and environmental planning* for expenditure of moneys in the
 33 Arkansas river water conservation projects fund for the purposes set forth
 34 in ~~paragraph (1) of subsection (a) of K.S.A. 82a-1801(a)(1)~~, and
 35 amendments thereto.

36 (2) Any person or entity may apply to the director of the ~~Kansas~~
 37 ~~water office~~ *division of water and environmental planning* for expenditure
 38 of moneys in the Republican river water conservation projects —
 39 Nebraska moneys fund and the Republican river water conservation
 40 projects — Colorado moneys fund for the purposes set forth in ~~paragraphs~~
 41 ~~(2) and (3) of subsection (a) of K.S.A. 82a-1801(a)(2) and (3)~~, and
 42 amendments thereto.

43 (b) The director of the ~~Kansas water office~~ *division of water and*

1 *environmental planning* and the chief engineer of the Kansas department
 2 of ~~agriculture~~ *water and environment*, division of water resources shall
 3 review and approve each proposed project for which moneys in either fund
 4 will be expended. In reviewing and approving proposed projects the
 5 director and the chief engineer shall give priority to: (1) Projects needed to
 6 achieve or maintain compliance with the Arkansas river compact or the
 7 Republican river compact; (2) projects that achieve greatest water
 8 conservation efficiency for the general good; and (3) projects that have
 9 been required by the division of water resources. Upon such review and
 10 approval, the director of the ~~Kansas water office~~ *division of water and*
 11 *environmental planning* shall request the legislature to appropriate, as a
 12 line item, moneys from either fund to pay all or a portion of the costs for a
 13 specific project, except that any project ~~which~~ *that* an aggregate of less
 14 than \$10,000 will be expended from either fund shall not require a line
 15 item appropriation.

16 (c) Interest attributable to moneys in the Arkansas river water
 17 conservation projects fund, Republican river water conservation projects
 18 — Nebraska moneys fund and the Republican river water conservation
 19 projects — Colorado moneys fund shall be credited to the state general
 20 fund as provided by K.S.A. 75-4210a, and amendments thereto.

21 (d) All expenditures from the Arkansas river water conservation
 22 projects fund, Republican river water conservation projects — Nebraska
 23 moneys fund and the Republican river water conservation projects —
 24 Colorado moneys fund shall be made in accordance with appropriation
 25 acts upon warrants of the director of accounts and reports issued pursuant
 26 to vouchers approved by the director of the ~~Kansas water office~~ *division of*
 27 *water and environmental planning*, or a designee of the director ~~of the~~
 28 ~~Kansas water office~~.

29 Sec. 249. K.S.A. 82a-1901 is hereby amended to read as follows:
 30 82a-1901. (a) Orders of the chief engineer of the *Kansas department of*
 31 *water and environment*, division of water resources ~~of the department of~~
 32 ~~agriculture~~ pursuant to K.S.A. 82a-708b and 82a-711, and amendments
 33 thereto, and K.S.A. 82a-737 and 82a-770, and amendments thereto, and
 34 failure of the chief engineer to act pursuant to K.S.A. 82a-714, and
 35 amendments thereto, shall be subject, upon timely request within 15 days
 36 of service of the order pursuant to K.S.A. 77-531, and amendments
 37 thereto, or the chief engineer's failure to act timely pursuant to K.S.A. 82a-
 38 714, and amendments thereto, to an administrative hearing by a hearing
 39 officer designated according to subsection (b) and otherwise in accordance
 40 with the provisions of the Kansas administrative procedure act.

41 (b) *If the chief engineer is requested to provide a hearing pursuant to*
 42 *subsection (a), such hearing shall provide an opportunity for a hearing to*
 43 *be conducted before the chief engineer or before a hearing officer*

1 appointed by the chief engineer. Such hearing officer shall not be a current
 2 employee of the ~~Kansas department of agriculture~~ of water and
 3 *environment*, shall be licensed as an attorney in this state and shall be
 4 knowledgeable in the areas of water policies and administrative procedure.
 5 Such hearing officer, as directed by the chief engineer, shall either *issue an*
 6 *initial order or provide recommendations to the chief engineer for*
 7 ~~issuance of an initial order or issue an initial order~~ a final order.

8 (c) ~~Orders of the chief engineer of the division of water resources of~~
 9 ~~the department of agriculture issued pursuant to K.S.A. 42-703, 42-722,~~
 10 ~~42-722a, 82a-708b, 82a-711 and 82a-718, and amendments thereto, and~~
 11 ~~K.S.A. 82a-737, 82a-770, 82a-1038 and 82a-1041, and amendments~~
 12 ~~thereto, regardless of whether the order is deemed an initial order pursuant~~
 13 ~~to K.S.A. 77-526, and amendments thereto, and failure of the chief~~
 14 ~~engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, and~~
 15 ~~any order issued pursuant to subsection (b), shall be subject, upon timely~~
 16 ~~request within 30 days of service of the order pursuant to K.S.A. 77-531,~~
 17 ~~and amendments thereto, or the chief engineer's failure to act timely~~
 18 ~~pursuant to K.S.A. 82a-714, and amendments thereto, to review by the~~
 19 ~~secretary of agriculture pursuant to K.S.A. 77-527, and amendments~~
 20 ~~thereto, and otherwise in accordance with the provisions of the Kansas~~
 21 ~~administrative procedure act~~The chief engineer may designate a hearing
 22 *officer to preside over all or part of any proceedings initiated pursuant to*
 23 *K.S.A. 82a-1037 or 82a-1041, and amendments thereto, subject to the*
 24 *qualifications contained in subsection (b) or as otherwise set forth in rules*
 25 *and regulations.*

26 (d) *For purposes of the Kansas administrative procedure act and*
 27 *Kansas judicial review act, the chief engineer shall be considered the*
 28 *agency head and any orders issued by the chief engineer shall be*
 29 *considered final orders.*

30 (e) Any final order of the ~~department of agriculture~~ chief engineer
 31 issued pursuant to this section shall not be subject to reconsideration
 32 pursuant to K.S.A. 77-529, and amendments thereto.

33 (e)(f) This act shall not affect any administrative proceeding pending
 34 before the chief engineer of the division of water resources of the
 35 department of agriculture, the secretary of agriculture or any
 36 administrative hearing officer on July 1, 2017 2023, and such matter shall
 37 proceed as though no change in the law had been made with regard to such
 38 proceeding.

39 Sec. 250. K.S.A. 82a-1904 is hereby amended to read as follows:
 40 82a-1904. The chief engineer of the *Kansas department of water and*
 41 *environment*, division of water resources ~~of the Kansas department of~~
 42 ~~agriculture~~, for good cause shown, may grant an exemption from or waiver
 43 of a rule and regulation adopted by the chief engineer if the chief engineer

1 determines that the exemption or waiver will not prejudicially or
2 unreasonably affect the public interest and will not impair any existing
3 water right. The exemption or waiver shall be in writing and shall include
4 the reason for the exemption or waiver.

5 Sec. 251. K.S.A. 82a-1905 is hereby amended to read as follows:
6 82a-1905. Before any proposed rules and regulations of the chief engineer
7 of the *Kansas department of water and environment*, division of water
8 resources ~~of the department of agriculture~~ are submitted to the secretary of
9 administration or the attorney general pursuant to K.S.A. 77-420, and
10 amendments thereto:

11 (a) The chief engineer shall submit such rules and regulations to the
12 secretary of ~~agriculture~~ *water and environment*; and

13 (b) the secretary of ~~agriculture~~ *water and environment* shall review
14 and make recommendations to the chief engineer regarding such proposed
15 rules and regulations.

16 Sec. 252. K.S.A. 82a-1906 is hereby amended to read as follows:
17 82a-1906. (a) The *Kansas department of water and environment*, division
18 of water resources ~~of the Kansas department of agriculture~~ shall post all
19 complete applications and all orders issued by the division pursuant to
20 K.S.A. 82a-706b, 82a-708a ~~and~~, 82a-708b, ~~and amendments thereto~~, and
21 K.S.A. 82a-745, and amendments thereto, on ~~its~~ *the division's* official
22 website.

23 (b) The division, in conjunction with the groundwater management
24 district ~~within which~~ *where* such water right is situated, shall notify all
25 water right owners with a point of diversion within half a mile, or further if
26 deemed necessary by a rule and regulation of the chief engineer, of a water
27 right pending request or application pursuant to K.S.A. 82a-706b, 82a-
28 708a ~~and~~, 82a-708b, ~~and amendments thereto~~, and ~~K.S.A.~~ 82a-745, and
29 amendments thereto, except for change applications requesting a point of
30 diversion move 300 feet or less from the currently authorized location.

31 Sec. 253. K.S.A. 82a-2001 is hereby amended to read as follows:
32 82a-2001. As used in this act:

33 (a) (1) "Classified stream segments" shall include all stream segments
34 that are waters of the state as defined in ~~subsection (a) of~~ K.S.A. 65-
35 161(a), and amendments thereto, and waters described in ~~subsection (d) of~~
36 K.S.A. 65-171d(d), and amendments thereto, that:

37 (A) Are indicated on the federal environmental protection agency's
38 reach file 1 (RF1) (1982) and have the most recent 10-year median flow of
39 equal to or in excess of one cubic foot per second based on data collected
40 and evaluated by the United States geological survey or in the absence of
41 stream segment flow data, calculations of flow conducted by extrapolation
42 methods provided by the United States geological survey;

43 (B) have the most recent 10-year median flow of equal to or in excess

1 of one cubic foot per second based on data collected and evaluated by the
2 United States geological survey or in the absence of stream segment flow
3 data, calculations of flow conducted by extrapolation methods provided by
4 the United States geological survey;

5 (C) are actually inhabited by threatened or endangered aquatic
6 species listed in rules and regulations promulgated by the Kansas
7 department of wildlife, parks and tourism or the United States fish and
8 wildlife service;

9 (D) (i) scientific studies conducted by the department show that
10 during periods of flow less than one cubic foot per second stream
11 segments provide important refuges for aquatic life and permit biological
12 recolonization of intermittently flowing segments; and

13 (ii) a cost-benefit analysis conducted by the department and taking
14 into account the economic and social impact of classifying the stream
15 segment indicates that the benefits of classifying the stream segment
16 outweigh the costs of classifying the stream segment, as consistent with
17 the federal clean water act and federal regulations; or

18 (E) are at the point of discharge on the stream segment and
19 downstream from such point where the department has issued a national
20 pollutant discharge elimination system permit other than a permit for a
21 confined feeding facility, as defined in K.S.A. 65-171d, and amendments
22 thereto.

23 (2) Classified stream segments other than those described in
24 subsection (a)(1)(E) shall not include ephemeral streams; grass, vegetative
25 or other waterways; culverts; or ditches.

26 (3) Any definition of classified stream or "classified stream segment"
27 in rules and regulations or law that is inconsistent with this definition is
28 hereby declared null and void.

29 (b) "Department" means the *Kansas* department of ~~health~~ water and
30 environment.

31 (c) "Designated uses of classified stream segments" shall be defined
32 as follows:

33 (1) "Agricultural water supply use" means the use of a classified
34 stream segment for agricultural purposes, including the following:

35 (A) "Irrigation" means the withdrawal of water from a classified
36 stream segment for application onto land; or

37 (B) "livestock watering" means the provision of water from a
38 classified stream segment to livestock for consumption.

39 (2) "Aquatic life support use" means the use of a classified stream
40 segment for the maintenance of the ecological integrity of streams, lakes
41 and wetlands, including the sustained growth and propagation of native
42 aquatic life; naturalized, important, recreational aquatic life; and
43 indigenous or migratory semiaquatic or terrestrial wildlife directly or

1 indirectly dependent on surface water for survival. Categories of aquatic
2 life support use include:

3 (A) "Special aquatic life use waters" means classified stream
4 segments that contain combinations of habitat types and indigenous biota
5 not found commonly in the state, or classified stream segments that
6 contain representative populations of threatened or endangered species,
7 that are listed in rules and regulations promulgated by the Kansas
8 department of wildlife, parks and tourism or the United States fish and
9 wildlife service.

10 (B) "Expected aquatic life use waters" means classified stream
11 segments containing habitat types and indigenous biota commonly found
12 or expected in the state.

13 (C) "Restricted aquatic life use waters" means classified stream
14 segments containing indigenous biota limited in abundance or diversity by
15 the physical quality or availability of habitat, due to natural deficiencies or
16 artificial modifications, compared to more suitable habitats in adjacent
17 waters.

18 (3) "Domestic water supply" means the use of a classified stream
19 segment, after appropriate treatment, for the production of potable water.

20 (4) "Food procurement use" means the use of a classified stream
21 segment for the obtaining of edible forms of aquatic or semiaquatic life for
22 human consumption.

23 (5) "Groundwater recharge use" means the use of a classified stream
24 segment for the replenishing of fresh or usable groundwater resources.
25 This use may involve the infiltration and percolation of surface water
26 through sediments and soils or the direct injection of surface water into
27 underground aquifers.

28 (6) "Industrial water supply use" means the use of a classified stream
29 segment for nonpotable purposes by industry, including withdrawals for
30 cooling or process water.

31 (7) (A) "Recreational use" means:

32 (i) Primary contact recreational use is use of a classified stream
33 segment for recreation during the period from April 1 through October 31
34 of each year, provided such classified stream segment is capable of
35 supporting the recreational activities of swimming, skin diving, water-
36 skiing, wind surfing, kayaking or mussel harvesting where the body is
37 intended to be immersed in surface water to the extent that some
38 inadvertent ingestion of water is probable. *Primary contact recreational*
39 *use includes:*

40 (a) Primary contact recreational use-Class A: Use of a classified
41 stream segment for recreation during the period from April 1 through
42 October 31 of each year, and the classified stream segment is a designated
43 public swimming area. Water quality criterion for bacterial indicator

1 organisms applied to Class A waters shall be set at an illness rate of eight
2 or more per 1,000 swimmers. The classified stream segment shall only be
3 considered impaired for primary contact recreational use-Class A if the
4 calculated geometric mean of at least five samples collected in separate
5 24-hour periods within a 30-day period exceeds the corresponding water
6 quality criterion. The water quality criterion for primary contact
7 recreational use-Class A waters during the period November 1 through
8 March 31 of each year shall be equal to the criterion applied to secondary
9 contact recreational use-Class A waters.

10 (b) Primary contact recreational use-Class B: Use of a classified
11 stream segment for recreation, where moderate full body contact
12 recreation is expected, during the period from April 1 through October 31
13 of each year, and the classified stream segment is by law or written
14 permission of the landowner open to and accessible by the public. Water
15 quality criterion for bacterial indicator organisms applied to Class B waters
16 shall be set at an illness rate of 10 or more per 1,000 swimmers. The
17 classified stream segment shall only be considered impaired for primary
18 contact recreational use-Class B if the calculated geometric mean of at
19 least five samples collected in separate 24-hour periods within a 30-day
20 period exceeds the corresponding water quality criterion. The water quality
21 criterion for primary contact recreational use-Class B waters during the
22 period November 1 through March 31 of each year shall be equal to the
23 criterion applied to secondary contact recreational use-Class A waters.

24 (c) Primary contact recreational use-Class C: Use of a classified
25 stream segment for recreation, where full body contact recreation is
26 infrequent during the period from April 1 through October 31 of each year,
27 and is not open to and accessible by the public under Kansas law and is
28 capable of supporting the recreational activities of swimming, skin diving,
29 water-skiing, wind surfing, boating, mussel harvesting, wading or fishing.
30 Water quality criterion for bacterial indicator organisms applied to Class C
31 waters shall be set at an illness rate of 12 or more per 1,000 swimmers.
32 The classified stream segment shall only be considered impaired for
33 primary contact recreational use-Class C if the calculated geometric mean
34 of at least five samples collected in separate 24-hour periods within a 30-
35 day period exceeds the corresponding water quality criterion. The water
36 quality criterion for primary contact recreational use-Class C waters during
37 the period November 1 through March 31 of each year shall be equal to
38 the criterion applied to secondary contact recreational use-Class B waters.

39 (ii) Secondary contact recreational use is use of a classified stream
40 segment for recreation, provided such classified stream segment is capable
41 of supporting the recreational activities of wading, fishing, canoeing,
42 motor boating, rafting or other types of boating where the body is not
43 intended to be immersed and where ingestion of surface water is not

1 probable. *Secondary contact recreational use includes:*

2 (a) Secondary contact recreational use-Class A: Use of a classified
3 stream segment for recreation capable of supporting the recreational
4 activities of wading or fishing and the classified stream segment is by law
5 or written permission of the landowner open to and accessible by the
6 public. Water quality criterion for bacterial indicator organisms applied to
7 secondary contact recreational use-Class A waters shall be nine times the
8 criterion applied to primary contact recreational use-Class B waters. The
9 classified stream segment shall only be considered impaired for secondary
10 contact recreational use-Class A if the calculated geometric mean of at
11 least five samples collected in separate 24-hour periods within a 30-day
12 period exceeds the corresponding water quality criterion.

13 (b) Secondary contact recreational use-Class B: Use of a classified
14 stream segment for recreation capable of supporting the recreational
15 activities of wading or fishing and the classified stream segment is not
16 open to and accessible by the public under Kansas law. Water quality
17 criterion for bacterial indicator organisms applied to secondary contact
18 recreational use-Class B waters shall be nine times the criterion applied to
19 primary contact recreational-Class C use waters. The classified stream
20 segment shall only be considered impaired for secondary contact
21 recreational use-Class B if the calculated geometric mean of at least five
22 samples collected in separate 24-hour periods within a 30-day period
23 exceeds the corresponding water quality criterion.

24 (B) If opposite sides of a classified stream segment would have
25 different designated recreational uses due to differences in public access,
26 the designated use of the entire classified stream segment may be the
27 higher attainable use, notwithstanding that such designation does not grant
28 the public access to both sides of such segment.

29 (C) Recreational use designations shall not apply to stream segments
30 where the natural, ephemeral, intermittent or low flow conditions or water
31 levels prevent recreational activities.

32 (d) "Ephemeral stream" means streams that flow only in response to
33 precipitation and whose channel is at all times above the water table.

34 (e) "Secretary" means the secretary of ~~health~~ *the Kansas department*
35 *of water and environment.*

36 Sec. 254. K.S.A. 82a-2007 is hereby amended to read as follows:
37 82a-2007. Subject to appropriations, there shall be an additional employee
38 at the Kansas department of ~~agriculture~~ *water and environment*, division of
39 *environment and conservation* to work on total maximum daily load
40 compliance and to coordinate with the department and other appropriate
41 federal and state agencies to further implement voluntary incentive based
42 conservation programs to protect water quality.

43 Sec. 255. K.S.A. 82a-2101 is hereby amended to read as follows:

1 82a-2101. (a) ~~On and after January 1, 2002;~~ There is hereby imposed a
 2 clean drinking water fee at the rate of \$.03 per 1,000 gallons of water sold
 3 at retail by a public water supply system and delivered through mains,
 4 lines or pipes. Such fee shall be paid, administered, enforced and collected
 5 in the manner provided for the fee imposed by ~~subsection (a)(1) of~~ K.S.A.
 6 82a-954(a)(1), and amendments thereto. The price to the consumer of
 7 water sold at retail by any such system shall not include the amount of
 8 such fee.

9 (b) (1) A public water supply system may elect to opt out of the fee
 10 imposed by this section by notifying, before October 1, 2001, the Kansas
 11 ~~water office~~ *department of water and environment, division of water and*
 12 *environmental planning* and the department of revenue of the election to
 13 opt out. Except as provided by subsection (b)(2), such election shall be
 14 irrevocable. Such public water supply system shall continue to pay all
 15 applicable sales tax on direct and indirect purchases of tangible personal
 16 property and services purchased by such system.

17 (2) ~~On and after January 1, 2005;~~ Any public water supply system
 18 ~~which~~ *that* elected to opt out of the fee imposed by subsection (a) may
 19 elect to collect such fee as provided by subsection (a) and direct and
 20 indirect purchases of tangible personal property and services by such
 21 system shall be exempt from sales tax as provided by K.S.A. 79-3606, and
 22 amendments thereto. Such election shall be irrevocable.

23 (c) The director of taxation shall remit to the state treasurer in
 24 accordance with the provisions of K.S.A. 75-4215, and amendments
 25 thereto, all moneys received or collected from the fee imposed pursuant to
 26 this section. Upon receipt thereof, the state treasurer shall deposit the
 27 entire amount in the state treasury and credit ~~it~~ *such amount* as follows:

28 (1) ~~⁵/₁₀₆ of such amount shall be credited to the state highway fund~~
 29 ~~and the remainder to the state general fund; and~~

30 (2) ~~on and after July 1, 2007,~~ ⁵/₁₀₆ of such amount shall be credited to
 31 the state highway fund and the remaining amount shall be credited to the
 32 state water plan fund created by K.S.A. 82a-951, and amendments thereto,
 33 for use as follows: ~~(A)~~ (1) Not less than 15% shall be used to provide on-
 34 site technical assistance for public water supply systems, as defined in
 35 K.S.A. 65-162a, and amendments thereto, to aid such systems in
 36 conforming to responsible management practices and complying with
 37 regulations of the United States environmental protection agency and rules
 38 and regulations of the *Kansas* department of ~~health~~ *water* and
 39 environment; and ~~(B)~~ (2) the remainder shall be used to renovate and
 40 protect lakes ~~which~~ *that* are used directly as a source of water for such
 41 public water supply systems, so long as where appropriate, watershed
 42 restoration and protection practices are planned or in place.

43 (d) ~~The Kansas department of agriculture division of conservation~~

1 *secretary of water and environment* shall promulgate rules and regulations
 2 ~~in coordination with the Kansas water office~~ establishing the project
 3 application evaluation criteria for the use of such moneys under subsection
 4 ~~(e)(2)(B)~~ (c).

5 Sec. 256. K.S.A. 82a-2301 is hereby amended to read as follows:
 6 82a-2301. As used in K.S.A. 82a-2301 through 82a-2324, and
 7 amendments thereto, unless the context otherwise requires:

8 (a) "Access water" means water stored in water supply access storage
 9 of a reservoir under a water reservation right and provided as supplemental
 10 water to eligible water right holders.

11 (b) "Chief engineer" means the chief engineer of the Kansas
 12 department of ~~agriculture~~ *water and environment*, division of water
 13 resources.

14 (c) "District" means the lower smoky hill water supply access district.

15 (d) "Eligible water right holder" means a person holding a water right
 16 or permit, pursuant to K.S.A. 82a-701 et seq., and amendments thereto, to
 17 appropriate surface water from the program area for municipal, industrial,
 18 irrigation or recreation purposes as determined by the ~~Kansas water office~~
 19 *department of water and environment, division of water and*
 20 *environmental planning*. Eligible water right holders for irrigation
 21 purposes shall be limited to the lower smoky hill river special irrigation
 22 district.

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

29 (f) "Member" means an eligible water right holder who participates in
 30 and is subject to the rules and regulations of a water supply access district.

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

33 (h) "Program" means the lower smoky hill water supply access
 34 program.

35 (i) "Program area" means the area of the smoky hill river below the
 36 kanopolis reservoir dam to the confluence of the smoky hill and saline
 37 rivers.

38 (j) "Special irrigation district" means the lower smoky hill water
 39 supply special irrigation district.

40 (k) "Water supply access storage" means water held by the Kansas
 41 ~~water office~~ *department of water and environment, division of water and*
 42 *environmental planning*, in kanopolis reservoir under contract with the
 43 United States army corps of engineers and so designated by the ~~Kansas~~

1 ~~water office~~ *division of water and environmental planning* as water supply
2 access storage for the purposes of the lower smoky hill water supply
3 access program.

4 Sec. 257. K.S.A. 82a-2302 is hereby amended to read as follows:
5 82a-2302. There is hereby established the lower smoky hill water supply
6 access program within the ~~Kansas water office~~ *department of water and*
7 *environment, division of water and environmental planning*. The ~~Kansas~~
8 ~~water office~~ *division of water and environmental planning*, with approval
9 of the Kansas water authority, may negotiate and enter into contracts for
10 water supply access storage to be used for the purposes of this act. The
11 ~~water office~~ *division of water and environmental planning* may designate
12 all or any portion of such water so held in the kanopolis reservoir to water
13 supply access storage to meet the needs of the district.

14 Sec. 258. K.S.A. 82a-2303 is hereby amended to read as follows:
15 82a-2303. There is hereby established in the state treasury the lower
16 smoky hill water supply access fund ~~which~~ *and such fund* shall be
17 administered by the ~~Kansas water office~~ *department of water and*
18 *environment, division of water and environmental planning*. All
19 expenditures from the lower smoky hill water supply access fund shall be
20 for the purposes of this act. All expenditures from the lower smoky hill
21 water supply access fund shall be made in accordance with appropriation
22 acts upon warrants of the director of accounts and reports pursuant to
23 vouchers approved by the director of the ~~Kansas water office~~ *division of*
24 *water and environmental planning* or the director's designee. All moneys
25 received for the purposes of this act shall be deposited in the state treasury
26 in accordance with the provisions of K.S.A. 75-4215, and amendments
27 thereto, and shall be credited to the lower smoky hill water supply access
28 fund. The director of the ~~Kansas water office~~ *division of water and*
29 *environmental planning* may accept or receive moneys from the district
30 into the lower smoky hill water supply access fund.

31 Sec. 259. K.S.A. 82a-2304 is hereby amended to read as follows:
32 82a-2304. (a) There is hereby authorized the lower smoky hill water
33 supply access district.

34 (b) Upon receipt of an application for membership within the district,
35 the director of the ~~Kansas water office~~ *department of water and*
36 *environment, division of water and environmental planning* may determine
37 the need to create an incorporating governing body for the district, and
38 upon such determination, shall certify to the secretary of state and the
39 members of the district that such district is eligible for formation and
40 should be incorporated. The notice of certification should fix a date, time
41 and place for an organizational meeting of such district.

42 (c) The members of the district shall meet on the date and time set by
43 such director to form the incorporating governing body of such district.

1 (d) The incorporating governing body, if created, shall consist of five
2 directors. Eligible water rights holders, or their representatives, who apply
3 for membership, shall be the incorporating entities and shall determine the
4 articles of incorporation. Such articles of incorporation shall provide the
5 board of directors of the lower smoky hill water supply access district so
6 formed, shall have an odd number of directors and shall include a
7 provision that no less than one representative of the lower smoky hill
8 special irrigation district serve as a member of the lower smoky hill water
9 supply access district board, if such special irrigation district is formed
10 under the provisions of this act. Upon incorporation of the district, such
11 incorporating governing body shall dissolve and shall be replaced by the
12 governing body as determined by the articles of incorporation and bylaws
13 of the district.

14 (e) The directors of the incorporating governing body shall elect an
15 incorporating chairperson. The chairperson, on behalf of the incorporating
16 governing body, shall attest to all documents necessary for incorporation
17 of the district by the secretary of state and for the business of the district.
18 The secretary of state shall issue a certificate of incorporation for the
19 district, which shall be filed of record in the office of the register of deeds
20 of each county ~~in which~~ *where* all or a portion of the district lies.

21 (f) Upon recordation of such certificate of incorporation, the district
22 shall be authorized to function in accordance with the provision of this act
23 and its certificate of incorporation. No action attacking the legal
24 incorporation of any district organized under this section shall be
25 maintained unless filed within 30 days after the issuance of such certificate
26 of incorporation for such district by the secretary of state, nor shall the
27 alleged illegality of the incorporation of any such district be interposed as
28 a defense to any action brought after such time.

29 Sec. 260. K.S.A. 82a-2305 is hereby amended to read as follows:
30 82a-2305. (a) A prospective member may join the district if the
31 prospective member:

32 (1) Applies to the ~~Kansas water office~~ *department of water and*
33 *environment, division of water and environmental planning* for water
34 supply access storage, for the purposes of this act; and

35 (2) has or applies for a water right eligible for membership under this
36 act.

37 (b) Prospective members may be approved for membership by the
38 director of the ~~Kansas water office~~ *division of water and environmental*
39 *planning*, after consultation with the chief engineer, if the director finds
40 that:

41 (1) The proposed membership is in the public interest or has a public
42 benefit sufficient for membership;

43 (2) there is adequate water supply access storage to meet the

1 additional demand; and

2 (3) such other issues as may be determined by such director have
3 been resolved.

4 Sec. 261. K.S.A. 82a-2310 is hereby amended to read as follows:
5 82a-2310. (a) The district shall impose charges against each member for
6 the purposes of the district.

7 (1) The total of such charges shall be sufficient to enable the district
8 to pay the ~~Kansas water office~~ *department of water and environment,*
9 *division of water and environmental planning* the full annual amortized
10 cost incurred by the ~~Kansas water office~~ *division of water and*
11 *environmental planning* for the operation, administration and enforcement
12 of the program, including, but not limited to, the costs of acquiring the
13 water supply access storage from the federal government by purchase or
14 trade and the cost of operation and maintenance of such water supply
15 access storage.

16 (2) The district may also impose charges against each member of the
17 district in an amount sufficient to cover district operating costs.

18 (3) The district shall impose any charges necessary for the payment
19 of the principal of and interest on revenue bonds issued by the ~~Kansas~~
20 ~~water office~~ *division of water and environmental planning* pursuant to
21 K.S.A. 82a-1360 et seq., and amendments thereto.

22 (4) The district shall determine the amount of the charges for each
23 member and shall remit all moneys collected to the ~~Kansas water office~~
24 *division of water and environmental planning* for deposit in the lower
25 smoky hill water supply access fund created pursuant to this act. Charges
26 to be paid by such members may vary and shall be based on the principle
27 of having each member pay for the pro rata quantity authorized to each
28 member by the district. In determining the charge, the board of directors of
29 the district shall adopt guidelines for such members.

30 (b) The director of the ~~Kansas water office~~ *division of water and*
31 *environmental planning* shall request releases of water supply access water
32 by the federal government from the kanopolis reservoir under such
33 agreements with the federal government that govern operations of such
34 reservoir. The chairperson of the governing body of the district or designee
35 shall communicate with the ~~Kansas water office~~ *division of water and*
36 *environmental planning* regarding any member's need for such releases by
37 the district.

38 (c) The ~~director~~ *secretary of water and environment* and the chief
39 engineer each shall adopt any rules and regulations necessary to carry out
40 the purposes and procedures of this act. The ~~director~~ *secretary* and the
41 chief engineer shall consider the advice of the Kansas water authority and
42 stakeholders in the program area, in the preparation of any rules and
43 regulations adopted pursuant to this subsection.

1 (d) Any holder of an eligible water right aggrieved by a decision of
2 the ~~Kansas water office~~ *division of water and environmental planning*
3 under this act by being excluded as a member in the program may appeal
4 to the district court under K.S.A. 82a-724, and amendments thereto.

5 (e) Payments required under a contract between the district and the
6 ~~Kansas water office~~ *division of water and environmental planning* shall be
7 for storage capacity contracted in a federal reservoir.

8 (f) Nothing in this act shall be deemed to authorize any suit against
9 the state or any agency of the state or person employed by the state on or
10 under a claim for implied contract, negligence or any other tort. The
11 director of the ~~Kansas water office~~ *division of water and environmental*
12 *planning* may sue to enforce any claim arising out of a contract. Payment
13 of the charges shall be a condition imposed on every member and the
14 director is authorized to declare the suspension of any use of water supply
15 access water where a payment is not made.

16 (g) Rights of members to receive access water may not be transferred
17 without the approval of the ~~Kansas water office~~ *division of water and*
18 *environmental planning*.

19 Sec. 262. K.S.A. 82a-2311 is hereby amended to read as follows:
20 82a-2311. If any member of the district requests an opportunity to
21 renegotiate any existing contracts for the purchase of water supply, as
22 described in K.S.A. 82a-1301 et seq., and amendments thereto, the Kansas
23 water authority and the ~~Kansas water office~~ *department of water and*
24 *environment, division of water and environmental planning* shall conduct
25 such negotiations on a timely basis and on the provisions for which
26 negotiations are requested.

27 Sec. 263. K.S.A. 82a-2312 is hereby amended to read as follows:
28 82a-2312. (a) The chief engineer shall protect releases of water from the
29 kanopolis reservoir for water supply access storage as may be necessary to
30 effectuate the purposes of the releases made pursuant to this act and for the
31 benefit of the district members for whom such releases are made.

32 (b) The ~~Kansas water office~~ *department of water and environment,*
33 *division of water and environmental planning* shall communicate to the
34 chief engineer the date and quantity of such release, the district member or
35 members for whom such release is made and such other information as the
36 chief engineer may request to insure protection of the release.

37 Sec. 264. K.S.A. 82a-2313 is hereby amended to read as follows:
38 82a-2313. Each member of the district shall adopt conservation plans and
39 practices for such member. Such plans and practices shall be consistent
40 with the guidelines for conservation plans and practices developed and
41 maintained by the ~~Kansas water office~~ *department of water and*
42 *environment, division of water and environmental planning*, as provided in
43 K.S.A. 74-2608, and amendments thereto. Prior to entering into a contract,

1 the district and the director of the ~~Kansas water office~~ *division of water*
2 *and environmental planning*, in consultation with the chief engineer, shall
3 determine whether such plans and practices are consistent with the
4 guidelines for conservation plans and practices adopted by the ~~Kansas~~
5 ~~water office~~ *division of water and environmental planning*.

6 Sec. 265. K.S.A. 82a-2314 is hereby amended to read as follows:
7 82a-2314. (a) The ~~Kansas water office~~ *department of water and*
8 *environment, division of water and environmental planning* is hereby
9 authorized to issue and sell revenue bonds for the purpose of paying all or
10 part of the cost of acquiring a site or sites, constructing, reconstructing,
11 improving and expanding projects within the program area or to finance
12 the purchase of storage in the reservoir using procedures established for
13 issuing such bonds as described in K.S.A. 82a-1360 et seq., and
14 amendments thereto.

15 (b) The district may negotiate to make annual payments over a period
16 of not to exceed 20 years for any access storage water purchased under this
17 act.

18 Sec. 266. K.S.A. 82a-2317 is hereby amended to read as follows:
19 82a-2317. (a) The lower smoky hill special irrigation district shall be
20 formed upon petition by eligible irrigation water right holders to the
21 director of the ~~Kansas water office~~ *department of water and environment,*
22 *division of water and environmental planning;* demonstrating a need for
23 and requesting purchase of 500 acre feet or more for water supply access
24 storage for the proposed special irrigation district. The petition shall
25 provide contact information for each person signing, information on the
26 land proposed for membership in the district, information necessary for
27 verification of the water rights held on the eligible land and the amount of
28 water requested from kanopolis reservoir water supply access storage by
29 each person so signing. The ~~Kansas water office~~ *division of water and*
30 *environmental planning* may request additional information from each
31 person signing such petition.

32 (b) The director of the ~~Kansas water office~~ *division of water and*
33 *environmental planning*, in consultation with the chief engineer, shall
34 verify the ownership of subject land within the proposed special irrigation
35 district for the lands noted in the petition, the water rights held for subject
36 land by each person so signing and other matters the ~~Kansas water office~~
37 *division of water and environmental planning* may deem necessary. Upon
38 verification of the eligibility of those signing such petition the director of
39 the ~~Kansas water office~~ *division of water and environmental planning* shall
40 set a date, time and place for the first meeting of such district for the
41 purposes of electing a governing board for the special irrigation district.

42 Sec. 267. K.S.A. 82a-2324 is hereby amended to read as follows:
43 82a-2324. The ~~Kansas water office~~ *secretary of water and environment*

1 shall adopt rules and regulations to implement the lower smoky hill water
 2 supply access program.

3 Sec. 268. K.S.A. 82a-2402 is hereby amended to read as follows:
 4 82a-2402. As used in this act, unless context otherwise requires:

5 (a) "Board" means the board of directors of a reservoir improvement
 6 district;

7 (b) "district" means a reservoir district for which organization is
 8 proposed or has been organized under the provisions of this act, ~~and~~
 9 ~~amendments thereto;~~

10 (c) "eligible water right holder" means any person:

11 (1) Holding a water right or permit, pursuant to K.S.A. 82a-701 et
 12 seq., and amendments thereto, to appropriate water from a reservoir;

13 (2) with a contract to withdraw and use water pursuant to K.S.A. 82a-
 14 1301 et seq., and amendments thereto; or

15 (3) with a water appropriation right in a water assurance district
 16 pursuant to K.S.A. 82a-1330 et seq., and amendments thereto;

17 (d) "general plan" means a preliminary engineering report describing
 18 the characteristics of the reservoir, the nature and methods of dealing with
 19 the bed and water problems in the reservoir or the reservoir watershed and
 20 the projects proposed to be undertaken by the district. It shall include
 21 maps, descriptions and any other data as may be necessary for the location,
 22 identification and establishment of the character of the work to be
 23 undertaken and any other data and information as the director of the
 24 ~~Kansas water office~~ *department of water and environment, division of*
 25 *water and environmental planning* may require;

26 (e) "person" means any person, firm, partnership, association or
 27 corporation;

28 (f) "specific project" means any project outlined and proposed by the
 29 board of directors and may constitute all or part of the general plan;

30 (g) "steering committee" means the group of eligible water right
 31 holders, not less than the number to be chosen for the board of directors,
 32 who shall serve as the governing body of the proposed reservoir
 33 improvement district until the first board of directors is elected;

34 (h) "water right" ~~shall have the meaning provided~~ *means the same as*
 35 *defined* in K.S.A. 82a-701, and amendments thereto; and

36 (i) "watershed" means all the area within the state draining toward a
 37 selected point on a reservoir.

38 Sec. 269. K.S.A. 82a-2403 is hereby amended to read as follows:
 39 82a-2403. Before any reservoir improvement district is organized, a
 40 petition shall be filed in the office of the secretary of state, signed by the
 41 eligible water right holders who have water rights totaling more than 20%
 42 of the combined quantities of all eligible water rights within the proposed
 43 district as shown by a verified enumeration of the eligible water right

1 holders and the total combined quantities of all eligible rights taken by the
 2 director of the Kansas ~~water office~~ *department of water and environment,*
 3 *division of water and environmental planning.* A verified copy of the
 4 enumeration shall be attached to and filed with the petition in the office of
 5 the secretary of state.

6 Sec. 270. K.S.A. 82a-2404 is hereby amended to read as follows:
 7 82a-2404. (a) Every petition filed pursuant to K.S.A. 82a-2403, and
 8 amendments thereto, shall state:

9 (1) The name of the proposed district ~~which.~~ *Such name* shall include
 10 the name of the reservoir and end with the words "reservoir improvement
 11 district";

12 (2) a list of the water rights, by file number as recorded in the Kansas
 13 ~~water office~~ *department of water and environment, division of water and*
 14 *environmental planning,* to be included within the proposed district;

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

17 (4) a statement of the number of persons that will constitute the board
 18 of directors of the district, which shall be an odd number of not less than
 19 three nor more than five, together with the names and addresses of the
 20 persons who will constitute the original steering committee;

21 (5) any other matter deemed essential; and

22 (6) a request for the organization of the district as a nonprofit
 23 corporation.

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

25 BEFORE THE SECRETARY OF STATE OF THE STATE OF KANSAS

26 In the Matter of _____ Reservoir Improvement District

27 PETITION

28 Come now the undersigned persons and state that they own water rights
 29 or are an eligible water right holder in the _____
 30 reservoir, for which a reservoir improvement district is proposed, and that
 31 each signer states that the signer's respective post office address is set forth
 32 beside the signer's name. That the purposes for which this district is
 33 organized are (state purposes). That a steering committee for the
 34 organization of the district is hereby fixed and constituted with five
 35 members; that the names of persons who will serve on the original steering
 36 committee, of which the first named shall be acting chairperson, and their
 37 respective addresses are as follows:

38 (List names and addresses.)

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

41 Wherefore, the undersigned, individually and collectively, request that
 42 a reservoir improvement district be organized in the manner provided by
 43 law, for the purposes set forth herein, and that the secretary of state and the

1 director of the Kansas ~~water office~~ *department of water and environment,*
2 *division of water and environmental planning* proceed diligently in the
3 performance of their duties so that the organization of this proposed
4 district may be completed and approved at the earliest possible time.

5 Submitted to the secretary of state this _____ day of _____,
6 _____.

7 Sec. 271. K.S.A. 82a-2406 is hereby amended to read as follows:
8 82a-2406. (a) If the secretary of state finds the petition, as required by
9 K.S.A. 82a-2403, and amendments thereto, to be sufficient as to form and
10 the number and qualifications of the petitioners, the secretary of state shall
11 prepare a certified copy of the petition and transmit the same to the
12 director of the Kansas ~~water office~~ *department of water and environment,*
13 *division of water and environmental planning* within five days from the
14 date of such finding. Upon receipt of such certified copy, the director of
15 the ~~Kansas water office~~ *division of water and environmental planning* shall
16 institute an investigation of the proposed district, ~~its~~ *and such district's*
17 water usage and purposes. Within 90 days after receipt of the copy, the
18 director of the ~~Kansas water office~~ *division of water and environmental*
19 *planning* shall transmit a written report of the findings on the petition and
20 the director's written approval or disapproval of the petition to the
21 secretary of state and the acting chairperson of the steering committee
22 named in the petition.

23 (b) (1) The director of the Kansas ~~water office~~ *division of water and*
24 *environmental planning* shall approve such petition if the director finds
25 that construction of works of improvement on the reservoir for which the
26 district is proposed would benefit the sustainability, conservation and
27 maintenance of such reservoir.

28 (2) If the director of the ~~Kansas water office~~ *division of water and*
29 *environmental planning* approves such petition, the director shall transmit
30 a certified copy of the report containing all findings to the secretary of
31 state and to the chairperson of the steering committee named in the
32 petition.

33 Sec. 272. K.S.A. 82a-2407 is hereby amended to read as follows:
34 82a-2407. (a) Within 10 days after receipt of a certified copy of the report
35 from the director of the Kansas ~~water office~~ *department of water and*
36 *environment, division of water and environmental planning* approving the
37 petition or the petition as amended, the chairperson of the steering
38 committee of the proposed district shall call a meeting of the committee by
39 mailing a written notice fixing the time and place of such meeting to each
40 eligible water right holder in the proposed district. The committee shall
41 meet at the time and place fixed in the notice for the purpose of adopting a
42 resolution giving notice of an election at which all eligible water right
43 holders shall be entitled to vote on the question of whether the district

1 should be formed in accordance with the petition as approved by the
2 director. A copy of such resolution shall be mailed to all eligible water
3 right holders of the proposed district not less than 21 days prior to such
4 vote. The resolution shall state when and where the election shall be held
5 and the proposition to be voted on. It shall contain a copy of the petition as
6 approved by the director and shall be signed by the chairperson and
7 attested by the secretary of the steering committee. The steering committee
8 shall conduct the election, canvass the vote and certify the results to the
9 secretary of state and to the director of the ~~Kansas water office~~ *division of*
10 *water and environmental planning*.

11 (b) If eligible water right holders representing more than 50% of the
12 combined quantities of the eligible water rights of the proposed district
13 vote in favor of the organization and creation of the district, the secretary
14 of state shall issue a certificate of incorporation for the district to the
15 steering committee, such certificate shall be filed in the office of the
16 register of deeds of each county ~~in which~~ *where* all or a portion of the
17 district lies. Upon the recordation of the certificate of incorporation, the
18 district shall be authorized to function in accordance with the provision of
19 this act and its certificate of incorporation.

20 (c) If eligible water right holders representing more than 50% of the
21 combined quantities of the water rights within the proposed district vote
22 against the organization and creation of the district, the secretary of state
23 shall endorse that fact on the face of the petition and the proceedings shall
24 be closed.

25 (d) No action attacking the legal incorporation of any reservoir
26 improvement district organized under this section shall be maintained
27 unless filed within 90 days after the issuance of the certificate of
28 incorporation for such district by the secretary of state, nor shall the
29 alleged illegality of the incorporation of any such district be interposed as
30 a defense to any action brought after such time.

31 Sec. 273. K.S.A. 82a-2408 is hereby amended to read as follows:
32 82a-2408. If the organization of the proposed reservoir improvement
33 district is defeated at the election or if the petition is disapproved by the
34 director of the ~~Kansas water office~~ *department of water and environment,*
35 *division of water and environmental planning,* the steering committee
36 named in the petition shall determine the amount of money necessary to
37 pay all of the costs and expenses incurred in the preparation and filing of
38 the petition, and in the conduct of the election and the steering committee
39 shall assume the obligation for the payment of such costs and expenses by
40 assessing the eligible water right holders a fee in proportion to each such
41 holder's water right to the total of such water right. No cost shall be
42 assessed by any state agency.

43 Sec. 274. K.S.A. 82a-2411 is hereby amended to read as follows:

1 82a-2411. (a) In not less than 12 months; nor more than 13 months after
2 the recording of the certificates of incorporation, and annually thereafter, a
3 meeting shall be held for the election of directors whose terms expire and
4 also to render a report on the financial condition and activities of the
5 district, including the estimated construction date of all proposed projects
6 to be initiated within the next five years and the board's determination as to
7 whether each of these projects is still cost effective and in the current
8 public interest. Notice of the annual meeting shall be given at least 10 days
9 prior to the date thereof to all members in the district.

10 (b) The number of directors of a district or the date of the annual
11 meeting, or both, may be changed at an annual meeting if notice of the
12 proposed changes is included in the notice for the annual meeting at which
13 such changes are to be considered.

14 (c) Copies of the minutes of the annual meeting and report on the
15 financial condition and activities of the district shall be furnished to the
16 eligible water right holders of the district and the ~~Kansas water office~~
17 *department of water and environment, division of water and*
18 *environmental planning.*

19 Sec. 275. K.S.A. 82a-2412 is hereby amended to read as follows:
20 82a-2412. Regular meetings of the board of directors shall be held ~~no~~ *not*
21 less than once each quarter on a day and place as is selected by the board
22 of directors. Notice of such meeting shall be mailed to each director at
23 least five days before the date of the meeting. Special meetings may be
24 held at any time upon waiver of notice of such meeting by all directors or
25 may be called by any two directors at any time. Notice in writing, signed
26 by the persons calling any special meeting, shall be mailed to each director
27 at least two days prior to the time fixed for such special meeting. A
28 majority of directors shall constitute a quorum for the transaction of
29 business and in the absence of any of the duly elected officers of the
30 district a quorum at any meeting may select a director to act as such officer
31 pro tem. Each meeting of the board, whether regular or special, shall be
32 open to the public. Copies of the minutes of regular and special meetings
33 shall be furnished to the eligible water right holders of the district and the
34 ~~Kansas water office~~ *department of water and environment, division of*
35 *water and environmental planning.*

36 Sec. 276. K.S.A. 82a-2414 is hereby amended to read as follows:
37 82a-2414. (a) Upon the incorporation of the reservoir improvement
38 district, the board shall cause work to be commenced on the preparation of
39 a general plan of the district. In addition, there shall be prepared an
40 estimate of costs as to installation, maintenance and operation of the
41 proposed improvements. Upon completion of the general plan and
42 estimates of costs, the board shall carefully examine and consider such
43 plan. If they approve the general plan and estimate of cost, they shall

1 transmit a complete copy of the general plan to the director of the Kansas
2 ~~water office~~ *department of water and environment, division of water and*
3 *environmental planning* and additional copies shall be made available
4 upon request by the director of the ~~Kansas water office~~ *division of water*
5 *and environmental planning*. Copies of such plans, estimates and
6 information in the ~~Kansas water office~~ *division of water and*
7 *environmental planning* shall be open to inspection by the public at all
8 reasonable times.

9 (b) The director of the ~~Kansas water office~~ *division of water and*
10 *environmental planning*, shall examine and study such general plans as to:

11 (1) Feasibility;
12 (2) coordination of the plan with any other plan for the reservoir for
13 which the district is formed;

14 (3) the safety of the works and improvements proposed; and

15 (4) conformity with the intents and purposes of this act.

16 (c) The director of the ~~Kansas water office~~ *division of water and*
17 *environmental planning*, shall transmit a written report of the results of
18 such study and investigation to the board of directors, which shall include
19 any changes or modifications ~~which~~ *that* have been deemed necessary and
20 ~~which~~ shall include a specific approval or disapproval of the general plan.

21 Sec. 277. K.S.A. 82a-2415 is hereby amended to read as follows:
22 82a-2415. (a) When the general plan is approved by the director of the
23 ~~Kansas water office~~ *department of water and environment, division of*
24 *water and environmental planning*, the board shall propose by resolution,
25 that the cost to the district of all improvements contemplated in the plan be
26 paid by imposing a charge against each eligible water right holder of the
27 district in proportion to each such holder's water right. The total of such
28 charges shall be sufficient to enable the district to pay the cost of
29 administering the general plan. The reservoir improvement district also
30 may impose a charge against each eligible water right holder of the district
31 in an amount sufficient to cover district operating costs. Charges paid by
32 eligible water right holders of a reservoir improvement district may vary
33 and shall be based on the principle of having each eligible water right
34 holder pay for the pro rata quantity of water used from the reservoir. In
35 determining the charge, the governing body of the district shall adopt rules
36 ~~which~~ *that* establish guidelines for prospective eligible water right holders.

37 (b) The board shall fix a time and place conveniently near the
38 reservoir for a public hearing upon the general plan and the resolution
39 proposing a method of financing costs of the works contemplated in the
40 plan. A notice of such hearing shall be given in one publication at least 20
41 days prior to the date fixed for the hearing, setting forth the time and place
42 of hearing upon the plan and resolution, that a copy of the plan and
43 resolution is available for public inspection in the office of the secretary of

1 the district. Any eligible water right holder of the district desiring to be
2 heard in the matter must file, in duplicate, with the secretary of the board
3 at the secretary's office, at least five days before the date of the hearing, a
4 written statement of such holder's intent to appear at the hearing and the
5 substance of the views they wish to express. Upon receipt of any such
6 statements, the secretary of the board shall immediately transmit one copy
7 of the statements to the director of the ~~Kansas water office~~ *division of*
8 *water and environmental planning*. The director of the ~~Kansas water office~~
9 *division of water and environmental planning* or the ~~director of the Kansas~~
10 ~~water office's~~ *director's* duly appointed representative may attend the
11 hearing. At the hearing any eligible water right holder of the district who
12 has filed a written statement shall be heard and may present information in
13 support of the eligible water right holder's position in the matter. After
14 hearing all such statements, the board, by resolution, shall adopt as official
15 or reject the general plan. The board shall also adopt as official or reject
16 the proposed method of financing the costs of the works contemplated in
17 the general plan or determine that the general plan or the proposed method
18 of financing or both should be modified. The board shall notify the
19 director of the ~~Kansas water office~~ *division of water and environmental*
20 *planning* of the board's action to accept or reject the general plan and
21 proposed method of financing. If it is determined that the general plan
22 should be modified, any proposed changes approved by the board shall be
23 incorporated in a modified general plan ~~which~~ *that* shall be submitted to
24 the director of the ~~Kansas water office~~ *division of water and*
25 *environmental planning* for further consideration.

26 (c) The director of the ~~Kansas water office~~ *division of water and*
27 *environmental planning* shall review the modified plan and shall transmit a
28 supplemental written report of the results of the director's study and
29 investigation to the board, including the director of the ~~Kansas water~~
30 ~~office's~~ *division of water and environmental planning's* written approval or
31 disapproval of the modified general plan. If the modified general plan is
32 approved by the director of the ~~Kansas water office~~ *division of water and*
33 *environmental planning*, the board, by resolution, shall adopt the modified
34 plan as the official general plan of the district and notify the director of the
35 ~~Kansas water office~~ *division of water and environmental planning* of the
36 board's action. If it is determined that the proposed method of financing
37 should be modified, the board shall give consideration to the modified
38 method of financing and, following adoption of the general plan or an
39 approved modification thereof, the board, by further resolution setting
40 forth such modified method of financing, shall adopt it as the official
41 method of the district for financing costs of the works contemplated in the
42 official general plan. If a board is unable to carry out a general plan
43 because insufficient funds have been provided, they may reconsider the

1 general plan or the method of financing, or both, and by following the
2 procedure set forth in subsections (a) and (b), resubmit a general plan or
3 method of financing, or both.

4 Sec. 278. K.S.A. 82a-2416 is hereby amended to read as follows:
5 82a-2416. (a) Following the adoption of the general plan and adoption of
6 the method of financing, the board of directors may determine the order ~~in~~
7 ~~which~~ *that* specific projects contemplated by the general plan shall be
8 undertaken. The board shall then cause accurate surveys of all work
9 deemed necessary to be done and accurate estimates and calculations to be
10 made by a competent engineer who shall prepare detailed construction
11 plans and specifications showing the location, amount, and character of
12 work to be done and the estimated cost of right of way, construction,
13 maintenance and operation, which plans, specifications and estimates of
14 costs shall be filed in the office of the secretary of the board and shall at all
15 reasonable times be open to public inspection. The board shall carefully
16 examine and consider the same and if they approve such plans,
17 specifications and estimates of costs, they shall transmit a complete copy
18 thereof to the director of the ~~Kansas water office~~ *department of water and*
19 *environment, division of water and environmental planning*, who shall
20 examine and study the plans and specifications as to conformance to the
21 general plan and other applicable state laws on water use and control and
22 transmit a written report of the results of the director's study and
23 investigation to the board. ~~which~~ *Such* report shall include any changes or
24 modifications, ~~which~~ *that* the director deems necessary; and ~~which~~ shall
25 include a specific approval or disapproval of the plans and specifications.

26 (b) (1) Ten years following approval of the general plan and every
27 five years thereafter, the board shall review the general plan to determine if
28 projects proposed to be undertaken by the district in its original plan are
29 still feasible. A report of the review shall be given at a public meeting
30 called for that purpose. This review is not required of reservoir
31 improvement districts that have completed all the projects in the general
32 plans.

33 (2) Any revisions or amendments to the general plan shall be
34 submitted to the director of the ~~Kansas water office~~ *division of water and*
35 *environmental planning*, in the manner provided by K.S.A. 82a-2414, and
36 amendments thereto.

37 Sec. 279. K.S.A. 82a-2419 is hereby amended to read as follows:
38 82a-2419. (a) Upon receipt from the secretary of state of the certificate of
39 dissolution of the reservoir improvement district under the provisions of
40 this act, the secretary of the board of directors of the reservoir
41 improvement district shall notify the directors of the reservoir
42 improvement district of such certification.

43 (b) The directors shall immediately pay all obligations of ~~said~~ *such*

1 district, including all costs incurred by the district, the director of the
2 Kansas ~~water office~~ *department of water and environment, division of*
3 *water and environmental planning* and the secretary of state in regard to
4 the dissolution proceedings.

5 (c) Upon receipt of such notification from the state treasurer, the
6 secretary of the district shall have the certificate of dissolution published
7 once in a newspaper of general circulation, located in a county where the
8 reservoir or a part thereof is located and proof of such publication shall be
9 filed with the secretary of state's office. The effective date of the
10 dissolution, unless otherwise provided, shall be the date ~~on which~~ *that* the
11 proof of publication is filed in the office of the secretary of state, but in no
12 event shall the date of dissolution be a date prior to the date of publication
13 of the certificate of dissolution.

14 Sec. 280. K.S.A. 2-3302, 2-3703, 2-3704, 2-3710, 12-2707, 19-
15 27a03, 19-27a12, 19-27a17, 19-2963, 19-3704, 24-407, 24-418, 24-656,
16 24-659, 24-1202, 24-1204, 24-1211, 24-1212, 32-1152, 32-1154, 32-1403,
17 42-701, 42-725, 47-1214, 47-1511, 49-403, 55-527, 65-153f, 65-156, 65-
18 157, 65-159, 65-162a, 65-163, 65-163c, 65-163d, 65-163g, 65-164, 65-
19 165, 65-166, 65-166a, 65-166b, 65-167, 65-169, 65-170, 65-170b, 65-
20 170d, 65-170e, 65-170g, 65-171a, 65-171b, 65-171c, 65-171d, 65-171e,
21 65-171f, 65-171h, 65-171i, 65-171m, 65-171n, 65-171o, 65-171p, 65-
22 171q, 65-171r, 65-171t, 65-171u, 65-1,107, 65-1,178, 65-1,182, 65-1,201,
23 65-1,222, 65-1629, 65-3002, 65-3003, 65-3005, 65-3011, 65-3018, 65-
24 3022, 65-3027, 65-3303, 65-3308, 65-3309, 65-3310, 65-3311, 65-3312,
25 65-3313, 65-3321, 65-3329, 65-3330, 65-3401, 65-3402, 65-3419, 65-
26 3423, 65-3424d, 65-3424i, 65-3426, 65-3427, 65-3430, 65-3446, 65-3458,
27 65-3491, 65-34,102, 65-34,126, 65-34,133, 65-34,142, 65-34,144, 65-
28 34,153, 65-34,162, 65-34,175, 65-34,176, 65-34,178, 65-4501, 65-5301,
29 65-7003, 68-1414, 68-2203, 74-2608, 74-2609, 74-2622, 74-99f04, 75-
30 3084, 75-37,121, 75-5601, 75-5608, 75-5608a, 75-5609a, 75-5657, 75-
31 5672, 82a-220, 82a-301, 82a-301a, 82a-303a, 82a-303b, 82a-305a, 82a-
32 326, 82a-328, 82a-405, 82a-603, 82a-612, 82a-701, 82a-731, 82a-732,
33 82a-733, 82a-737, 82a-738, 82a-739, 82a-762, 82a-767, 82a-771, 82a-773,
34 82a-902, 82a-903, 82a-905, 82a-906, 82a-922, 82a-923, 82a-954, 82a-
35 1021, 82a-1023, 82a-1025, 82a-1027, 82a-1034, 82a-1042, 82a-1101, 82a-
36 1103, 82a-1203, 82a-1214, 82a-1216, 82a-1301, 82a-1303, 82a-1311a,
37 82a-1315b, 82a-1315c, 82a-1332, 82a-1333, 82a-1335, 82a-1345, 82a-
38 1347, 82a-1348, 82a-1349, 82a-1360, 82a-1361, 82a-1362, 82a-1363, 82a-
39 1364, 82a-1367, 82a-1368, 82a-1370, 82a-1402, 82a-1501, 82a-1502, 82a-
40 1604, 82a-1605, 82a-1606, 82a-1608, 82a-1609, 82a-1703, 82a-1704, 82a-
41 1803, 82a-1804, 82a-1805, 82a-1901, 82a-1904, 82a-1905, 82a-1906, 82a-
42 2001, 82a-2007, 82a-2101, 82a-2301, 82a-2302, 82a-2303, 82a-2304, 82a-
43 2305, 82a-2310, 82a-2311, 82a-2312, 82a-2313, 82a-2314, 82a-2317, 82a-

1 2324, 82a-2402, 82a-2403, 82a-2404, 82a-2406, 82a-2407, 82a-2408, 82a-
2 2411, 82a-2412, 82a-2414, 82a-2415, 82a-2416 and 82a-2419 and K.S.A.
3 2021 Supp. 2-1903, 2-1904, 2-1915, 2-1933, 2-3318, 2-3702, 2-3708, 2-
4 3709, 12-541, 12-636, 12-761, 12-766, 12-2713, 48-1603, 48-1606, 48-
5 1608, 49-511, 49-512, 49-513, 49-517, 49-603, 49-618, 49-623, 55-153,
6 55-1,117, 55-1,117a, 55-1,119, 65-171v, 65-180, 75-3036, 75-5133, 82a-
7 736, 82a-1602, 82a-1603 and 82a-1702 are hereby repealed.
8 Sec. 281. This act shall take effect and be in force from and after July
9 1, 2023, and its publication in the statute book.