

As Amended by Senate Committee

Session of 2021

SENATE BILL No. 40

By Committee on Agriculture and Natural Resources

1-21

1 AN ACT concerning agriculture; relating to the Kansas department of
2 agriculture division of conservation; implementing the provisions of
3 2011 executive reorganization order No. 40; amending K.S.A. 2-1916,
4 49-605, 49-611, 49-613, 49-618, 49-620, 49-623, 82a-1602, 82a-1603,
5 82a-1607 and 82a-1702 and K.S.A. 2020 Supp. 2-1903, 2-1904, 2-
6 1907, 2-1907c, 2-1908, 2-1915, 2-1930, 2-1931, 2-1933, 49-603, 49-
7 606 and 49-621 and repealing the existing sections; also repealing
8 K.S.A. 49-619.
9

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

11 Section 1. K.S.A. 2020 Supp. 2-1903 is hereby amended to read as
12 follows: 2-1903. As used in this act:

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

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

20 (3) "Commission" ~~or "state conservation commission"~~ means the
21 conservation program policy board created in K.S.A. 2-1904, and
22 amendments thereto, *including the state conservation commission*
23 *continued in existence by K.S.A. 75-5,128, and amendments thereto.*

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

25 (5) "Agency of this state" includes the government of this state and
26 any subdivision, agency or instrumentality, corporation or otherwise, of
27 the government of this state.

28 (6) "United States" or "agencies of the United States" includes the
29 United States of America, the ~~soil~~ *natural resources* conservation service
30 of the United States department of agriculture and any other agency or
31 instrumentality, corporate or otherwise, of the United States of America.

32 (7) "Government" or "governmental" includes the government of this
33 state, the government of the United States and any subdivision, agency or
34 instrumentality, corporate or otherwise, of either of them.

35 (8) "Division" ~~or "division of conservation"~~ means the ~~agency~~
36 *division of conservation* established *within the Kansas department of*

1 agriculture in K.S.A. 74-5,126, and amendments thereto.

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

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

6 (11) "Secretary" means the secretary of the Kansas department of
7 agriculture.

8 Sec. 2. K.S.A. 2020 Supp. 2-1904 is hereby amended to read as
9 follows: 2-1904. (a) There is hereby established, to serve as a conservation
10 program policy board of the state and to perform the functions conferred
11 upon it in this act, the state conservation commission. The state
12 conservation commission shall succeed to all the powers, duties and
13 property of the state soil conservation committee. The commission shall
14 consist of nine members as follows:

15 (1) ~~The director of the cooperative extension service and the director~~
16 ~~of the state agricultural experiment station dean of the Kansas state~~
17 ~~university college of agriculture located at Manhattan, Kansas, or such~~
18 ~~persons' designees shall serve, ex officio, as shall appoint two designees to~~
19 ~~serve on the commission as members of the commission. One designee~~
20 ~~shall represent an agricultural experiment station and one shall represent~~
21 ~~the cooperative extension service.~~

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

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

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

20 (b) The commission shall keep a record of its official actions; *and*
21 ~~shall adopt a seal which seal shall be judicially noticed, and may perform~~
22 ~~such acts, hold such public hearings and adopt review all~~ rules and
23 regulations *proposed by the division that are necessary for the execution of*
24 ~~its the division's~~ functions under this act.

25 (c) In addition to the powers and duties conferred in this section, the
26 ~~state conservation~~ commission shall have the powers and duties not
27 delegated to the ~~Kansas department of agriculture division of conservation~~
28 pursuant to K.S.A. 74-5,126, and amendments thereto.

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

40 (e) ~~The state conservation~~ commission together with the ~~Kansas-~~
41 ~~department of agriculture division of conservation~~ shall make conservation
42 program policy decisions *to be approved by the secretary*, including
43 modification of current conservation programs, creation of new

1 conservation programs and *annual* budget recommendations.

2 (f) ~~The Kansas department of agriculture division of conservation in~~
3 ~~consultation with the state conservation~~ commission shall have the
4 following duties and powers:

5 (1) To offer such assistance as may be appropriate to the supervisors
6 of conservation districts, organized as provided hereinafter, in the carrying
7 out of any of their powers and programs;

8 (2) to keep the supervisors of each of the several districts organized
9 under the provisions of this act informed of the activities and experience of
10 all other districts organized hereunder and to facilitate an interchange of
11 advice and experience between such districts and cooperation between
12 them;

13 (3) to coordinate the programs of the several conservation districts
14 organized hereunder;

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

21 (5) to disseminate information throughout the state concerning the
22 activities and programs of the conservation districts organized hereunder
23 and to encourage the formation of such districts in areas where their
24 organization is desirable;

25 (6) to cooperate with and give assistance to watershed districts and
26 other special purpose districts in the state of Kansas for the purpose of
27 cooperating with the United States through the secretary of agriculture in
28 the furtherance of conservation pursuant to the provisions of the watershed
29 protection and flood prevention act, as amended;

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

33 (8) to enlist the cooperation and collaboration of state, federal,
34 regional, interstate, local, public and private agencies with the
35 conservation districts;

36 (9) to facilitate arrangements under which conservation districts may
37 serve county governing bodies and other agencies as their local operating
38 agencies in the administration of any activity concerned with the
39 conservation of natural resources; and

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

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

5 (B) contracting with engineering consultants, surveyors and
6 construction contractors for the purpose of restoration, establishment and
7 enhancement of natural resources; and

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

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

26 (h) All costs associated with compensatory mitigation, including, but
27 not limited to, the costs of any litigation or civil fines or penalties, shall be
28 paid by the watershed district for which the ~~Kansas department of~~
29 ~~agriculture division of conservation~~ holds the conservation easement.

30 (i) (1) Except as provided in ~~subsection (i)~~ *paragraph (2)*, the Kansas
31 department of agriculture shall not expend moneys appropriated from the
32 state general fund or from any special revenue fund or funds for the
33 purpose of accepting, purchasing or otherwise acquiring conservation
34 easements on behalf of watershed districts.

35 (2) The Kansas department of agriculture may expend moneys in the
36 compensatory mitigation fund established by this section for the purpose
37 of accepting, purchasing or otherwise acquiring conservation easements on
38 behalf of watershed districts and for the administration of such
39 conservation easements.

40 (j) ~~The Kansas department of agriculture division of conservation~~
41 shall not accept, purchase or otherwise acquire any conservation easement
42 other than for the purposes of this section.

43 Sec. 3. K.S.A. 2020 Supp. 2-1907 is hereby amended to read as

1 follows: 2-1907. The governing body of the district shall consist of five
2 supervisors who are qualified electors residing within the district. The
3 supervisors who are first elected shall serve for terms of one, two and three
4 years according to the following plan: The two persons receiving the
5 highest number of votes in the election shall hold office for three years; the
6 two persons receiving the next highest number of votes shall hold such
7 office for a term of two years; and the remaining supervisor shall hold
8 office for a term of one year. In the event of a tie vote, such terms shall be
9 decided by lot. Nothing in this section shall be construed as affecting the
10 length of the term of supervisors holding office on January 1, 1995.
11 Successors to such persons shall be elected for terms of three years. An
12 annual meeting of all qualified electors of the district shall be held in the
13 month of January or February. Notice of the time and place of such
14 meeting shall be given by such supervisors by publishing a notice in the
15 official county paper once each week for two consecutive weeks prior to
16 the week in which such meeting is to be held. At such meeting the
17 supervisors shall make full and due report of their activities and financial
18 affairs since the last annual meeting and shall conduct an election by secret
19 ballot of all of the qualified electors of the district there present for the
20 election of supervisors whose terms have expired. Whenever a vacancy
21 occurs in the membership of the governing body the remaining supervisors
22 of the district shall appoint a qualified elector of the district to fill the
23 office for the unexpired term. The supervisors shall designate a
24 chairperson and may from time to time change such designation. A
25 supervisor shall hold office until a successor has been elected or appointed
26 and has qualified. A majority of the supervisors shall constitute a quorum
27 and the concurrence of a majority of the supervisors in any matter within
28 their duties shall be required for its determination. A supervisor shall
29 receive no compensation for services, but may be entitled to expenses,
30 including traveling expenses, necessarily incurred in the discharge of
31 duties. The supervisors may employ a secretary, technical experts; and
32 such other officers, agents; and employees, permanent and temporary, as
33 they may require, and shall determine their qualifications, duties and
34 compensation. The supervisors may call upon the county attorney of the
35 county in which a major portion of the district lies, or the attorney general
36 for such legal services as they may require. The supervisors may delegate
37 to their chairperson, to one or more supervisors, or to one or more agents,
38 or employees such powers and duties as they may deem proper. The
39 supervisors shall furnish to the ~~Kansas department of agriculture~~
40 ~~of conservation~~, upon request, copies of such rules, regulations, orders,
41 contracts, forms, and other documents as they shall adopt or employ, and
42 such other information concerning their activities as it may require in the
43 performance of its duties under this act. The supervisors shall provide for

1 the execution of surety bonds for all employees and officers who shall be
2 entrusted with funds or property; shall provide for the keeping of a full and
3 accurate record of all proceedings and of all resolutions, regulations, and
4 orders issued or adopted; and shall provide for an annual audit of the
5 accounts and receipts and disbursements. Any supervisor may be removed
6 by the ~~state conservation~~ *secretary in consultation with the* commission
7 upon notice and hearing in accordance with the provisions of the Kansas
8 administrative procedure act; for neglect of duty or malfeasance in office,
9 but for no other reason. The supervisors may invite the legislative body of
10 any municipality or county located near the territory comprised within the
11 district to designate a representative to advise and consult with the
12 supervisors of the district on all questions of program and policy ~~which~~
13 *that* may affect the property, water supply; or other interests of such
14 municipality or county.

15 Sec. 4. K.S.A. 2020 Supp. 2-1907c is hereby amended to read as
16 follows: 2-1907c. On or before September 1 of each year, each
17 conservation district shall submit to the ~~Kansas department of agriculture~~
18 ~~division of conservation~~ a certification of the amount of money to be
19 furnished by the county commissioners for conservation district activities
20 for the ensuing calendar year. Such amount shall be the same as authorized
21 for such purposes in each approved county budget. For the purpose of
22 providing state financial assistance to conservation districts, the ~~Kansas~~
23 ~~department of agriculture~~ ~~division of conservation~~ in the regular budget
24 request, as a line item for the forthcoming fiscal year, shall submit a
25 special request for an amount equal to the sum of the allocations of each
26 county to each conservation district, but in no event to exceed the sum of
27 \$25,000 per district. This \$25,000 limitation shall be applicable for fiscal
28 year 2008, and thereafter, subject to appropriations therefor. The ~~Kansas~~
29 ~~department of agriculture~~ ~~division of conservation~~, as soon as practicable
30 after July 1 of the following year, shall disburse such moneys as may be
31 appropriated by the state for this purpose to each conservation district to
32 match funds allocated by the commissioners of each county. Distribution
33 shall be prorated in proportion to county allocations in the event that
34 appropriations are insufficient for complete matching of funds. Municipal
35 accounting procedures shall be used in the distribution of and in the
36 expenditure of all funds.

37 Sec. 5. K.S.A. 2020 Supp. 2-1908 is hereby amended to read as
38 follows: 2-1908. A conservation district organized under the provisions of
39 K.S.A. 2-1901 et seq., and amendments thereto, shall constitute a
40 governmental subdivision of this state; and a public body corporate and
41 politic, exercising public powers, and such district, and the supervisors
42 thereof, shall have the following powers, in addition to others granted in
43 other sections of this act:

1 (a) To conduct surveys, investigations; and research relating to the
2 character of soil erosion, *soil and grassland health*, flood damage, *water*
3 *quality* and the preventive and control measures needed, to publish the
4 results of such surveys, investigations, or research, and to disseminate
5 information concerning such preventive and control measures. In order to
6 avoid duplication of research activities, no district shall initiate any
7 research program except in cooperation with the government of this state
8 or any of its agencies; or with the United States or any of its agencies;

9 (b) to conduct demonstrational projects within the district on lands,
10 owned or controlled by this state or any of its agencies, with the
11 cooperation of the agency administering and having jurisdiction thereof,
12 and on any other lands within the district upon obtaining the consent of the
13 occupier of such lands or the necessary rights or interests in such lands, in
14 order to demonstrate by example the means, methods; and measures by
15 which soil and soil resources may be conserved, and soil erosion in the
16 form of soil blowing and soil washing may be prevented and controlled;
17 and to demonstrate by example, the means, methods; and measures by
18 which water and water resources may be conserved, developed, used and
19 disposed of to alleviate ~~drought~~ *drought*, to maintain and improve water
20 quality and to reduce flooding and impaired drainage;

21 (c) to carry out preventive and control measures within the district
22 including, but not limited to, engineering operations, methods of
23 cultivation, the growing of vegetation, changes in use of land; and the
24 measures listed in subsection C of K.S.A. 2-1902, and amendments
25 thereto, on lands owned or controlled by this state or any of its agencies,
26 with the cooperation of the agency administering and having jurisdiction
27 thereof, and on any other lands within the district upon obtaining the
28 consent of the occupier of such lands or the necessary rights or interests in
29 such lands;

30 (d) to cooperate; or enter into agreements with, and within the
31 limitations of appropriations duly made available to it by law, to furnish
32 financial or other aid to, any agency, governmental or otherwise, or any
33 occupier of lands within the district, in the carrying on of erosion-control
34 flood prevention, *soil and grassland health initiatives*, *water quality* and
35 water management operations within the district, subject to such
36 conditions as the supervisors may deem necessary to advance the purposes
37 of this act;

38 (e) to obtain options upon and to acquire, by purchase, exchange,
39 lease, gift, grant, bequest, devise; or otherwise, any property, real or
40 personal, or rights or interest therein; to maintain, administer; and improve
41 any properties acquired, to receive income from such properties and to
42 expend such income in carrying out the purposes and provisions of this
43 act; and to sell, lease; or otherwise dispose of any of its property or

1 interests therein in furtherance of the purposes and the provisions of this
2 act;

3 (f) to make available, on such terms as it shall prescribe, to land
4 occupiers within the district, agricultural and engineering machinery and
5 equipment, fertilizer, seeds; and seedlings, and such other material or
6 equipment, as will assist such land occupiers to carry on operations upon
7 their lands for the conservation of soil resources, *soil and grassland*
8 *health, protection of water quality* and for the prevention and control of
9 soil erosion;

10 (g) to develop comprehensive plans for the conservation of soil and
11 water resources and for the control and prevention of soil erosion, flood
12 damages, impaired drainage, the effects of ~~drouth~~ *drought* within the
13 district and the maintenance and improvement of water quality, ~~which with~~
14 ~~such plans shall specify~~ *specifying* in such detail as may be possible, the
15 acts, procedures, performances; and avoidances ~~which~~ *that* are necessary
16 or desirable for the effectuation of such plans, including the specification
17 of engineering operations, methods of cultivation, the growing of
18 vegetation, cropping programs, tillage practices; and changes in use of
19 land, and to publish such plans and information and bring them to the
20 attention of occupiers of lands within the district;

21 (h) to take over, by purchase, lease, ~~gift~~ or ~~otherwise~~ *donation*, and
22 to administer, any soil-conservation, erosion-control, ~~or soil and grassland~~
23 *health, erosion-prevention, flood prevention, water quality* or water
24 management project located within its boundaries undertaken by the
25 United States or any of its agencies, or by this state or any of its agencies
26 ***subject to the authority of the authorizing state or federal agency***; to
27 manage, as agent of the United States or any of its agencies, or of this state
28 or any of its agencies, any soil-conservation, erosion-control, or erosion-
29 prevention, flood prevention or water management project within its
30 boundaries; to act for the district or as agent for the United States, or any
31 of its agencies, or for this state or any of its agencies, in connection with
32 the acquisition, construction, operation, maintenance, or administration of
33 any soil-conservation, erosion-control, ~~or soil and grassland health,~~
34 erosion-prevention, flood prevention, *water quality* or water management
35 project within its boundaries; to accept donations, gifts; and contributions
36 in money, services, materials; or otherwise, from the United States or any
37 of its agencies, or from this state or any of its agencies, and from persons,
38 firms, corporations or associations, and to use or expend such moneys,
39 services, materials; or other contributions in carrying on its operations;

40 (i) to sue and be sued in the name of the district; to have a seal, which
41 seal shall be judicially noticed; to have perpetual succession unless
42 terminated as hereinafter provided; to make and execute contracts and
43 other instruments, necessary or convenient to the exercise of its powers; to

1 make, and from time to time amend and repeal, rules and regulations not
2 inconsistent with this act, to carry into effect its purposes and powers;

3 (j) as a condition to the extending of any benefits under this act, to or
4 the performance of work upon, any lands not owned or controlled by this
5 state or any of its agencies, the supervisors may require contributions in
6 money, services, materials; or otherwise to any operations conferring such
7 benefits, and may require land occupiers to enter into and perform such
8 agreements or covenants as to the permanent use of such lands as will tend
9 to prevent or control erosion thereon;

10 (k) no provisions with respect to the acquisition, operation; or
11 disposition of property by other public bodies shall be applicable to a
12 district organized hereunder unless the legislature shall specifically so
13 state;

14 (l) the supervisors of any district shall not contract debts or
15 obligations in the name of the district beyond the current appropriation
16 made available to the district by the ~~committee~~ *division* or federal grants or
17 other financial sources;

18 (m) to accept and expend funds donated to the district for purposes of
19 providing at least 20% cost-share for the purchase of an eligible water
20 right from the holder of the water right under the provisions of K.S.A. 2-
21 1915, and amendments thereto; and

22 (n) to control ~~and eradicate sericea lespedeza~~ *invasive species* within
23 the district ~~in any county that the secretary of agriculture has designated as~~
24 ~~a sericea lespedeza disaster area.~~

25 Sec. 6. K.S.A. 2020 Supp. 2-1915 is hereby amended to read as
26 follows: 2-1915. (a) (1) Appropriations may be made for grants out of
27 funds in the treasury of this state for:

28 (A) Terraces, terrace outlets, check dams, dikes, ponds, ditches,
29 critical area planting, grassed waterways, ~~tailwater recovery irrigation~~
30 ~~systems irrigation technology~~, precision land forming, range seeding, *soil*
31 *and grassland health*, detention and grade stabilization structures and
32 other enduring water conservation *and water quality* practices installed on
33 public lands and on privately owned lands; and;

34 (B) the control ~~and eradication~~ of ~~sericea lespedeza~~ as provided in
35 subsection (n) of K.S.A. 2-1908, ~~and amendments thereto~~, *invasive species*
36 on public lands and on privately owned lands.

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

40 (b) A program for protection of riparian and wetland areas shall be
41 developed by the ~~Kansas department of agriculture division of~~
42 ~~conservation~~ and implemented by the conservation districts. The
43 conservation districts shall prepare district programs to address resource

1 management concerns of water quality, erosion and sediment control and
2 wildlife habitat as part of the conservation district long-range and annual
3 work plans. Preparation and implementation of conservation district
4 programs shall be accomplished with assistance from appropriate state and
5 federal agencies involved in resource management.

6 (c) Subject to the provisions of K.S.A. 2-1919, and amendments
7 thereto, any holder of a water right, as defined by ~~subsection (g) of K.S.A.~~
8 ~~82a-701(g)~~, and amendments thereto, who is willing to voluntarily return
9 all or a part of the water right to the state shall be eligible for a grant not to
10 exceed 80% of the total cost of the purchase price for such water right. The
11 ~~Kansas department of agriculture division of conservation~~ shall administer
12 this cost-share program with funds appropriated by the legislature for such
13 purpose. The chief engineer shall certify to the ~~Kansas department of~~
14 ~~agriculture division of conservation~~ that any water right for which
15 application for cost-share is received under this section is eligible in
16 accordance with the criteria established in K.S.A. 2-1919, and
17 amendments thereto.

18 (d) (1) Subject to appropriation acts therefor, the ~~Kansas department~~
19 ~~of agriculture division of conservation~~ shall develop the Kansas water
20 quality buffer initiative for the purpose of restoring riparian areas using
21 best management practices. The ~~executive director of the Kansas~~
22 ~~department of agriculture division of conservation~~ shall ensure that the
23 initiative is complementary to the federal conservation reserve program
24 *and update any applicable standards from time to time as necessary for*
25 *the continued success of the program.*

26 (2) There is hereby created in the state treasury the Kansas water
27 quality buffer initiative fund. All expenditures from such 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 ~~executive director of the Kansas department of agriculture division of~~
31 ~~conservation~~ or the ~~executive~~ director's designee. ~~Money~~ *Moneys* credited
32 to the fund shall be used for the purpose of making grants to install water
33 quality best management practices pursuant to the initiative.

34 (3) The county or district appraiser shall identify and map riparian
35 buffers consisting of at least one contiguous acre per parcel of real
36 property located in the appraiser's county. Notwithstanding any other
37 provisions of law, riparian buffers shall be valued by the county or district
38 appraiser as tame grass land, native grass land or waste land, as
39 appropriate. As used in this ~~subsection (3) paragraph~~, "riparian buffer"
40 means an area of stream-side vegetation that: (A) Consists of tame or
41 native grass and may include forbs and woody plants; (B) is located along
42 a perennial or intermittent stream, including the stream bank and adjoining
43 floodplain; and (C) is a minimum of 66 feet wide and a maximum of 180

1 feet wide.

2 (e) ~~The Kansas department of agriculture division of conservation,~~
3 with the approval of the ~~state conservation commission~~ *secretary*, shall
4 adopt rules and regulations to administer such grant and protection
5 programs. *Prior to submission of any proposed rules and regulations of*
6 *the division to the director of the budget, the secretary of administration*
7 *and the attorney general in accordance with the rules and regulations*
8 *filing act, K.S.A. 77-415 et seq., and amendments thereto:*

9 (1) *The director shall submit such proposed rules and regulations to*
10 *the commission; and*

11 (2) *the commission shall review and make recommendations to the*
12 *director and the secretary regarding such proposed rules and regulations.*

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

19 Sec. 7. K.S.A. 2-1916 is hereby amended to read as follows: 2-1916.
20 At any time after five ~~(5)~~ years after the organization of a district under the
21 provisions of this act, ~~ten percent (10%)~~ ~~(10%)~~ of the occupiers of land lying
22 within the boundaries of such district may file a petition with the ~~state soil~~
23 ~~conservation committee~~ ~~division~~ praying that the operations of the district
24 be terminated and the existence of the district discontinued. ~~The committee~~
25 ~~division~~ may conduct such public meetings and public hearings upon such
26 petition as may be necessary to assist it in the consideration thereof.
27 Within ~~sixty (60)~~ days after such a petition has been received by the
28 ~~committee~~ ~~it~~ ~~division~~, *the division* shall give due notice of the holding of a
29 referendum, and shall supervise such referendum, and issue appropriate
30 regulations governing the conduct thereof, the question to be submitted by
31 ballots upon which the words "For terminating the existence of the
32 _____ (name of the soil conservation district to be here inserted)"
33 and "against terminating the existence of the _____ (name of the soil
34 conservation district to be here inserted)" shall be printed, with a square
35 before each proposition and a direction to insert an × mark in the square
36 before one or the other of said propositions as the voter may favor or
37 oppose discontinuance of such district. All occupiers of lands lying within
38 the boundaries of the district shall be eligible to vote in such referendum.
39 Only such land occupiers shall be eligible to vote. No informalities in the
40 conduct of such referendum or in any matters relating thereto shall
41 invalidate said referendum or the result thereof if notice thereof shall have
42 been given substantially as herein provided and said referendum shall have
43 been fairly conducted. ~~The committee~~ ~~division~~ shall publish the result of

1 such referendum and shall thereafter consider and determine whether the
2 continued operation of the district within the defined boundaries is
3 administratively practicable and feasible. If the ~~committee~~ *division* shall
4 determine that the continued operation of such district is administratively
5 practicable and feasible, it shall record such determination and deny the
6 petition. If the ~~committee~~ *division* shall determine that the continued
7 operation of such district is not administratively practicable and feasible, it
8 shall record such determination and shall certify such determination to the
9 supervisors of the district. In making such determination, the ~~committee~~
10 *division* shall give due regard and weight to the attitudes of the occupiers
11 of lands lying within the district, the number of land occupiers eligible to
12 vote in such referendum who shall have voted, the proportion of the votes
13 in such referendum in favor of the discontinuance of the district to the total
14 number of votes cast, the approximate wealth and income of the land
15 occupiers of the district, the probable expense of carrying on erosion
16 control operations within such district; and such other economic and social
17 factors as may be relevant to such determination, having due regard to the
18 legislative findings set forth in K.S.A. 2-1902: ~~Provided, however, and~~
19 ~~amendments thereto, except that the~~ *committee division* shall not have
20 authority to determine that the continued operation of the district is
21 administratively practicable and feasible unless a majority of the votes cast
22 in the referendum shall have been cast in favor of the continuance of such
23 district.

24 Upon receipt from the ~~state soil conservation committee~~ *division* of
25 certification that the ~~committee~~ *division* has determined that the continued
26 operation of the district is not administratively practicable and feasible,
27 pursuant to the provisions of this section, the supervisors shall ~~forthwith~~
28 *immediately* proceed to terminate the affairs of the district. The supervisors
29 shall dispose of all property belonging to the district at public auction and
30 shall pay over the proceeds of such sale to be covered into the state
31 treasury. The supervisors shall thereupon file an application, duly verified,
32 with the secretary of state for the discontinuance of such district; and shall
33 transmit with such application the certificate of the ~~state soil conservation~~
34 ~~committee~~ *division* setting forth the determination of the ~~committee~~
35 *division* that the continued operation of such district is not administratively
36 practicable and feasible. The application shall recite that the property of
37 the district has been disposed of and the proceeds paid over as in this
38 section provided, and shall set forth a full accounting of such properties
39 and proceeds of the sale. The secretary of state shall issue to the
40 supervisors a certificate of dissolution and shall record such certificate in
41 an appropriate book of record in ~~his or her~~ *the secretary of state's* office.

42 Upon issuance of a certificate of dissolution under the provisions of this
43 section, all ordinances and regulations ~~theretofore~~ adopted and in force

1 within such districts shall be of no further force and effect. All contracts
2 ~~theretofore entered into~~, to which the district or supervisors are parties,
3 shall remain in force and effect for the period provided in such contracts.
4 ~~The state soil conservation committee~~ *division* shall be substituted for the
5 district or supervisors as party to such contracts. ~~The committee~~ *division*
6 shall be entitled to all benefits and subject to all liabilities under such
7 contracts and shall have the same right and liability to perform, to require
8 performance, to sue and be sued thereon; and to modify or terminate such
9 contracts by mutual consent or otherwise, as the supervisors of the district
10 would have had. Such dissolution shall not affect the lien of any judgment
11 entered under the provisions of K.S.A. 2-1911, *prior to its repeal*, nor the
12 pendency of any action instituted under the provisions of such section, and
13 the committee shall succeed to all the rights and obligations of the district
14 or supervisors as to such liens and actions. The state soil conservation
15 committee shall not entertain petitions for the discontinuance of any
16 district nor conduct referenda upon such petitions nor make determinations
17 pursuant to such petitions in accordance with the provisions of this act,
18 more often than once in five ~~(5)~~ years.

19 Sec. 8. K.S.A. 2020 Supp. 2-1930 is hereby amended to read as
20 follows: 2-1930. (a) As used in this section:

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

24 (2) "historic consumptive water use" means an amount of use of a
25 water right as calculated pursuant to subsection (k); and

26 (3) "program" means the water right transition assistance program.

27 (b) There is hereby established the water right transition assistance
28 program. The program shall be administered by the ~~Kansas department of~~
29 ~~agriculture~~ *division of conservation*. The Kansas department of agriculture
30 division of water resources and recognized local governing agencies,
31 including groundwater management districts, shall cooperate in program
32 implementation. The program shall be administered for the purpose of
33 reducing historic consumptive water use in the target or high priority areas
34 of the state by issuing water right transition grants based on competitive
35 bids for privately held water rights.

36 (c) (1) The division may receive and expend funds from the federal or
37 state government; or a private source for the purpose of carrying out the
38 provisions of this section. The division shall carry over unexpended funds
39 from one fiscal year to the next.

40 (2) The maximum amount paid by the division shall not exceed a
41 base rate per acre-foot of historic consumptive water use made available
42 under the water right to be dismissed or permanently reduced. ~~The state~~
43 ~~conservation~~ *division, in consultation with the commission*, shall establish

1 an annual base rate after considering recommendations from the chief
2 engineer and the groundwater management districts regarding market
3 conditions.

4 (d) The division may enter into water right transition assistance
5 program contracts with landowners that will result in the permanent
6 reduction of part or all of a landowner's historic consumptive water use by
7 action of the chief engineer as provided for in subsection (f).

8 (e) All applications for permanent irrigation water right retirements
9 shall be considered for funding. Permanent retirement of partial water
10 rights shall only be approved by the Kansas department of agriculture
11 division of water resources when the local groundwater management
12 district has the metering and monitoring capabilities necessary to ensure
13 compliance with the program.

14 (f) Applications for permanent water right retirement shall be
15 prioritized for payment based on the following criteria:

16 (1) The applicant's bid price;

17 (2) the timing and extent of the impact of the application on aquifer
18 restoration or stream recovery;

19 (3) the impact on local water management strategies designated by
20 the board of each groundwater management district or by the chief
21 engineer for each target area; and

22 (4) where rights with similar hydrologic impacts are considered,
23 priority should be given to the senior right as determined under the Kansas
24 water appropriation act.

25 (g) Water rights enrolled in the program for permanent retirement
26 shall require the written consent of all landowners and authorized agents to
27 voluntarily request permanent reduction or permanent dismissal and
28 forfeiture of priority of the enrolled water right. Upon enrollment of the
29 water right into the program, the chief engineer of the Kansas department
30 of agriculture division of water resources shall concurrently permanently
31 reduce or permanently dismiss and terminate the water right in accordance
32 with the terms of the contract.

33 (h) (1) The division shall make water right transition grants available
34 only in areas that have been designated as:

35 (A) Target areas by the groundwater management districts and the
36 chief engineer of the Kansas department of agriculture division of water
37 resources; or

38 (B) target areas outside the groundwater management districts by the
39 chief engineer of the Kansas department of agriculture division of water
40 resources.

41 (2) Each target area shall be in a groundwater aquifer, aquifer sub-
42 unit, surface water basin, subbasin or stream reach that the chief engineer
43 has closed to further appropriations except for domestic use, temporary

1 permits, term permits for five years or less and small-use exemptions for
2 15 acre-feet or less, if the use, permit or exemption does not conflict with
3 this program.

4 (3) The designation of each target area shall include the identification
5 of a historic consumptive water use retirement goal. When such goal is
6 reached, the target area ~~will~~ *shall* be delisted.

7 (4) The designation of each target area shall include the identification
8 of sub-regions ~~which~~ *that* are to be prioritized for retirements among
9 competing bids.

10 (i) Contracts accepted under the program shall result in a net
11 reduction in historic consumptive water use in the target area. Except as
12 provided for in subsections (l) and (m), once a water right transition
13 assistance program grant has been provided, the land authorized to be
14 irrigated by the water right or water rights associated with that grant shall
15 not be irrigated permanently. Water right transition assistance program
16 contracts shall be subject to such terms, conditions and limitations as may
17 be necessary to ensure that such reduction in historic consumptive water
18 use occurs and can be adequately monitored and enforced.

19 (j) Only vested or certified water rights ~~which~~ *that* are in good
20 standing shall be eligible for water right retirement grants.

21 (k) (1) The historic consumptive water use of a water right shall be
22 determined by either:

23 (A) Calculating the average amount of water consumed by crops as a
24 result of the lawful beneficial use of water during the 10 preceding
25 calendar years of actual irrigation and multiplying the average reported
26 water use for the 10 selected years by a factor of 0.85 for center pivot
27 sprinkler irrigation systems, 0.75 for flood or gravity irrigation systems
28 and 0.95 for subsurface drip irrigation systems, but not to exceed the net
29 irrigation requirements for the 50% chance rainfall for the appropriate
30 county as shown in K.A.R. 5-5-12; or

31 (B) calculating the available pumping capacity of a water right by
32 multiplying a flow rate test for each point of diversion applied to be retired
33 under the water right by a theoretical pumping duration of 100 days
34 multiplied by an efficiency factor of 0.85 for center pivot sprinkler
35 irrigation systems, 0.75 for flood or gravity irrigation systems and 0.95 for
36 subsurface drop irrigation systems, but not to exceed the authorized
37 quantity of the water right or the net irrigation requirements for the 50%
38 chance rainfall for the appropriate county as shown in K.A.R. 5-5-12.
39 Flow rate tests must have been conducted not less than one year prior to
40 the application date and certified as acceptable by the local groundwater
41 management district or the chief engineer; or

42 (2) The applicant may also submit an engineering study that
43 determines the average historic consumptive water use as an alternative

1 method if it is demonstrated to be more accurate for the water right or
2 water rights involved.

3 (l) Enrollment of an entire water right or a portion of a water right
4 where land associated with the quantity is being permanently reduced from
5 the water right in the program shall not subsequently prohibit irrigation of
6 the land that, prior to enrollment, was authorized by the water right or
7 water rights if irrigation can be lawfully allowed by another water right or
8 permit pursuant to the rules and regulations and consideration of any
9 future changes to other water rights that may be proposed to be transferred
10 to such land.

11 (m) If more than one water right overlaps the place of use authorized
12 by the water right proposed to be enrolled in the program, then all
13 overlapping water rights shall be enrolled in the program or the
14 landowners shall take the necessary lawful steps to eliminate the overlap
15 with the water right to be enrolled. The burden shall be on the landowner
16 to provide sufficient information to substantiate that the proposed use of
17 water by the resulting exercise of all water rights involved will result in the
18 net reduction amount of historic consumptive water use by the water right
19 or water rights to be enrolled. The division may require such
20 documentation to be provided by someone with special knowledge or
21 experience related to water rights and such operations.

22 (n) The division shall adopt rules and regulations as necessary for the
23 administration of this section. When adopting such rules and regulations,
24 the division shall consider cropping, system design, metered water use and
25 all other pertinent information that will permit a verifiable reduction in
26 historic consumptive water use and permit alternative crop or other use of
27 the land so that the landowner's economic opportunities are taken into
28 account.

29 (o) The division shall hold a meeting in each target area designated
30 after July 1, 2012, prior to entering into any water right transition
31 assistance program contract for the permanent retirement of part or all of
32 landowner water rights in such target area. Such meetings shall inform the
33 public of the possible economic and hydrologic impacts of the program.
34 The division shall provide notice of such meetings through publication in
35 local newspapers of record and in the Kansas register.

36 (p) The provisions of this section shall expire on July 1, 2022.

37 Sec. 9. K.S.A. 2020 Supp. 2-1931 is hereby amended to read as
38 follows: 2-1931. (a) Any person who commits any of the following may
39 incur a civil penalty as provided by this section:

40 (1) Any violation of the Kansas water right transition assistance
41 program act or any rule and regulation adopted thereunder; and

42 (2) any violation of term, condition or limitation defined and or
43 imposed within the contractual agreement between the ~~Kansas department~~

1 ~~of agriculture division of conservation~~ and the water right owner.

2 (b) Any participant who violates any section of a water right
3 transition assistance program contract shall be subject to either one or both
4 of the following:

5 (1) A civil penalty of not less than \$100 nor more than \$1,000 per
6 violation. Each day shall constitute a separate violation for purposes of this
7 section; and

8 (2) repayment of the grant amount in its entirety plus a penalty at 6%
9 of the full grant amount.

10 (c) Any penalties or reimbursements received under this act shall be
11 reappropriated for use in the water right transition assistance program.

12 (d) *No civil penalty or order for repayment shall be imposed except*
13 *upon the written order of the secretary or the secretary's designee. Such*
14 *order shall state the violation, the penalty to be imposed and the right of*
15 *the person to appeal to the secretary. Any person, within 15 calendar days*
16 *after notification, may make written request to the secretary for a hearing*
17 *in accordance with the provisions of the Kansas administrative procedure*
18 *act. The secretary shall affirm, reverse or modify the order and shall*
19 *specify the reason therefor.*

20 (e) *Any person aggrieved by an order of the secretary made under*
21 *this section may appeal such order to the district court in the manner*
22 *provided by the Kansas judicial review act.*

23 (f) The provisions of this section shall expire on July 1, 2022.

24 Sec. 10. K.S.A. 2020 Supp. 2-1933 is hereby amended to read as
25 follows: 2-1933. (a) As used in this section, "division" means the ~~Kansas~~
26 ~~department of agriculture~~ division of conservation *established within the*
27 *Kansas department of agriculture in K.S.A. 74-5,126, and amendments*
28 *thereto.*

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

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

1 (d) The division may request the assistance of other state agencies,
2 Kansas state university, local governments and private entities in the
3 implementation of CREP.

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

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

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

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

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

32 (3) no more than 25% of the acreage in CREP may be in any one
33 county, except that the last eligible offer to exceed the number of acres
34 constituting a 25% acreage cap in any one county shall be approved;

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

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

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

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

1 and

2 (B) only water rights in good standing are eligible for inclusion under
3 CREP.

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

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

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

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

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

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

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

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

31 (D) such other information specified by the Kansas department of
32 agriculture.

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

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

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

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

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

1 (j) The Kansas department of agriculture shall submit a report on the
2 economic impact of each specific CREP to the senate committee on
3 *agriculture and natural resources* and the house of *representatives*
4 committee on agriculture ~~and natural resources~~ every five years, beginning
5 in 2017. The report shall include economic impacts to businesses located
6 within each specific CREP region.

7 Sec. 11. K.S.A. 2020 Supp. 49-603 is hereby amended to read as
8 follows: 49-603. As used in this act:

9 (a) "Director" means the executive director of the ~~Kansas department~~
10 ~~of agriculture~~ division of conservation or a designee.

11 (b) "Affected land" means the area of land from which overburden
12 has been removed or upon which overburden has been deposited, or both,
13 but shall not include crushing areas, stockpile areas or roads.

14 (c) "Commission" means the *conservation program policy board*
15 *created in K.S.A. 2-1904, and amendments thereto, including the state*
16 *conservation commission continued in existence by K.S.A. 75-5,128, and*
17 *amendments thereto.*

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

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

24 (f) "Overburden" means all of the earth and other materials ~~which~~
25 *that* lie above the natural deposits of material being mined or to be mined.

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

28 (h) "Pit" means a tract of land from which overburden has been or is
29 being removed for the purpose of surface mining.

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

33 (j) (1) "Surface mining" means the mining of material, except for
34 coal, oil and gas, for sale or for processing or for consumption in the
35 regular operation of a business by removing the overburden lying above
36 natural deposits and mining directly from the natural deposits exposed, or
37 by mining directly from deposits lying exposed in their natural state, or the
38 surface effects of underground mining. Surface mining shall include
39 dredge operations lying outside the high banks of streams and rivers.

40 (2) Removal of overburden and mining of limited amounts of any
41 materials shall not be considered surface mining when done only for the
42 purpose and to the extent necessary to determine the location, quantity or
43 quality of the natural deposit, if the materials removed during exploratory

1 excavation or mining are not sold, processed for sale or consumed in the
2 regular operation of a business.

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

6 (l) "Active site" means a site where surface mining is being
7 conducted.

8 (m) "Inactive site" means a site where surface mining is not being
9 conducted but where overburden has been disturbed in the past for the
10 purpose of conducting surface mining and an operator anticipates
11 conducting further surface mining operations in the future.

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

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

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

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

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

30 (s) "~~Division—~~or "~~Kansas department of agriculture division of~~
31 ~~conservation~~" means the ~~agency~~ *division of conservation* established ~~by~~
32 *within the Kansas department of agriculture* in K.S.A. 74-5,126, and
33 amendments thereto.

34 (t) "*Secretary*" means the *Kansas secretary of agriculture*.

35 Sec. 12. K.S.A. 49-605 is hereby amended to read as follows: 49-605.

36 (a) No person shall engage in surface mining or operation of an
37 underground mine or mines, as defined by this act, without first obtaining
38 a license from the director.

39 (b) Licenses shall be issued upon application submitted on a form
40 provided by the director and shall be accompanied by a fee of \$300. Each
41 applicant shall be required to furnish on the form information necessary to
42 identify the applicant. Licenses shall expire one year from the date of
43 issuance and shall be renewed by the director upon application submitted

1 within 30 days prior to the expiration date and accompanied by the
2 renewal fee established by the director under K.S.A. 49-623, *and*
3 *amendments thereto*.

4 (c) A license to mine is only valid when approved by the ~~commission~~
5 *director* and acknowledged by a certificate ~~which~~ *that* has been signed by
6 the director and lists the operator and the assigned license number.

7 Sec. 13. K.S.A. 2020 Supp. 49-606 is hereby amended to read as
8 follows: 49-606. (a) The *secretary, at the request of the* director, ~~with the~~
9 ~~approval of the commission~~, may deny issuance or renewal of a license for
10 repeated or willful violation of the provisions of this act or for failure to
11 comply with any provision of a reclamation plan.

12 (b) The *secretary, at the request of the* director, ~~with the approval of~~
13 ~~the commission~~, may suspend or revoke a license for repeated or willful
14 violation of any of the provisions of this act or for failure to comply with
15 any provision of a reclamation plan. Proceedings for the suspension or
16 revocation of a license pursuant to this section shall be conducted in
17 accordance with the Kansas administrative procedure act by the ~~director~~
18 *secretary* or a presiding officer from the office of administrative hearings.

19 Sec. 14. K.S.A. 49-611 is hereby amended to read as follows: 49-611.
20 (a) An operator authorized under this act to operate a mine, after
21 completion of mining operations and within the time specified in K.S.A.
22 49-613, *and amendments thereto*, shall:

23 (1) Grade affected lands except for impoundments and pit floors to
24 slopes no steeper than one foot vertical rise for each three feet of
25 horizontal distance. Where the original topography of the affected land
26 was steeper than one foot of vertical rise for each three feet of horizontal
27 distance, the affected lands may be graded to blend with the surrounding
28 terrain. The grading of high banks of sand pits and highwalls may be
29 modified or exempted by the director.

30 (2) Provide for the vegetation of the affected lands, except for
31 impoundments, pit floors, and highwalls, as approved by the director
32 before the release of the bond as provided in K.S.A. 49-616, *and*
33 *amendments thereto*.

34 (b) Notwithstanding subsection (a), overburden piles where
35 disposition has not occurred or will not occur for a period of 12 months
36 shall be stabilized.

37 (c) Topsoil that is a part of overburden shall not be buried or
38 destroyed in the process of mining.

39 (d) The director, with concurrence of the ~~commission~~ *secretary*, may
40 grant a variance from the requirements of subsections (a) and (b).

41 (e) A bond or security posted under this act to assure reclamation of
42 affected lands shall not be released until all reclamation work required by
43 this section has been performed in accordance with the provisions of this

1 act, except when a replacement bond or security is posted by a new
2 operator or responsibility is transferred under K.S.A. 49-610, *and*
3 *amendments thereto*.

4 Sec. 15. K.S.A. 49-613 is hereby amended to read as follows: 49-613.

5 (a) An operator shall reclaim affected lands within a period not to exceed
6 three years after the filing of the report required under ~~subsection (b) of~~
7 K.S.A. 49-612(b), *and amendments thereto*, indicating the mining of any
8 part of a site has been completed.

9 (b) For certain postmining land uses, such as a sanitary land fill, the
10 director, with the approval of the ~~commission~~ *secretary*, may allow an
11 extended reclamation period.

12 (c) An operator, upon completion of any reclamation work required
13 by K.S.A. 49-611, *and amendments thereto*, shall apply to the director in
14 writing for approval of the work. The director, within a reasonable time ~~as~~
15 ~~determined by the commission~~, shall inspect the completed reclamation
16 work. Upon determination by the director that the operator has
17 satisfactorily completed all required reclamation work on the land included
18 in the application, the ~~commission~~ *director* shall release the bond or
19 security on the reclaimed land, shall remove the land from registration; and
20 shall terminate or amend, as necessary, the operator's authorization to
21 conduct surface mining on the site.

22 (d) Periodic inspections may be conducted by the director or the
23 director's designee; to ensure that the operator is following the reclamation
24 plan.

25 Sec. 16. K.S.A. 49-618 is hereby amended to read as follows: 49-618.

26 (a) The director or the director's designee, when accompanied by the
27 operator or operator's designee during regular business hours, may inspect
28 any lands on which any operator is authorized to operate a mine for the
29 purpose of determining whether the operator is or has been complying
30 with the provisions of this act.

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

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

41 Sec. 17. K.S.A. 49-620 is hereby amended to read as follows: 49-620.

42 ~~The attorney general, upon request of the commission, Once an order~~
43 *issued pursuant to this act becomes a final order, the secretary, upon*

1 *request of the director*; shall institute proceedings for forfeiture of the bond
2 posted by an operator to guarantee reclamation of a site where the operator
3 is in violation of any of the provisions of this act or any rule and regulation
4 adopted by the director pursuant to this act. Forfeiture of the operator's
5 bond shall fully satisfy all obligations of the operator to reclaim affected
6 land covered by the bond. The director shall have the power to reclaim, as
7 required by K.S.A. 49-611, *and amendments thereto*, any surface mined
8 land with respect to which a bond has been forfeited, using the proceeds of
9 the forfeiture to pay for the necessary reclamation work.

10 Sec. 18. K.S.A. 2020 Supp. 49-621 is hereby amended to read as
11 follows: 49-621. (a) ~~The director~~ *secretary*, upon finding that the operator
12 has failed to comply with any provision of this act, any provision of a
13 reclamation plan or any condition of a license or site registration with
14 which the operator is required to comply pursuant to this act, may impose
15 upon the operator a civil penalty not exceeding \$1,000 for each day of
16 noncompliance.

17 (b) All civil penalties assessed pursuant to this section shall be due
18 and payable within 35 days after written notice of the imposition of a civil
19 penalty has been served upon whom the penalty is being imposed, unless a
20 longer period of time is granted by ~~the director~~ *secretary* or unless the
21 operator appeals the assessment as provided in this section.

22 (c) No civil penalty shall be imposed under this section except upon
23 the written order of ~~the director~~ *secretary* or ~~the director's~~ *secretary's*
24 designee to the operator upon whom the penalty is to be imposed, stating
25 the nature of the violation, the penalty imposed and the right of the
26 operator upon whom the penalty is imposed to appeal to the director for a
27 hearing on the matter. An operator upon whom a civil penalty has been
28 imposed may appeal, within 15 days after service of the order imposing
29 the civil penalty, to ~~the director~~ *secretary*. If appealed, a hearing shall be
30 conducted in accordance with the provisions of the Kansas administrative
31 procedure act. The decision of ~~the director~~ *secretary* shall be final unless
32 review is sought under subsection (d).

33 (d) Any action of ~~the director~~ *secretary* pursuant to this section is
34 subject to review in accordance with the Kansas judicial review act.

35 Sec. 19. K.S.A. 49-623 is hereby amended to read as follows: 49-623.

36 (a) ~~The director~~ *secretary*, with the approval of the commission, shall
37 adopt such rules and regulations as necessary to administer and enforce the
38 provisions of this act.

39 (b) ~~The commission~~ *director* shall determine annually the amount
40 necessary to carry out and enforce the provisions of this act for the next
41 ensuing fiscal year and shall recommend to ~~the director~~ *secretary* such
42 license renewal, registration application, registration and registration
43 renewal fees as ~~the commission~~ *director* determines necessary for that

1 purpose. The director shall adopt such fees by ~~rule rules and regulation~~
2 ~~regulations~~.

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

7 (1) *The director shall submit such rules and regulations to the*
8 *commission; and*

9 (2) *the commission shall review and make recommendations to the*
10 *director and the secretary regarding such proposed rules and regulations.*

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

15 ~~(d)~~(e) Political subdivisions of the state shall be exempt from all fees
16 imposed under this act.

17 Sec. 20. K.S.A. 82a-1602 is hereby amended to read as follows: 82a-
18 1602. In order to provide public water supply storage and water related
19 recreational facilities in the state, there is hereby established a
20 multipurpose small lakes program. The program shall be administered by
21 the ~~Kansas department of agriculture~~ division of conservation. Except as
22 otherwise provided by this act, the ~~Kansas department of agriculture~~
23 ~~division of conservation~~, with the approval of the ~~state conservation~~
24 ~~commission~~ secretary, shall adopt all rules and regulations necessary to
25 implement the provisions of this act.

26 Sec. 21. K.S.A. 82a-1603 is hereby amended to read as follows: 82a-
27 1603. When used in this act:

28 (a) "Chief engineer" means the chief engineer of the division of water
29 resources of the department of agriculture.

30 (b) "Class I funded project" means a proposed new project or
31 renovation of an existing project located within the boundaries of an
32 organized watershed district ~~which that~~ is receiving or is eligible to receive
33 financial participation from the ~~Kansas department of agriculture~~ division
34 ~~of conservation~~ for the flood control storage portion of the project.

35 (c) "Class II funded project" means a proposed new project or
36 renovation of an existing project ~~which that~~ is receiving or is eligible to
37 receive financial participation from the federal government.

38 (d) "Class III funded project" means a proposed new project or
39 renovation of an existing project located outside the boundaries of an
40 organized watershed district ~~which that~~ is not receiving or is not eligible to
41 receive financial participation from the ~~Kansas department of agriculture~~
42 ~~division of conservation~~ or the federal government except as provided in
43 K.S.A. 82a-1606, and amendments thereto.

1 (e) *"Division"* means the division of conservation established within
2 the Kansas department of agriculture in K.S.A. 74-5,126, and amendments
3 thereto.

4 (f) *"Flood control storage"* means storage space in reservoirs to hold
5 flood waters.

6 ~~(g)~~(g) *"Future use public water supply storage"* means storage space
7 ~~which that~~ the Kansas water office determines will be needed within the
8 next 20 years for use by public water supply users in an area but for which
9 there is no current sponsor.

10 ~~(g)~~(h) *"General plan"* means a preliminary engineering report
11 describing the characteristics of the project area, the nature and methods of
12 dealing with the soil and water problems within the project area; and the
13 projects proposed to be undertaken by the sponsor within the project area.
14 Such plan shall include: Maps, descriptions and other data as may be
15 necessary for the location, identification and establishment of the character
16 of the work to be undertaken; a cost-benefit analysis of alternatives to the
17 project, including, but not limited to, nonstructural flood control options
18 and water conservation and reuse to reduce need for new water supply
19 storage; and any other data and information as the chief engineer may
20 require.

21 ~~(h)~~(i) *"Land right"* means real property as that term is defined by the
22 laws of the state of Kansas and all rights thereto and interest therein and
23 ~~shall include~~ *includes* any road, highway, bridge, street, easement or other
24 right-of-way thereon.

25 ~~(i)~~(j) *"Multipurpose small lake project"* means a dam and lake
26 containing: (1) Flood control storage; and (2) either public water supply
27 storage or recreation features, or both.

28 ~~(j)~~(k) *"Public water supply"* means a water supply for municipal,
29 industrial or domestic use.

30 ~~(k)~~(l) *"Public water supply storage"* means storage of water for
31 municipal, industrial or domestic use.

32 ~~(l)~~(m) *"Recreation feature"* means water storage and related facilities
33 for activities such as swimming, fishing, boating, camping or other related
34 activities.

35 ~~(m)~~(n) *"Renovation"* means repair or restoration of an existing lake
36 ~~which that~~ contains water storage space for use as a public water supply
37 and ~~which that~~ has either recreational purposes or flood control purposes,
38 or both.

39 ~~(n)~~(o) *"Secretary"* means the secretary of the Kansas department of
40 agriculture.

41 (p) *"Sponsor"* means: (1) Any political subdivision of the state ~~which~~
42 *that* has the power of taxation and the right of eminent domain; (2) any
43 public wholesale water supply district; or (3) any rural water district.

1 ~~(g)~~(g) "Water user" means any city, rural water district, wholesale
 2 water district or any other political subdivision of the state ~~which~~ that is in
 3 the business of furnishing municipal or industrial water to the public.

4 Sec. 22. K.S.A. 82a-1607 is hereby amended to read as follows: 82a-
 5 1607. Sponsors shall apply to the ~~state conservation commission~~ *division*
 6 for participation in the multipurpose small lakes program. The review and
 7 approval process of the ~~Kansas department of agriculture~~ *division of*
 8 ~~conservation~~ shall be established by rules and regulations ~~which~~ that shall
 9 be consistent with the state water plan. Following review, the ~~Kansas~~
 10 ~~department of agriculture~~ *division of conservation*, with the approval of
 11 the ~~state conservation commission~~ *secretary*, shall request appropriations
 12 for specific projects from the legislature. Any funds appropriated to carry
 13 out the provisions of this act shall be administered by the ~~Kansas~~
 14 ~~department of agriculture~~ *division of conservation*.

15 Sec. 23. K.S.A. 82a-1702 is hereby amended to read as follows: 82a-
 16 1702. (a) The state shall provide financial assistance to certain public
 17 corporations for part of the costs or reimbursement of part of the costs of
 18 installation of water development projects, ~~which~~ that derive general
 19 benefits to the state as a whole; or to a section thereof beyond the
 20 boundaries of such public corporation.

21 (b) (1) Any public corporation shall be eligible for state financial
 22 assistance for a part of the costs it becomes actually and legally obligated
 23 to pay for all lands, easements; and rights-of-way for the water
 24 development projects in the event the ~~state Kansas department of~~
 25 ~~agriculture division of conservation commission~~ shall find that:

26 ~~(1)~~(A) Such public corporation has made application for approval of
 27 such financial assistance with the Kansas department of agriculture
 28 division of conservation in such form and manner as the Kansas
 29 department of agriculture division of conservation may require, which
 30 application each public corporation is hereby authorized to make;

31 ~~(2)~~(B) such works will confer general flood control benefits beyond
 32 the boundaries of such public corporation in excess of 20% of the total
 33 flood control benefits of the works;

34 ~~(3)~~(C) such works are consistent with the state water plan;

35 ~~(4)~~(D) such public corporation will need such financial assistance for
 36 actual expenditures within the fiscal year next following; and

37 ~~(5)~~(E) the legislature has appropriated funds for the payment of such
 38 sum.

39 (2) The payment authorized hereunder shall be limited to an amount
 40 equal to the total costs the public corporation shall become actually and
 41 legally obligated to spend for lands, easements; and rights-of-way for such
 42 water resource development works, multiplied by the ratio that the flood
 43 control benefits conferred beyond the boundaries of the public corporation

1 bear to the total flood control benefits of the project. Such findings shall
2 each be made at and in such manner as is provided by procedural rules and
3 regulations—~~which~~ *that* shall be adopted by the Kansas department of
4 agriculture division of conservation with the approval of the—~~state—~~
5 ~~conservation commission secretary.~~

6 (c) Any public corporation receiving financial assistance under this
7 section shall apply those sums toward the satisfaction of the legal
8 obligations for the specific lands, easements; and rights-of-way for which
9 it receives them or toward the reimbursement of those accounts from
10 which those legal obligations were satisfied, in whole or in part, and it
11 shall return to the state any sums that are not in fact so applied. In
12 ascertaining costs of lands, easements; and rights-of-way under this
13 section, the Kansas department of agriculture division of conservation
14 shall not consider any costs—~~which~~ *that* relate to land treatment measures
15 ~~nor~~ *or* any costs for which federal aid for construction costs is granted
16 pursuant to the watershed protection and flood prevention acts or pursuant
17 to any other federal acts.

18 Sec. 24. K.S.A. 2-1916, 49-605, 49-611, 49-613, 49-618, 49-619, 49-
19 620, 49-623, 82a-1602, 82a-1603, 82a-1607 and 82a-1702 and K.S.A.
20 2020 Supp. 2-1903, 2-1904, 2-1907, 2-1907c, 2-1908, 2-1915, 2-1930, 2-
21 1931, 2-1933, 49-603, 49-606 and 49-621 are hereby repealed.

22 Sec. 25. This act shall take effect and be in force from and after its
23 publication in the statute book.