

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~~ {74-5,128}, and amendments*
24 *thereto.*

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

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

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

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

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

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

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

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

9 (11) *"Secretary" means the secretary of the Kansas department of*
10 *agriculture.*

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

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

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

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

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

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

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

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

43 (e) ~~The state conservation~~ *commission* together with the ~~Kansas-~~

1 ~~department of agriculture division of conservation~~ shall make conservation
2 program policy decisions *to be approved by the secretary*, including
3 modification of current conservation programs, creation of new
4 conservation programs and *annual* budget recommendations.

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

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

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

16 (3) to coordinate the programs of the several conservation districts
17 organized hereunder;

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

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

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

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

36 (8) to enlist the cooperation and collaboration of state, federal,
37 regional, interstate, local, public and private agencies with the
38 conservation districts;

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

43 (10) to take such actions as are necessary to restore, establish,

1 enhance and protect natural resources with conservation easements for the
2 purpose of compensatory mitigation required under section 404 of the
3 federal clean water act, including:

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

8 (B) contracting with engineering consultants, surveyors and
9 construction contractors for the purpose of restoration, establishment and
10 enhancement of natural resources; and

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

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

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

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

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

43 (j) The ~~Kansas department of agriculture division of conservation~~

1 shall not accept, purchase or otherwise acquire any conservation easement
2 other than for the purposes of this section.

3 Sec. 3. K.S.A. 2020 Supp. 2-1907 is hereby amended to read as
4 follows: 2-1907. The governing body of the district shall consist of five
5 supervisors who are qualified electors residing within the district. The
6 supervisors who are first elected shall serve for terms of one, two and three
7 years according to the following plan: The two persons receiving the
8 highest number of votes in the election shall hold office for three years; the
9 two persons receiving the next highest number of votes shall hold such
10 office for a term of two years; and the remaining supervisor shall hold
11 office for a term of one year. In the event of a tie vote, such terms shall be
12 decided by lot. Nothing in this section shall be construed as affecting the
13 length of the term of supervisors holding office on January 1, 1995.
14 Successors to such persons shall be elected for terms of three years. An
15 annual meeting of all qualified electors of the district shall be held in the
16 month of January or February. Notice of the time and place of such
17 meeting shall be given by such supervisors by publishing a notice in the
18 official county paper once each week for two consecutive weeks prior to
19 the week in which such meeting is to be held. At such meeting the
20 supervisors shall make full and due report of their activities and financial
21 affairs since the last annual meeting and shall conduct an election by secret
22 ballot of all of the qualified electors of the district there present for the
23 election of supervisors whose terms have expired. Whenever a vacancy
24 occurs in the membership of the governing body the remaining supervisors
25 of the district shall appoint a qualified elector of the district to fill the
26 office for the unexpired term. The supervisors shall designate a
27 chairperson and may from time to time change such designation. A
28 supervisor shall hold office until a successor has been elected or appointed
29 and has qualified. A majority of the supervisors shall constitute a quorum
30 and the concurrence of a majority of the supervisors in any matter within
31 their duties shall be required for its determination. A supervisor shall
32 receive no compensation for services, but may be entitled to expenses,
33 including traveling expenses, necessarily incurred in the discharge of
34 duties. The supervisors may employ a secretary, technical experts; and
35 such other officers, agents; and employees, permanent and temporary, as
36 they may require, and shall determine their qualifications, duties and
37 compensation. The supervisors may call upon the county attorney of the
38 county in which a major portion of the district lies, or the attorney general
39 for such legal services as they may require. The supervisors may delegate
40 to their chairperson, to one or more supervisors, or to one or more agents,
41 or employees such powers and duties as they may deem proper. The
42 supervisors shall furnish to the ~~Kansas department of agriculture~~ division
43 of ~~conservation~~, upon request, copies of such rules, regulations, orders,

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

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

40 Sec. 5. K.S.A. 2020 Supp. 2-1908 is hereby amended to read as
41 follows: 2-1908. A conservation district organized under the provisions of
42 K.S.A. 2-1901 et seq., and amendments thereto, shall constitute a
43 governmental subdivision of this state; and a public body corporate and

1 politic, exercising public powers, and such district, and the supervisors
2 thereof, shall have the following powers, in addition to others granted in
3 other sections of this act:

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

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

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

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

41 (e) to obtain options upon and to acquire, by purchase, exchange,
42 lease, gift, grant, bequest, devise; or otherwise, any property, real or
43 personal, or rights or interest therein; to maintain, administer; and improve

1 any properties acquired, to receive income from such properties and to
2 expend such income in carrying out the purposes and provisions of this
3 act; and to sell, lease, or otherwise dispose of any of its property or
4 interests therein in furtherance of the purposes and the provisions of this
5 act;

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

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

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

43 (i) to sue and be sued in the name of the district; to have a seal, which

1 seal shall be judicially noticed; to have perpetual succession unless
2 terminated as hereinafter provided; to make and execute contracts and
3 other instruments, necessary or convenient to the exercise of its powers; to
4 make, and from time to time amend and repeal, rules and regulations not
5 inconsistent with this act, to carry into effect its purposes and powers;

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

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

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

21 (m) to accept and expend funds donated to the district for purposes of
22 providing at least 20% cost-share for the purchase of an eligible water
23 right from the holder of the water right under the provisions of K.S.A. 2-
24 1915, and amendments thereto; and

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

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

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

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

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

43 (b) A program for protection of riparian and wetland areas shall be

1 developed by the ~~Kansas department of agriculture division of~~
2 ~~conservation~~ and implemented by the conservation districts. The
3 conservation districts shall prepare district programs to address resource
4 management concerns of water quality, erosion and sediment control and
5 wildlife habitat as part of the conservation district long-range and annual
6 work plans. Preparation and implementation of conservation district
7 programs shall be accomplished with assistance from appropriate state and
8 federal agencies involved in resource management.

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

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

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

37 (3) The county or district appraiser shall identify and map riparian
38 buffers consisting of at least one contiguous acre per parcel of real
39 property located in the appraiser's county. Notwithstanding any other
40 provisions of law, riparian buffers shall be valued by the county or district
41 appraiser as tame grass land, native grass land or waste land, as
42 appropriate. As used in this ~~subsection (3) paragraph~~, "riparian buffer"
43 means an area of stream-side vegetation that: (A) Consists of tame or

1 native grass and may include forbs and woody plants; (B) is located along
2 a perennial or intermittent stream, including the stream bank and adjoining
3 floodplain; and (C) is a minimum of 66 feet wide and a maximum of 180
4 feet wide.

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

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

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

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

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

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

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

1 an appropriate book of record in ~~his or her~~ *the secretary of state's* office.

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

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

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

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

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

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

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

43 (2) The maximum amount paid by the division shall not exceed a

1 base rate per acre-foot of historic consumptive water use made available
2 under the water right to be dismissed or permanently reduced. The ~~state~~
3 ~~conservation~~ *division, in consultation with the* commission, shall establish
4 an annual base rate after considering recommendations from the chief
5 engineer and the groundwater management districts regarding market
6 conditions.

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

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

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

19 (1) The applicant's bid price;

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

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

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

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

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

38 (A) Target areas by the groundwater management districts and the
39 chief engineer of the Kansas department of agriculture division of water
40 resources; or

41 (B) target areas outside the groundwater management districts by the
42 chief engineer of the Kansas department of agriculture division of water
43 resources.

1 (2) Each target area shall be in a groundwater aquifer, aquifer sub-
2 unit, surface water basin, subbasin or stream reach that the chief engineer
3 has closed to further appropriations except for domestic use, temporary
4 permits, term permits for five years or less and small-use exemptions for
5 15 acre-feet or less, if the use, permit or exemption does not conflict with
6 this program.

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

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

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

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

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

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

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

1 management district or the chief engineer; or

2 (2) The applicant may also submit an engineering study that
3 determines the average historic consumptive water use as an alternative
4 method if it is demonstrated to be more accurate for the water right or
5 water rights involved.

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

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

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

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

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

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

43 (1) Any violation of the Kansas water right transition assistance

1 program act or any rule and regulation adopted thereunder; and

2 (2) any violation of term, condition or limitation defined and or
3 imposed within the contractual agreement between the ~~Kansas department~~
4 ~~of agriculture~~ division of conservation and the water right owner.

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

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

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

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

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

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

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

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

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

37 (c) There is hereby established in the state treasury the Kansas
38 conservation reserve enhancement program fund, which shall be
39 administered by the division. All expenditures from the Kansas
40 conservation reserve enhancement program fund shall be for the
41 implementation of CREP pursuant to agreements between the state of
42 Kansas and the United States department of agriculture. All expenditures
43 from such fund shall be made in accordance with appropriation acts upon

1 warrants of the director of accounts and reports issued pursuant to
2 vouchers approved by the secretary of agriculture or by the secretary's
3 designee.

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

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

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

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

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

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

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

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

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

42 (h) (1) For a CREP established with the purpose of meeting water
43 quantity goals, the division shall administer such CREP in accordance with

1 the following additional criteria:

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

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

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

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

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

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

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

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

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

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

34 (D) such other information specified by the Kansas department of
35 agriculture.

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

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

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

43 (C) the annual amount of water usage in the CREP area from fiscal

1 year 2008 through the most current fiscal year to date; and

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

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

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

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

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

17 (c) "Commission" means the *conservation program policy board*
18 *created in K.S.A. 2-1904, and amendments thereto, including the state*
19 *conservation commission continued in existence by K.S.A. 75-5,128 {74-*
20 *5,128}, and amendments thereto.*

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

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

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

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

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

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

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

43 (2) Removal of overburden and mining of limited amounts of any

1 materials shall not be considered surface mining when done only for the
2 purpose and to the extent necessary to determine the location, quantity or
3 quality of the natural deposit, if the materials removed during exploratory
4 excavation or mining are not sold, processed for sale or consumed in the
5 regular operation of a business.

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

9 (l) "Active site" means a site where surface mining is being
10 conducted.

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

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

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

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

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

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

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

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

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

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

42 (b) Licenses shall be issued upon application submitted on a form
43 provided by the director and shall be accompanied by a fee of \$300. Each

1 applicant shall be required to furnish on the form information necessary to
2 identify the applicant. Licenses shall expire one year from the date of
3 issuance and shall be renewed by the director upon application submitted
4 within 30 days prior to the expiration date and accompanied by the
5 renewal fee established by the director under K.S.A. 49-623, *and*
6 *amendments thereto.*

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

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

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

22 Sec. 14. K.S.A. 49-611 is hereby amended to read as follows: 49-611.
23 (a) An operator authorized under this act to operate a mine, after
24 completion of mining operations and within the time specified in K.S.A.
25 49-613, *and amendments thereto,* shall:

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

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

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

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

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

1 (e) A bond or security posted under this act to assure reclamation of
2 affected lands shall not be released until all reclamation work required by
3 this section has been performed in accordance with the provisions of this
4 act, except when a replacement bond or security is posted by a new
5 operator or responsibility is transferred under K.S.A. 49-610, *and*
6 *amendments thereto*.

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

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

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

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

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

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

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

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

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

1 Sec. 17. K.S.A. 49-620 is hereby amended to read as follows: 49-620.
2 ~~The attorney general, upon request of the commission; Once an order~~
3 ~~issued pursuant to this act becomes a final order; the secretary, upon~~
4 ~~request of the director;~~ shall institute proceedings for forfeiture of the bond
5 posted by an operator to guarantee reclamation of a site where the operator
6 is in violation of any of the provisions of this act or any rule and regulation
7 adopted by the director pursuant to this act. Forfeiture of the operator's
8 bond shall fully satisfy all obligations of the operator to reclaim affected
9 land covered by the bond. The director shall have the power to reclaim, as
10 required by K.S.A. 49-611, *and amendments thereto*, any surface mined
11 land with respect to which a bond has been forfeited, using the proceeds of
12 the forfeiture to pay for the necessary reclamation work.

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

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

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

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

38 Sec. 19. K.S.A. 49-623 is hereby amended to read as follows: 49-623.
39 (a) ~~The director secretary,~~ with the approval of the commission, shall
40 adopt such rules and regulations as necessary to administer and enforce the
41 provisions of this act.

42 (b) ~~The commission director~~ shall determine annually the amount
43 necessary to carry out and enforce the provisions of this act for the next

1 ensuing fiscal year and shall recommend to the ~~director~~ *secretary* such
2 license renewal, registration application, registration and registration
3 renewal fees as the ~~commission~~ *director* determines necessary for that
4 purpose. The director shall adopt such fees by ~~rule rules and regulation~~
5 *regulations*.

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

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

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

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

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

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

29 Sec. 21. K.S.A. 82a-1603 is hereby amended to read as follows: 82a-
30 1603. When used in this act:

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

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

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

41 (d) "Class III funded project" means a proposed new project or
42 renovation of an existing project located outside the boundaries of an
43 organized watershed district ~~which~~ *that* is not receiving or is not eligible to

1 receive financial participation from the ~~Kansas department of agriculture~~
2 ~~division of conservation~~ or the federal government except as provided in
3 K.S.A. 82a-1606, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

4 ~~(q)~~(q) "Water user" means any city, rural water district, wholesale
 5 water district or any other political subdivision of the state ~~which~~ *that* is in
 6 the business of furnishing municipal or industrial water to the public.

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

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

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

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

34 ~~(B)~~(B) such works will confer general flood control benefits beyond
 35 the boundaries of such public corporation in excess of 20% of the total
 36 flood control benefits of the works;

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

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

40 ~~(E)~~(E) the legislature has appropriated funds for the payment of such
 41 sum.

42 (2) The payment authorized hereunder shall be limited to an amount
 43 equal to the total costs the public corporation shall become actually and

1 legally obligated to spend for lands, easements; and rights-of-way for such
2 water resource development works, multiplied by the ratio that the flood
3 control benefits conferred beyond the boundaries of the public corporation
4 bear to the total flood control benefits of the project. Such findings shall
5 each be made at and in such manner as is provided by procedural rules and
6 regulations—~~which~~ *that* shall be adopted by the Kansas department of
7 agriculture division of conservation with the approval of the—~~state—~~
8 ~~conservation commission~~ *secretary*.

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

21 Sec. 24. K.S.A. 2-1916, 49-605, 49-611, 49-613, 49-618, 49-619, 49-
22 620, 49-623, 82a-1602, 82a-1603, 82a-1607 and 82a-1702 and K.S.A.
23 2020 Supp. 2-1903, 2-1904, 2-1907, 2-1907c, 2-1908, 2-1915, 2-1930, 2-
24 1931, 2-1933, 49-603, 49-606 and 49-621 are hereby repealed.

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