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

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

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

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

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

(3) (A) The secretary shall maintain an office in Topeka, Kansas, and may maintain offices and facilities to carry out the functions of the
department in other locations of this state.

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

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

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

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

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

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

(e) The secretary shall have the power to:

(1) Adopt rules and regulations as necessary to implement, administer and enforce the powers and duties transferred by sections 3 and 4, and amendments thereto, and to administer the Kansas department of water and environment and the duties of the secretary;
(2) appoint employees for the office of the secretary as necessary to enable the secretary to carry out the duties of the office. Such employees shall be within the unclassified service under the Kansas civil service act and shall be subject to assignment and reassignment of duty within the office as may be determined by the secretary;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The director of the division of water and environmental planning
created by this section shall be the successor in every way to the same
powers, duties and functions that were vested in the director of the Kansas
water office prior to July 1, 2023, except as provided in paragraph (4) and
section 2, and amendments thereto. Every act performed under the
authority of the director of the division of water and environmental
planning created by this section shall be deemed to have the same force
and effect as if performed by the Kansas water office or the director
thereof prior to July 1, 2023, except as provided in paragraph (4) and
section 2, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

(6) the Kansas water authority, K.S.A. 74-2622, and amendments
(7) the coordination of streambank projects, K.S.A. 82a-1101 et seq., and amendments thereto;
(8) the water marketing fund, K.S.A. 82a-1301 et seq., and amendments thereto;
(9) the state water plan storage act, K.S.A. 82a-1301 et seq., and amendments thereto;
(10) the water assurance program act, K.S.A. 82a-1330 et seq., and amendments thereto;
(11) the financing of large reservoir projects, K.S.A. 82a-1360 et seq., and amendments thereto;
(12) the Kansas weather modification act, K.S.A. 82a-1401, et seq., and amendments thereto;
(13) the water transfer act, K.S.A. 82a-1501 et seq., and amendments thereto;
(14) the multipurpose small lakes program act, K.S.A. 82a-1601 et seq., and amendments thereto;
(15) water litigation and the associated funds, K.S.A. 82a-1801 et seq., and amendments thereto;
(16) the clean drinking water fee, K.S.A. 82a-2101, and amendments thereto;
(17) the lower smoky hill water supply access program, K.S.A. 82a-2301 et seq., and amendments thereto; and
(18) the reservoir improvement district act, K.S.A. 82a-2401, and amendments thereto.

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

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

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

(3) (A) Whenever the Kansas department of health and environment, division of environment, or words of like effect, is referred to or designated by any statute, rule and regulation, contract or any other
document, including any statute, rule and regulation, contract or any
document created pursuant to the authorities transferred by this section,
such reference or designation shall apply to the division of environment
and conservation.

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

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

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

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

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

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

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

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

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

(3) (A) Whenever the director of the Kansas department of health and environment, division of environment, or words of like effect, is referred
to or designated by any statute, rule and regulation, contract or any other
document, including any statute, rule and regulation, contract or any other
document created pursuant to the authorities transferred by this section,
such reference or designation shall apply to the director of the division of
environment and conservation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) asbestos control, K.S.A. 65-5301 et seq., and amendments thereto;
environmental field services, including, but not limited to:

(A) The Kansas chemigation safety law, K.S.A. 2-3301 et seq., and amendments thereto;
(B) county sanitation controls, K.S.A. 19-3701 et seq., and amendments thereto;
(C) disposal of dead animals, K.S.A. 47-1214, and amendments thereto;
(D) providing staff engineers for feedlot planning assistance, K.S.A. 47-1511, and amendments thereto;
(E) confined feeding facilities for swine, K.S.A. 65-1,178 et seq., and amendments thereto; and
(F) nonpoint source pollution control, K.S.A. 75-5657, and amendments thereto, and 33 U.S.C. § 1329;

environmental remediation, including, but not limited to:

(A) The Kansas agriculture remediation program, K.S.A. 2-3708 et seq., and amendments thereto;
(B) the nuclear energy development and radiation control act, K.S.A. 48-1601 et seq., and amendments thereto;
(C) the mined-land conservation and reclamation act, K.S.A. 49-401 et seq., and amendments thereto;
(D) relocation assistance for Treece community in Cherokee county, K.S.A. 49-513, and amendments thereto;
(E) the surface-mining land conservation and reclamation act, K.S.A. 49-601 et seq., and amendments thereto;
(F) the abatement of nuisances, K.S.A. 65-159 and 65-160, and amendments thereto;
(G) cleanup operations for water and soil pollutants, K.S.A. 65-171v, and amendments thereto;
(H) environmental use controls, K.S.A. 65-1,221 et seq., and amendments thereto;
(I) environmental response, K.S.A. 65-3452a et seq., and amendments thereto;
(J) the Kansas storage tank act, K.S.A. 65-34,100 et seq., and amendments thereto;
(K) the Kansas drycleaner environmental response act, K.S.A. 65-34,141 et seq., and amendments thereto;
(L) the voluntary cleanup and property redevelopment act, K.S.A. 65-34,161 et seq., and amendments thereto;
(M) the risk management program, K.S.A. 65-34,176, and amendments thereto;
(N) the contaminated property redevelopment act, K.S.A. 65-34,177 et seq., and amendments thereto;
(O) the Kansas chemical control act, K.S.A. 65-7001 et seq., and
amendments thereto;
(P) the natural resources damages trust fund, K.S.A. 75-5672, and amendments thereto; and
(Q) the state water resources planning act, K.S.A. 82a-901a et seq., and amendments thereto;
(4) health and environment laboratories, including, but not limited to:
(A) Prenatal serological tests for detection of syphilis and hepatitis b, K.S.A. 65-153f, and amendments thereto;
(B) analysis of water, K.S.A. 65-156 and 65-157, and amendments thereto;
(C) screening newborn infants for certain genetic diseases, K.S.A. 65-180, and amendments thereto;
(D) authority to approve certain laboratories, K.S.A. 65-1,107 et seq., and amendments thereto;
(E) samples of drugs collected by the state board of pharmacy, K.S.A. 65-1629, and amendments thereto; and
(F) the office of laboratory services, K.S.A. 75-5608 through 75-5609a, and amendments thereto;
(5) waste management, including, but not limited to:
(A) solid waste management, K.S.A. 65-3401 et seq., and amendments thereto;
(B) used and waste tires, K.S.A. 65-3424 et seq., and amendments thereto;
(C) hazardous waste management, K.S.A. 65-3430 et seq., and amendments thereto; and
(D) the hazardous waste management fund, K.S.A. 65-3491, and amendments thereto;
(6) water, including, but not limited to:
(A) Local sewage disposal facilities and improvements, K.S.A. 12-3710 et seq., and amendments thereto;
(B) sewer district management, K.S.A. 19-27a01 et seq., and amendments thereto;
(C) marine sewage, K.S.A. 32-1152 through 32-1154, and amendments thereto;
(D) regulation of underground storage of hydrocarbons and salt solution mining wells, K.S.A. 55-1,117 et seq., and amendments thereto;
(E) public water supply and sewage systems, K.S.A. 65-161 et seq., and amendments thereto;
(F) water pollution control, K.S.A. 65-3301 et seq., and amendments thereto;
(G) certification of water and wastewater treatment operators, K.S.A. 65-4501 et seq., and amendments thereto;
(H) the Kansas groundwater exploration and protection act, K.S.A. 60-552.
HB 2686

82a-1201 et seq., and amendments thereto;
(I) the water transfer act, K.S.A. 82a-1501 et seq., and amendments thereto;
(J) the multipurpose small lakes program act, K.S.A. 82a-1601, and amendments thereto;
(K) water development projects, K.S.A. 82a-1701 et seq., and amendments thereto; and
(L) classifying stream segments, K.S.A. 82a-2001 et seq., and amendments thereto; and
(7) conservation management, including, but not limited to:
(A) Conservation district management pursuant to the conservation districts law provided in K.S.A. 2-1901 et seq., and amendments thereto; and
(B) the state conservation commission established by K.S.A. 2-1904, and amendments thereto, and continued in existence by K.S.A. 74-5,128, and amendments thereto.

New Sec. 5. (a) (1) The division of water resources is hereby created within the Kansas department of water and environment.
(2) The Kansas department of agriculture, division of water resources established pursuant to K.S.A. 74-506a, and amendments thereto, and the office of the chief engineer of the division of water resources established pursuant to K.S.A. 74-506d, and amendments thereto, are hereby abolished. All of the powers, duties and functions of the existing Kansas department of agriculture, division of water resources are hereby transferred to the Kansas department of water and environment, division of water resources.
(3) Whenever the Kansas department of agriculture, division of water resources, or words of like effect, is referred to or designated by any statute, rule and regulation, contract or any other document, including any statute, rule and regulation, contract or any document created pursuant to the authorities transferred by this section, such reference or designation shall apply to the Kansas department of water and environment, division of water resources.
(4) On July 1, 2023, officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions that are transferred pursuant to the provisions of this section and who, in the opinion of the secretary of water and environment, are necessary to perform the powers, duties and functions of the Kansas department of water and environment, division of water resources, shall be transferred to and shall become officers and employees of such department. Such officers or employees shall retain all retirement benefits and all rights of civil service that had accrued or vested in such officers or employees prior to July 1, 2023.
(5) (A) On and after July 1, 2023, when any conflict arises as to the
disposition of any power, duty or function or the unexpended balance of
any appropriation as a result of any transfer made by this section, or under
the authority of this section, such conflict shall be resolved by the
governor, and the decision of the governor shall be final.
(B) In all cases under the provisions of this section where part or all
of the powers, duties and functions of any state agency are divided
between the Kansas department of water and environment, division of
water resources and any other state agency, the division of water resources
shall succeed to all property and records that were used for or pertain to
the performance of the powers, duties and functions transferred to the
division of water resources. Any conflict as to the proper disposition of
property or records arising under this section and resulting from the
transfer, attachment or abolition of any state agency, or all or part of the
powers, duties and functions thereof, shall be determined by the governor,
and the decision of the governor shall be final.

(6) (A) On July 1, 2023, the balance of all funds appropriated and
reappropriated to the Kansas department of agriculture, division of water
resources is hereby transferred to the Kansas department of water and
environment, division of water resources and shall be used only for the
purposes for which the appropriation was originally made.
(B) On July 1, 2023, liability for all accrued compensation or salaries
of officers and employees who, immediately prior to such date, were
engaged in the performance of powers, duties or functions of the Kansas
department of agriculture, division of water resources shall be assumed
and paid by the Kansas department of water and environment.
(b) (1) The Kansas department of water and environment, division of
water resources shall be administered by the chief engineer, who shall
serve as the director of the Kansas department of water and environment,
division of water resources and shall be in the classified service under the
Kansas civil service act. The secretary of water and environment is
authorized to employ the chief engineer and to fix the chief engineer's
compensation.
(2) The chief engineer of the Kansas department of water and
environment, division of water resources shall be the successor in every
way to the same powers, duties and functions that were vested in the chief
engineer of the Kansas department of agriculture, division of water
resources, prior to July 1, 2023. Every act performed under the authority of
the chief engineer of the Kansas department of water and environment,
division of water resources shall have the same force and effect as if
performed by the Kansas department of agriculture, division of water
resources, or the chief engineer thereof, prior to July 1, 2023.
(3) Whenever the chief engineer of the Kansas department of
agriculture, division of water resources, or words of like effect, is referred
to or designated by any statute, rule and regulation, contract or any other
document regardless of whether such reference is in regard to any of the
powers, duties or functions transferred pursuant to this section, such
reference or designation shall be deemed to apply to the chief engineer of
the Kansas department of water and environment, division of water
resources.

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

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

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

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

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

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

(2) floodplain zoning, K.S.A. 12-766, and amendments thereto;
(3) drainage and levees, K.S.A. 24-126, and amendments thereto;
(4) the watershed district act, K.S.A. 24-1201 et seq., and amendments thereto;
(5) irrigation districts, K.S.A. 42-701 et seq., and amendments thereto;
(6) the water projects environmental coordination act, K.S.A. 82a-325 et seq., and amendments thereto;
(7) drought monitoring, K.S.A. 48-924 and 74-2608, and amendments thereto;
(8) dams and other obstructions in streams, K.S.A. 82a-301 et seq., and amendments thereto;
(9) rural water districts pursuant to K.S.A. 82a-612 et seq., and amendments thereto;
(10) water appropriations, K.S.A. 82a-701 et seq., and amendments thereto;
(11) groundwater management districts act, K.S.A. 82a-1020 et seq., and amendments thereto;
(12) the state water plan storage act, K.S.A. 82a-1301 et seq., and amendments thereto;
(13) the water assurance program act, K.S.A. 82a-1330 et seq., and amendments thereto; and
(14) the water transfer act, K.S.A. 82a-1501 et seq., and amendments thereto.

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

New Sec. 7. (a) There is hereby established in the state treasury the water and environment maintenance fund. The water and environment maintenance fund shall be administered by the secretary of water and environment in coordination with the water and environment maintenance board as provided by section 8, and amendments thereto. All moneys received pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto.
thereto. Upon receipt of each such remittance, the state treasurer shall
deposit the entire amount in the state treasury to the credit of the fund.
(b) The water and environment maintenance fund shall be maintained
as individual accounts as follows:
(1) State appropriations or moneys from other sources designated for
the state water plan fund created by K.S.A. 82a-951, and amendments
thereto, shall be maintained in a separate account within the water and
environment maintenance fund. Disbursement of funds from such account
shall only be made for the implementation of the state water plan in
accordance with the provisions of K.S.A. 82a-951, and amendments
thereto.
(2) State appropriations or funds from other sources designated for
the Kansas department of water and environment shall be maintained in a
separate account within the water and environment maintenance fund and
may include, but not be limited to:
(A) Any proceeds from the assessments and fees imposed by the
water rights fee established pursuant to section 9, and amendments thereto;
(B) any interest attributable to investment of moneys in the water and
environment maintenance fund; and
(C) moneys received by the secretary in the form of gifts, grants or
reimbursements from any source intended to be used for the purposes of
this act.
(c) Subject to the limitations in subsection (b), the secretary is
authorized to expend funds from the water and environment maintenance
fund to administer, implement and enforce the laws of this state relating to
water and the environment.
(d) The water and environment maintenance fund shall be used for
the purposes set forth in this act and for no other governmental purpose. It
is the intent of the legislature that the fund shall remain intact and inviolate
for the purposes set forth in this act, and moneys in the fund shall not be
subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and
amendments thereto.
(e) On or before the 10th day of each month, the director of accounts
and reports shall transfer from the state general fund to the water and
environment maintenance fund interest earnings based on:
(1) The average daily balance of moneys in the water and
environment trust fund for the preceding month; and
(2) the net earnings rate for the pooled money investment portfolio
for the preceding month.
(f) All expenditures from the water and environment maintenance
fund shall be made in accordance with appropriation acts upon warrants of
the director of accounts and reports issued pursuant to vouchers approved
by the secretary, or the secretary's designee, for the purposes set forth in
New Sec. 8. (a) There is hereby established the water and environment maintenance board. The water and environment maintenance board shall consist of seven members as follows:

1. The secretary of the Kansas department of water and environment, to serve as chairperson;
2. The chairperson of the Kansas water authority;
3. The state treasurer;
4. One member of the Kansas senate to be appointed by the president of the senate;
5. One member of the Kansas house of representatives to be appointed by the speaker of the house of representatives;
6. Two members of the general public appointed by the governor who have special technical experience and knowledge about water issues and the water industry, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto.

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

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

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

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

(f) The board shall:

1. Oversee the water and environment maintenance fund to ensure the proper use of moneys and resources to promote proper water conservation, quality and use in Kansas;
2. Make recommendations for an agency budget for the Kansas department of water and environment established by section 1, and amendments thereto, to fund the agency and its objectives and to implement the state water plan, including all projects, initiatives and programs created to serve the purposes of the agency; and
3. Annually, before the 10th day of each regular session of the legislature, submit a written report to the governor and to the house
standing committee on water, the house standing committee on agriculture and the senate standing committee on agriculture and natural resources and any other appropriate committees providing:

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

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

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

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

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

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

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

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

   (b) The fee imposed by subsection (a) shall be paid annually to the chief engineer when the owner of a water right or permit to appropriate water for beneficial use submits the annual water use report required by K.S.A. 82a-732, and amendments thereto. Any owner of a water right or permit to appropriate water for beneficial use who fails to pay the water rights fee shall be considered a violation of the water appropriation act pursuant to K.S.A. 82a-737, and amendments thereto, and subject to a penalty not to exceed $100 per water right. In addition to assessing a civil
penalty as provided in this section, the chief engineer may issue an order
indefinitely suspending all water use under such water right or permit until
such time that the water rights fee, and any additional penalties, has been
submitted to the chief engineer.

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

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

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

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

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

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

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

(c) Notice of the time and place of holding each primary and general
election shall be published by the county election officer in a newspaper
published in the county in accordance with K.S.A. 25-105 and 25-209, and
amendments thereto.
(d) Primary and general elections of district board directors shall be conducted jointly with other local elections insofar as is practicable. Any officer or board having responsibility for any other local election held on the date of a primary or general election of district board directors shall cooperate with the election officer. If a difference arises that cannot be agreed upon, determination of the difference shall be made by the election officer, unless such difference involves a question that is provided by law to be determined and made by the secretary of state, and in such case the determination shall be made by the secretary of state. Any determination of a difference made by the officer responsible under this section shall be conclusive.

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

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

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

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

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

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

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

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

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

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

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

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

(b) Upon the adoption of a resolution or the certification of a petition as provided in this section, the board shall submit the proposition at the next district primary or general election for district boards, not less than 60
days following the adoption or certification. Notice of the petition shall be
published in the manner provided by K.S.A. 25-105, and amendments
thereto. The form of the ballots to be used at the election shall be as
follows:
"Shall the __________ groundwater management district No.
________ change the number of directors elected from ______ to ______?"
Yes ☐ No ☐
(c) If a majority of the votes cast upon such proposition shall be in
favor of the proposal, then at the next regular district election the number
of at-large positions shall be adjusted accordingly.
(d) This section shall be a part of and supplemental to K.S.A. 82a-
1020 through 82a-1042, and amendments thereto.
New Sec. 13. (a) The board of each district shall annually submit to
the house standing committee on water, the house standing committee on
agriculture and the senate standing committee on agriculture and natural
resources and any other appropriate committees, and any successor
committees, a written report on the finances and activities of the district in
the previous calendar year not later than February 1. A representative of
the board shall appear before the committees upon request. Such report
shall contain a detailed financial statement and a description of the
activities undertaken by the board and shall be prepared according to
generally accepted accounting principles.
(b) The financial statement included in the annual report shall
include, at a minimum, the following information:
(1) An itemized list of all income and the source from which the
income was received, including any grants and interest income earned;
(2) an itemized list of all expenditures by the board; and
(3) an accounting of all assets currently held by the board.
(c) The annual report shall also include a detailed statement that
explains how the expenditures by the board served to further the
conservation of groundwater, the prevention of economic deterioration, the
stabilization of agriculture or otherwise supported implementation of the
district's management program.
(d) Failure to timely provide the annual report with the information
required by this section shall result in a suspension of the board's authority
to make any further expenditures for the calendar year when the report was
due, except for costs directly related to completion of the required report.
(e) This section shall be a part of and supplemental to K.S.A. 82a-
1020 through 82a-1042, and amendments thereto.
New Sec. 14. (a) It is the intent of the legislature that the groundwater
resources of the state be conserved and extended for the prevention of
economic deterioration and stabilization of agriculture, pursuant to K.S.A.
82a-1020, and amendments thereto, by local water users. The legislature
has provided tools for districts and local water users to achieve such goals
with intensive groundwater use control areas designated pursuant to
K.S.A. 82a-1036, and amendments thereto, and local enhanced
management areas established pursuant to K.S.A. 82a-1041, and
amendments thereto. The board of each district shall:

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

(A) Groundwater levels are declining or have declined excessively;
(B) the rate of withdrawal of groundwater equals or exceeds the rate
of recharge;
(C) preventable waste of water is occurring or may occur; or
(D) an unreasonable deterioration of the quality of groundwater is
occurring or may occur; and

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

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

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

(d) The Kansas department of water and environment, including the
division of water and environmental planning and the division of
environment and conservation, Kansas department of agriculture, the chief
engineer, Kansas department of health, state corporation commission,
university of Kansas, Kansas geological survey, Kansas state university, Kansas state university extension system and local conservation districts shall provide assistance and support to each board as is reasonably necessary for the achievement of the goals set forth in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 16. K.S.A. 82a-1023 is hereby amended to read as follows: 82a-1023. (a) Within 12 months after certification of the description of the
lands to be included within the proposed district, and before any
groundwater management district shall be organized, a petition shall be
circulated by the steering committee and filed with the secretary of state
after being signed by not less than 50 eligible voters or 50% of the
eligible voters of the district, whichever is the smaller.

(b) The petition shall set forth:
(1) The proposed name of the district, which name shall end with the
words "groundwater management district No. ______." It shall be the duty
of the secretary of state to assign a number to each such district in the
order in which petitions for organizations are received in the secretary's office.

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

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

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

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

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

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

(c) The petition shall be in substantially the following form:
"Before the secretary of state of the state of Kansas in the matter of the
proposed ___________ groundwater management district No. _____,
in ___________ county, (counties), Kansas.

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

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

"Attached hereto, marked exhibit B and made a part hereof, is a map
showing the lands proposed to be included in the district.
"Wherefore, the undersigned individually and collectively pray that a groundwater management district be organized in the manner provided by law for the purposes set forth herein, and that the secretary of state and the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture, proceed diligently in the performance of their duties so that the organization and incorporation of this proposed district may be completed and approved at the earliest possible time.

"Submitted to the secretary of state this ______ day of ____________, ___."

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

(b) If a majority of the votes cast are in favor of the organization and creation of the district, the secretary of state shall issue to the steering committee a certificate of incorporation for the district, which shall be
filed of record in the office of the register of deeds of each county in which
where all or a portion of the district lies. Upon such recordation, the
district shall be authorized to function in accordance with the provisions of
this act.

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

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

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

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

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

(d) The elected board shall fill any vacancy occurring on the board
prior to the expiration of the term of any director by selecting a
replacement from among the eligible voters of the district to serve for the
unexpired term. If an insufficient number of candidates are elected to fill
all open seats, then the outgoing board shall nominate three candidates at
the next board meeting following the general election and submit such
candidates to the director of the Kansas department of water and
environment, division of water and environmental planning. The director
shall select a candidate to fill the open position within 30 days of submission by the board.

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

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

(b) Upon receipt from the secretary of state of the certificate of dissolution of a groundwater management district under the provisions of this act, the secretary of the board shall notify the board of the certification and the board shall immediately pay all obligations of the district, including all costs incurred by the district, the chief engineer and the secretary of state in regard to the dissolution proceedings. The treasurer of the board shall thereupon distribute all moneys in his or her hands belonging to the district in the manner prescribed by this act and immediately after making the distribution the treasurer shall notify the secretary of the board of the distribution. Upon receipt of the notification the secretary of the board shall have the certificate of dissolution published once in a newspaper or newspapers of general circulation within the district and proof of the publication shall be filed in the office of the secretary of state. The effective date of the dissolution, unless otherwise
provided, shall be the date on which that the proof of publication is filed in
the office of the secretary of state, but in no event shall the date of
dissolution be a date prior to the date of the publication of the certificate of
dissolution. A certified copy of the certificate of dissolution of the district
shall also be recorded in the office of the county clerk of each county
where any portion of the dissolved district was located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Five members of the commission shall be elected by the conservation district supervisors at a time and place to be designated by the commission. The method of electing such members to be conducted as follows: The state is to be divided into five separate areas. Area No. I to include the following counties: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan, Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis and Russell. Area No. II to include: Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee, Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell, Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and Kiowa. Area No. III to include: Jewell, Republic, Mitchell, Cloud, Lincoln, Ottawa, Ellsworth, Saline, Rice, McPherson, Reno, Harvey, Kingman, Sedgwick, Sumner, Harper, Barber, Pratt, Barton and Stafford. Area No. IV to include: Washington, Marshall, Nemaha, Brown, Doniphan, Clay, Riley,
Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth, Wyandotte,
Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson, Morris,
Osage, Franklin and Miami. Area No. V to include: Marion, Chase, Lyon,
Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Greenwood, Butler,
Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua, Montgomery,
Labette and Cherokee. Areas II and IV shall elect members in even-
numbered years and Areas I, III and V shall elect members in odd-
numbered years for two-year terms. The elected commission members
from Areas I, III and V shall take office on January 1 of the even-
numbered years. The remaining two elected members of the state
commission from Areas II and IV shall take office on January 1 of the odd-
numbered years. The method of election is to be by area caucus of the
district supervisors of each of the five separate areas of Kansas. The
commission shall give each district notice of the time and place of such
annual election meeting by letter if a member is to be elected to the
commission from that area that year. The selection of a successor to fill an
unexpired term shall be by appointment by the commission. The successor
who is appointed to fill the unexpired term shall be a resident of the same
area as that of the predecessor.

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

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

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

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

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

(1) To offer such assistance as may be appropriate to the supervisors
of conservation districts, organized as provided hereinafter, in the carrying
out of any of their powers and programs;
(2) to keep the supervisors of each of the several districts organized
under the provisions of this act informed of the activities and experience of
all other districts organized hereunder and to facilitate an interchange of
advice and experience between such districts and cooperation between
them;
(3) to coordinate the programs of the several conservation districts
organized hereunder;
(4) to secure the cooperation and assistance of the United States and
any of its agencies and of agencies of this state, in the work of such
districts and to contract with or to accept donations, grants, gifts and
contributions in money, services or otherwise from the United States or
any of its agencies or from the state or any of its agencies in order to carry
out the purposes of this act;
(5) to disseminate information throughout the state concerning the
activities and programs of the conservation districts organized hereunder
and to encourage the formation of such districts in areas where their
organization is desirable;
(6) to cooperate with and give assistance to watershed districts and
other special purpose districts in the state of Kansas for the purpose of
cooperating with the United States through the secretary of agriculture in
the furtherance of conservation pursuant to the provisions of the watershed
protection and flood prevention act, as amended;
(7) to cooperate in and carry out, in accordance with state policies,
activities and programs to conserve and develop the water resources of the
state and maintain and improve the quality of such water resources;
(8) to enlist the cooperation and collaboration of state, federal,
regional, interstate, local, public and private agencies with the
conservation districts;
(9) to facilitate arrangements whereby conservation
districts may serve county governing bodies and other agencies as their
local operating agencies in the administration of any activity concerned
with the conservation of natural resources; and
(10) to take such actions as are necessary to restore, establish,
enhance and protect natural resources with conservation easements for the
purpose of compensatory mitigation required under section 404 of the
federal clean water act, including:
(A) Accepting, purchasing or otherwise acquiring conservation
easements, as defined in K.S.A. 58-3810, and amendments thereto, on
behalf of watershed districts for the purpose of protecting compensatory
mitigation sites;
(B) contracting with engineering consultants, surveyors and
construction contractors for the purpose of restoration, establishment and
enhancement of natural resources; and

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

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

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

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

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

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

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

(A) Terraces, terrace outlets, check dams, dikes, ponds, ditches,
critical area planting, grassed waterways, irrigation technology, precision
land forming, range seeding, soil and grassland health, detention and grade
stabilization structures and other enduring water conservation and water
quality practices installed on public lands and on privately owned lands;
and
(B) the control of invasive species on public lands and on privately
owned lands.
(2) Except as provided by the multipurpose small lakes program act
and other programs approved by the secretary, any such grant shall not
exceed 80% of the total cost of any such practice.
(b) A program for protection of riparian and wetland areas shall be
developed by the division and implemented by the conservation districts.
The conservation districts shall prepare district programs to address
resource management concerns of water quality, erosion and sediment
control and wildlife habitat as part of the conservation district long-range
and annual work plans. Preparation and implementation of conservation
district programs shall be accomplished with assistance from appropriate
state and federal agencies involved in resource management.
(c) Subject to the provisions of K.S.A. 2-1919, and amendments
thereto, any holder of a water right, as defined by K.S.A. 82a-701(g), and
amendments thereto, who is willing to voluntarily return all or a part of the
water right to the state shall be eligible for a grant not to exceed 80% of
the total cost of the purchase price for such water right. The division shall
administer this cost-share program with funds appropriated by the
legislature for such purpose. The chief engineer shall certify to the division
that any water right for which application for cost-share is received under
this section is eligible in accordance with the criteria established in K.S.A.
2-1919, and amendments thereto.
(d) (1) Subject to appropriation acts therefor, the division shall
develop the Kansas water quality buffer initiative for the purpose of
restoring riparian areas using best management practices. The director
shall ensure that the initiative is complementary to the federal conservation
reserve program and update any applicable standards from time to time as
necessary for the continued success of the program.
(2) There is hereby created in the state treasury the Kansas water
quality buffer initiative fund. All expenditures from such fund shall be
made in accordance with appropriation acts upon warrants of the director
of accounts and reports issued pursuant to vouchers approved by the
director or the director's designee. Moneys credited to the fund shall be
used for the purpose of making grants to install water quality best
management practices pursuant to the initiative.
(3) The county or district appraiser shall identify and map riparian
buffers consisting of at least one contiguous acre per parcel of real
property located in the appraiser's county. Notwithstanding any other
provisions of law, riparian buffers shall be valued by the county or district
appraiser as tame grass land, native grass land or waste land, as appropriate. As used in this paragraph, "riparian buffer" means an area of stream-side vegetation that: (A) Consists of tame or native grass and may include forbs and woody plants; (B) is located along a perennial or intermittent stream, including the stream bank and adjoining floodplain; and (C) is a minimum of 66 feet wide and a maximum of 180 feet wide.

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

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

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

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

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

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

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

(d) The division may request the assistance of other state agencies, Kansas state university, local governments and private entities in the
The division may receive and expend moneys from the federal or state government or private sources for the purpose of carrying out the provisions of this section. All moneys received shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas conservation reserve enhancement program fund. The division shall carry over unexpended moneys in the Kansas conservation reserve enhancement program fund from one fiscal year to the next.

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

The division shall administer all CREPs in Kansas subject to the following criteria:

1. The aggregate total number of acres enrolled in Kansas in all CREPs shall not exceed 40,000 acres;
2. the number of acres eligible for enrollment in CREP in Kansas shall be limited to \( \frac{1}{2} \) of the number of acres represented by federal contracts in the federal conservation reserve program that have expired in the prior year in counties within the particular CREP area, except that if federal law permits the lands enrolled in the CREP program to be used for agricultural purposes, such as planting agricultural commodities, including, but not limited to, grains, cellulosic or biomass materials, alfalfa, grasses or legumes, but not including cover crops, then the number of acres eligible for enrollment shall be limited to the number of acres represented by contracts in the federal conservation reserve program that have expired in the prior year in counties within the specific CREP area;
3. no more than 25% of the acreage in CREP may be in any one county, except that the last eligible offer to exceed the number of acres constituting a 25% acreage cap in any one county shall be approved;
4. no whole-field enrollments shall be accepted into a CREP established for water quality purposes; and
5. lands enrolled in the federal conservation reserve program as of January 1, 2008, shall not be eligible for enrollment in CREP.

For a CREP established with the purpose of meeting water quantity goals, the division shall administer such CREP in accordance with the following additional criteria:

A. No water right that is owned by a governmental entity shall be purchased or retired by the state or federal government pursuant to CREP; and
B. only water rights in good standing are eligible for inclusion under
CREP.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) "Board" means the secretary of—agriculture water and environment.

(c) "Secretary" means the secretary of—agriculture water and environment.

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

(1) Preparing solution and filling the chemical supply container;

(2) calibrating of injection equipment;

(3) starting and stopping equipment when injection of chemicals is involved; and

(4) supervision of the chemigation equipment to assure its safe operation.

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

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

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

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

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

(j) "Point of diversion" means:
(1) The point where the longitudinal axis of the dam crosses the center line of the stream in the case of a reservoir; or
(2) the location of the headgate or intake in the case of a direct diversion from a river, stream or other watercourse; or
(3) the location of a well in the case of groundwater diversion.

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

(l) "Chemicals" shall include nutrients or the chemical composition of animal waste.

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

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

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

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

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

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

(b) "Board" means the Kansas agricultural remediation board created by K.S.A. 2-3709, and amendments thereto.
(c) "Corrective action" means action in response to release of an agricultural or specialty chemical that poses a threat to human health or the environment.

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

(e) "Eligible lending institution" means:

1. A bank, as defined in K.S.A. 75-4201, and amendments thereto, that agrees to participate in the remediation linked deposit program and is eligible to be a depository of state funds; or
2. an institution of the farm credit system organized under the federal farm credit act of 1971, 12 U.S.C. § 2001, as amended, that agrees to participate in the remediation linked deposit program and provides securities acceptable to the pooled money investment board pursuant to article 42 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(f) "Eligible person" means:

1. A responsible party or an owner of real property, but does not include the state, any state agency, any political subdivision of the state, the federal government or any agency of the federal government; or
2. a person who:
   A. Is involved in a transaction relating to real property;
   B. is not a responsible party or owner of the real property; and
   C. voluntarily takes corrective action on the property in response to a request or order for corrective action from the Kansas department of health, water and environment.

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

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

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

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

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

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

1. Is not exempt from registration under the federal insecticide, fungicide, and rodenticide act, 7 U.S.C. § 136w(b), as in effect on January 1, 2021;
(B) is not eligible for sale or distribution; and
(C) is not otherwise eligible for return or disposal.

(2) "Pesticide waste" includes, but is not limited to:
(A) Pesticides with no identifiable owner or responsible party that have been abandoned or illegally dumped at a site;
(B) pesticides that are unregistered, canceled, suspended or revoked by the Kansas department of agriculture or the United States environmental protection agency;
(C) pesticides with missing or illegible labels;
(D) pesticides that have been adulterated;
(E) pesticides in a leaking or damaged container; or
(F) pesticides that are of no use to the current owner of such pesticides.

(m) "Release" means any spill, leak, emission, discharge, escape or disposal of an agricultural or specialty chemical into the soils or waters of the state.

(n) "Remediation linked deposit loan package" means the forms provided by the state treasurer for the purpose of applying for a remediation linked deposit.

(o) "Remediation linked deposit loan program" means the program provided for by K.S.A. 2-3703 through 2-3707, and amendments thereto.

(p) "Remediation reimbursement program" means the program provided for by K.S.A. 2-3708 through 2-3713, and amendments thereto.

(q) "Site" means all land and water areas, including air space, and all plants, animals, structures, buildings, contrivances and machinery, whether fixed or mobile, including anything used for transportation, within a one-half mile radius of a release.

Sec. 27. K.S.A. 2-3703 is hereby amended to read as follows: 2-3703.
(a) There is hereby established the remediation linked deposit loan program, which shall be administered by the state treasurer. The program shall be for the purpose of providing loans to eligible persons to pay the costs of corrective action approved by the Kansas department of health, water and environment or taken in accordance with requests or orders issued by the department of health and environment. Such loans shall be made only for projects approved by the board.

(b) The state treasurer may adopt rules and regulations to administer and implement the remediation linked deposit loan program.

(c) On or before February 1 of each year, the state treasurer shall submit to the governor, the senate standing committee on energy and natural resources and the house of representatives standing committee on environment an annual report on the activities of the remediation linked deposit loan program.

Sec. 28. K.S.A. 2-3704 is hereby amended to read as follows: 2-3704.
(a) The state treasurer is hereby authorized to disseminate information and provide remediation linked deposit loan packages to lending institutions eligible for participation in the remediation linked deposit loan program.

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

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

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

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

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

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

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

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

(1) Providing reimbursement to eligible persons for the costs of corrective action approved by the Kansas department of health and environment or taken in accordance with requests or orders issued by the department of health and environment; and
(2) providing funding to the Kansas pesticide waste disposal program in accordance with K.S.A. 2021 Supp. 2-3716, and amendments thereto.

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

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

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

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

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

(c) The governor shall designate the chairperson and vice chairperson of the board from the members of such board.
(d) Meetings shall be held as determined by the board.
(e) Members of the board attending meetings of the board, or attending a subcommittee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 31. K.S.A. 2-3710 is hereby amended to read as follows: 2-3710.
The board shall have the following powers, duties and functions:
(a) Administer the fund and the remediation reimbursement program.
(b) Subject to K.S.A. 2-3701 through 2-3714, and amendments thereto, adopt rules and regulations concerning the terms and conditions of any reimbursements from the fund.
(c) Adopt rules and regulations establishing, for purposes of the remediation linked deposit loan program and the remediation reimbursement program, criteria for classification and prioritization of properties where contamination was caused by a release of agricultural or specialty chemicals, or both. Classification and prioritization may account for the criteria contained in Kansas department of health water and environment's voluntary clean up and property redevelopment program and state cooperator program.
(d) Establish operating standards and procedures which shall include, but not be limited to, the following:
(1) With respect to the remediation linked deposit loan program, provisions governing board approval of projects for which applications for loans may be made;
(2) with respect to the remediation reimbursement program, provisions governing application procedures, determination of eligible corrective action costs, determination of ineligible corrective costs and reimbursement or payment of eligible corrective costs; and
(3) with respect to both programs, provisions governing conflicts of interest, appeals procedures, review and priority determinations and enforcement of the provisions of K.S.A. 2-3701 through 2-3714, and amendments thereto.
(e) Appoint or contract for qualified administrative services subject to the limitation that expenditures from the fund for the administrative expenses of the board and the programs established by K.S.A. 2-3701 through 2-3714, and amendments thereto, shall not exceed $150,000 in any fiscal year.
(f) Annually provide an independent audit of the fund.
(g) On or before February 1 of each year, submit to the governor, the senate standing committee on energy and natural resources and the house standing committee on environment an annual report of the activities and reimbursements for which money from the fund has been expended during the previous fiscal year, including a copy of the independent audit.
Sec. 32. K.S.A. 2021 Supp. 12-541 is hereby amended to read as
follows: 12-541. (a) Following annexation, the rural water district shall
remain the water service provider to the annexed area unless the city gives
written notice designating a different supplier. If the city designates a
different supplier, the city shall purchase the property, facilities,
improvements and going concern value of the facilities of the district
located within the territory annexed by the city. If an agreement for the
purchase of such property, facilities, improvements and going concern
value of the facilities of the district annexed by the city is not executed
within 90 days after delivery of the notice designating a different supplier,
the city and the rural water district in good faith shall engage in mediation.
Unless an agreement is executed, no change in water service provider shall
occur and no appraisers shall be appointed until more than 120 days after
delivery of the notice of intent to change the water supplier and the
mediation has been terminated.

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

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

(A) Whether any property of the district is rendered useless or
valueless to the district;
(B) the amount of damage to property remaining in the ownership of
the district following annexation;
(C) impact on the existing indebtedness of the district and such
district's ability to repay that debt;
(D) the value of the service facilities of the district located within the
area in question;
(E) the amount of any expenditures for planning, design or
construction of service facilities outside the incorporated or annexed area
that are allocable to service to the area in question;
(F) the amount of the district's contractual obligations allocable to the
area in question;
(G) if the area transferred consists of land for which where no water
service is being provided by the system at the time of the annexation, the
value of such land based on the planning, design and construction of
improvements located outside the annexed area reasonably made to provide future water service to the annexed area;

(H) any demonstrated impairment of service or increase of cost to consumers of the district remaining after the annexation and the impact on future revenues lost from existing customers;

(I) any necessary and reasonable legal expenses and professional fees;

(J) any factors relevant to maintaining the current financial integrity of the district;

(K) the average increase in the number of benefit units in the area annexed for the three years immediately preceding such annexation; and

(L) any other relevant factors as agreed to by the three appointed appraisers.

(2) The appraisers shall hear such evidence as the appraisers deem appropriate and shall make a written summary of findings and conclusions. The agreement or decision of at least two of the three appraisers shall be the fair market value presented to the city for payment and the district for acceptance.

(3) If either the district or the city is dissatisfied with the decision of the appraisers, then the district or the city may appeal within 30 days such award to the district court. Such appeal shall be heard de novo by the court without a jury.

(c) The compensation required by this section shall be paid to the district whether or not the city actually utilizes the facilities of the district for the delivery of water to property within the city and shall be paid at a time not later than 120 days following the date upon which that the fair market value of the facilities are certified to the city and to the district, or at such later date as may be mutually agreed upon by the city and the district or as may be determined by the district court.

(d) In any event, the district may elect to retain facilities located within the city used for transmission of water, provided that the district use those facilities to continue to supply water service to benefit units outside the city. The district shall not receive compensation for facilities it elects to retain.

(e) Except as otherwise provided, nothing in this section shall be construed as limiting the authority of a city to select water service suppliers to areas within the city limits, or to limit the authority of a city to adopt and enforce regulations for the operation of a water service supplier, including, but not limited to, standards of water quality, classification of water customers, capacity of water system, water system connections to sanitary sewer systems, rates and billing practices and other regulations for protection of the public health, safety and welfare.

(f) In the event that a district will no longer be the water supplier to
land as a result of annexation and notice pursuant to subsection (a), the district shall continue to provide such service until the city gives notice of its assumption of responsibility for service, designating the date that the service shall transfer to the supplier designated by the city. The district and the city shall cooperate as necessary to minimize the inconvenience to water customers as a result of the transfer. The city shall give written notice to each customer of the district for whom water service is being transferred specifying the name and address of the new supplier, the effective date of the transfer, the reason for the transfer and a schedule of applicable rates. The district shall not discontinue or limit service to customers who were supplied water by the district at the time of annexation during the period of negotiations unless such customer has violated district bylaws or rules and regulations.

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

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

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

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

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

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

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

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

(b) Prior to the adoption thereof, the governing body shall submit to the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture any ordinance, resolution, regulation or plan that proposes to create or to effect
any change in a flood plain zone or district, or that proposes to regulate or restrict the location and use of structures, encroachments, and uses of land within such an area. The chief engineer may require, pursuant to rules and regulations, each submission hereunder to be accompanied by complete maps, plans, profiles, specifications and textual matter. The chief engineer shall approve or disapprove any such ordinance, resolution, regulation or plan or changes thereof within 90 days of the date of receipt of all such data required by the chief engineer as specified in rules and regulations adopted thereby. If the chief engineer fails to approve or disapprove within the 90 day period required by this section, such ordinance, resolution, regulation or plan or change thereof shall be deemed approved. The chief engineer shall provide, in writing, specific reasons for any disapproval.

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

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

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

Sec. 38. K.S.A. 19-27a03 is hereby amended to read as follows: 19-27a03. (a) Subject to the provisions of K.S.A. 19-270, and amendments thereto, the board of county commissioners of any county shall have the
power to create a sewer district in the manner hereinafter provided
whenever:
(1) A petition requesting the creation of a sewer district is filed with
the board; or
(2) the secretary of health the Kansas department of water and
environment or the local health officer determines and certifies to the
board that unsanitary conditions exist or are expected to develop and
which that may be removed or prevented by the installation and utilization
of sewers.
(b) Any petition requesting the creation of a sewer district shall be
signed by the owners of at least 51% of the acreage of the land in the
proposed district. The petition shall state:
(A)(1) The boundaries of the improvement district;
(B)(2) the nature of the improvement;
(C)(3) the estimated cost of the improvement;
(D)(4) the proposed method of assessment; and
(E)(5) the proposed apportionment of cost, if any, between the district
and any other sewer district operated and maintained by the governing
body.
The petition also shall state that if the board of county commissioners
determines the improvement project is not feasible that all costs and
expenses of the work, including preliminary planning, engineering, legal
and other preliminary work of skilled persons employed by the board shall
be assessed against the property of persons signing such petition. Any
person signing the petition who desires to withdraw such person's name
may do so by giving written notice to the county clerk on or before the
date of the hearing on the petition. The petition shall be null and void after
the board has determined not to create the district or after a period of two
years from the date of the first signature on the petition, whichever occurs
first.
Sec. 39. K.S.A. 19-27a12 is hereby amended to read as follows: 19-
27a12. (a) The board of county commissioners may construct, reconstruct,
enlarge, extend or otherwise provide for one or more systems of disposal
works for the purification of sewage. The board may build, operate and
maintain disposal works, pumping stations, pumps or other apparatus
necessary to handle and dispose of sewage. The costs and expenses of
building the same shall be borne by the various districts then or thereafter
using the same. The costs and expenses of constructing, reconstructing,
enlarging or extending any sewage treatment or disposal works and
facilities may be paid by the issuance and sale of general obligation bonds
of the county. The cost of any improvements authorized by this section
shall be determined and assessed in the manner provided by K.S.A. 19-
27a07, and amendments thereto.
(b) Before any system of disposal works or pumping stations are constructed, the plans and specifications therefor shall be submitted to and approved by the secretary of health, the Kansas department of water and environment.

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

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

Sec. 41. K.S.A. 19-2963 is hereby amended to read as follows: 19-2963. Any county which adopts a resolution under the provisions of this act shall have power to declare the violation thereof a misdemeanor and punishable by a fine not to exceed $500 for each offense and to provide that each day's violation shall constitute a separate offense. Such counties also shall have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of such resolution and to abate nuisances maintained in violation thereof. In case any building or structure is or is proposed to be erected, constructed, altered, converted or maintained, or any building, structure or
land is or is proposed to be used in violation of any resolution enacted
under this act, the county counselor or other appropriate authority of the
county, and in the event the violation relates to a provision concerning
floodplain zoning, the attorney general and the chief engineer of the
Kansas department of water and environment division of water resources
of the Kansas department of agriculture, in addition to other remedies, may
institute injunction, mandamus, or other appropriate action or proceeding
to prevent such unlawful erection, construction, reconstruction, alteration,
conversion, maintenance, use or to correct or abate such violation or to
prevent the occupancy of such building, structure or land. Any person,
company, corporation, institution, municipality or agency of the state or
government who violates any provision of a resolution relating to
floodplain zoning, shall be subject to the penalties and remedies provided
for herein.

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

Sec. 43. K.S.A. 24-407 is hereby amended to read as follows: 24-407.
Each drainage district incorporated pursuant to K.S.A. 24-401 et seq., and
amendments thereto, shall be a body politic and corporate. Subject to the
superior jurisdiction of the United States over navigable waters, the
governing body of each drainage district shall have exclusive control of
the beds, channels, banks and of all lands the title to which is vested in the
state of Kansas lying between the banks at high water mark of all natural
watercourses within the district. The board of directors of every drainage
district incorporated under the provisions of K.S.A. 24-401 et seq., and
amendments thereto, shall have the power:

(1) To adopt a seal.
(2) To sue and be sued by its corporate name.
(3) To purchase, hold, sell and convey real estate and personal
property necessary or convenient to carry out the purposes of the district.
(4) To take charge of and exercise exclusive control of all natural
watercourses within the district, and widen, deepen, establish, regulate and
maintain the channels thereof; construct and maintain levees along the
banks thereof and detention dams and reservoirs in areas adjacent thereto
which that are necessary to prevent or restrain overflow or lessen the
volume thereof or the injury likely to result therefrom. The board may
construct ditches, drains, sewers and canals through lands subject to
overflow, and may purchase, install and operate pumps necessary to
remove, carry off and prevent water from standing or remaining in pools
or ponds and becoming stagnant upon overflowed lands or necessary for
sanitary purposes or conducive to the public health, convenience and
welfare. The board may alter, change or abandon the channel or any part of
the channel of any natural watercourse and relocate or excavate and
establish a new channel for such watercourse or any part thereof located
within the district. The board may take private property for public use by
exercise of the right of eminent domain and may condemn and remove
obstructions in such watercourses. The board may acquire by gift,
purchase or condemnation lands for the purpose of constructing levees
along or widening, deepening, changing or otherwise improving the
channels of watercourses or for relocating, excavating and establishing
new channels or constructing cutoffs, detention dams and reservoirs in
areas adjacent to all such watercourses.

(5) To prescribe, regulate and fix the height of the superstructures
above the water, the length of all spans and the location of the piers of all
bridges across watercourses located within the district.
(6) To construct levees across the rights-of-way, roadbeds, tracks and
lands of railroad companies and street-railroad companies. The board may
condemn and appropriate by the exercise of the right of eminent domain
sufficient rights-of-way or other lands of any railroad company or street-
railroad company necessary for constructing and maintaining a continuous
levee of uniform height across the same.

(7) To fix, regulate and change the grade or elevation of all public
highways, railroads and street-railroads at points where any levee may
cross or intersect the same.

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

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

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

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

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

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

(13) To issue negotiable bonds to pay the costs of widening,
deepening and otherwise improving the channels and constructing
embankments, drains, levees and other works along the banks of natural
watercourses, to pay the cost of constructing detention dams and reservoirs
in areas adjacent to all such watercourses, to pay for the purchase or
condemnation of land necessary therefor or to prevent overflow and
protect the property located within the district from damage and injury
thereby. The bonds shall be payable by general taxation of all property
located within the district if it is determined that all property located
within the district will be benefited thereby or that such work or
improvement is necessary or will be conducive to the public health,
convenience or welfare and beneficial to all of the inhabitants of the
district. No bonds shall be issued until authorized by a vote of the
taxpayers.

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

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

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

Sec. 44. K.S.A. 24-418 is hereby amended to read as follows: 24-418.
The board of directors may cause any or all natural watercourses within
the district to be widened and deepened, walls, embankments and levees to
be constructed along the banks, and obstructions and sand bars to be
removed from the channel thereof, or such other improvements, including
detention dams and reservoirs in areas adjacent to such watercourses, to be
made thereto as may be deemed necessary to prevent the overflow of such
watercourses or protect property from damage thereby. Before any such
work shall be contracted for, plans and specifications for such work and an
estimate of the cost thereof shall be made under oath by a competent
engineer appointed for the purpose and embodied in a written report and
filed with the secretary. If, upon consideration of such report and such
other information as the board of directors may obtain, it shall be
determined by the board of directors that the improvement of any natural
watercourse by the removal of obstructions from the channel thereof or
otherwise or the construction of any levee, levees, system of levees or
detention dams and reservoirs will prevent the overflow of such natural
watercourse, and thereby protect all of the lands within the drainage
district from injury therefrom, and will be conducive to the public health,
convenience or welfare, the board of directors shall have power to cause
such levee, levees or such detention dams and reservoirs to be constructed
and such other improvement and work to be done, and to issue bonds not
exceeding in amount 20% on the taxable property of the district as shown
by the assessment and tax rolls of the next preceding year to pay the cost
thereof, such bonds to be paid by a general tax to be levied upon all of the
taxable property within the drainage district issuing the same, except that:
(1) Such improvement shall not be made until it has been authorized by a
vote of the taxpayers of the district, at a special election to be called and
held for that purpose at such time and place and in such manner as the
board of directors may prescribe by an order entered upon its journal; and
(2) the board of directors of the drainage district shall have no power to
remove, lower or injure any dam constructed by any city in this state in or
across any nonnavigable natural watercourse for the purpose of holding or
storing water for the use of the city and its inhabitants, or to make any
excavation or ditch to permit the flow of water around or by—said such
dam, without first filing an application with the Kansas department of
water and environment, division of water resources of the Kansas
department of agriculture pursuant to K.S.A. 82a-301, and amendments
thereto.

Sec. 45. K.S.A. 24-656 is hereby amended to read as follows: 24-656.
The following terms when used in this act shall be construed to have
the meaning ascribed to them in this section:
(a) "Person"—shall mean any person, firm, partnership,
association or corporation;
(b) "publication"—shall mean the publication in a newspaper or
newspapers admitted to the United States mail as second-class matter, of
general circulation within the joint drainage district;
(c) "land"—shall mean real property as that term is defined by
the laws of the state of Kansas, and shall include any road, highway,
bridge, street or other right-of-way;
(d) "chief engineer" shall mean the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture;
(e) "board" shall mean the board of directors of a joint drainage district;
(f) "qualified voter" shall mean any qualified elector of the district and any person 18 years of age or over owning land within the district, although not a resident therein;
(g) "landowner" shall mean the record owner of the fee in any real estate in the district or the fee in the surface rights of any real estate in the district, but the owners of an oil and gas lease, mineral rights or interest, easements or mortgages as such shall not be considered landowners, and school districts, cemetery associations and municipal corporations shall not be considered landowners; and
(h) "steering committee" shall be the group of not less than three qualified voters who shall serve as the governing body of the proposed drainage district until the first board of directors is elected.

Sec. 46. K.S.A. 24-659 is hereby amended to read as follows: 24-659. The petition required by K.S.A. 24-658, and amendments thereto, shall set forth: (1) The proposed name of the district, which name shall end with the words "joint drainage district number ______." It shall be the duty of the secretary of state to assign a number to each such district in the order in which petitions for their organization are received in his or her the secretary's office.
(2) A description of the lands to be included within the proposed district, identified by section numbers and fractions thereof, and other platted areas as appropriate.
(3) A statement of the purposes for which the district is to be organized.
(4) A statement that the board of directors of the district shall consist of not less than three members giving the names and addresses of the persons who will constitute the original steering committee.
(5) Any other matter deemed essential.
(6) A prayer for the organization of the district as a nonprofit corporation.

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

BEFORE THE SECRETARY OF STATE OF THE STATE OF KANSAS

In the Matter of ________ Joint Drainage District Number ____, ________ and ________ counties, Kansas.

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

(List names and addresses.)

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

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

That the lands proposed to be included in—said such district are described as follows:

(Description of lands.)

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

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

Submitted to the secretary of state this ______ day of ________, __.

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

(a) "Person"—shall mean means any person, firm, partnership, association or corporation;

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

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

(d) "chief engineer"—shall mean means the chief engineer of the Kansas department of water and environment, division of water resources
of the Kansas department of agriculture;
(e) "board" shall mean the board of directors of a watershed district;
(f) "district" shall mean an area comprising a watershed or two or more adjoining watersheds exclusive of lands within other organized watershed districts for which organization is proposed or which has been organized under the provisions of article 12 of chapter 24 of the Kansas Statutes Annotated, and amendments thereto. The district shall not include the territorial limits of any incorporated city unless the petition circulated and filed as provided for in article 12 of chapter 24 of the Kansas Statutes Annotated, and amendments thereto, shall clearly indicate that the territory of such a city is to be included in such watershed district;
(g) "specific project" means any project outlined and proposed by the directors and may constitute all or part of a general plan;
(h) "watershed" shall mean all of the area within the state draining toward a selected point on any watercourse, stream, lake or depression;
(i) "subwatershed" shall mean a division of the district as nearly equal in size to other divisions of the district as feasible and including as nearly as practicable one or more tributaries to the main stream which drains from the district;
(j) "qualified voter" shall mean any qualified elector of the district and any person 18 years of age or over owning land within the district, although not a resident therein;
(k) "landowner" shall mean the record owner of the fee in any real estate in the district or the fee in the surface rights of any real estate in the district, but the owners of an oil and gas lease, mineral rights or interest, easements or mortgages as such shall not be considered landowners, and school districts, cemetery associations and municipal corporations shall not be considered landowners;
(l) "steering committee" shall be the group of qualified voters, not less than the number to be chosen for the board of directors, who shall serve as the governing body of the proposed watershed district until the first board of directors is elected; and
(m) "general plan" shall mean a preliminary engineering report describing the characteristics of the district, the nature and methods of dealing with the soil and water problems within the district, and the projects proposed to be undertaken by the district. It shall include maps, descriptions and such other data as may be necessary for the location, identification and establishment of the character of the work to be undertaken and such other data and information as the chief engineer may require.

Sec. 48. K.S.A. 24-1204 is hereby amended to read as follows: 24-
1204. The petition required by K.S.A. 24-1203, and amendments thereto, shall set forth:

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

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

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

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

(5) Any other matter deemed essential.

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

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

BEFORE THE SECRETARY OF STATE OF THE STATE OF KANSAS
In the Matter of __________ Watershed (Joint) District Number ____, ________ and ________ counties, Kansas.

PETITION

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

(List names and addresses.)

The governing body of the district shall be constituted in a board of directors composed of (number) qualified voters.
That attached hereto, marked Exhibit A and made a part hereof as fully as if set forth herein, is a map showing the lands proposed to be included in the district and subwatersheds therein:

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

(Description of lands by subwatersheds.)

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

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

Submitted to the secretary of state this ______ day of __________, ______.

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

(b) The number of directors of a district or the date of the annual meeting, or both, may be changed at an annual meeting if notice of the proposition of making such change or changes is given at the annual meeting immediately preceding the annual meeting at which when such change or changes are considered. If the number of directors is proposed to be changed, the proposition shall be introduced in the same manner as other items of business and shall clearly show the changes in representation of subwatersheds, if any, and in the length of terms of the directors. It shall be the duty of the board of directors to include the proposition in the notice of the annual meeting at which when such
changes are being considered. If a majority of those voting are favorable, the election of directors shall be in conformance with the adopted proposal and all powers shall be exercised by the newly constituted board beginning immediately after the annual meeting. Copies of the minutes of the annual meeting and report on the financial condition and activities of the district shall be furnished to the Kansas department of agriculture water and environment, division of environment and conservation.

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

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

Sec. 52. K.S.A. 32-1154 is hereby amended to read as follows: 32-1154. The secretary of health water and environment shall adopt such rules and regulations as are necessary to properly administer and enforce the provisions of K.S.A. 32-1152 through 32-1154, inclusive and amendments thereto. The secretary in adopting rules and regulations shall provide that any vessel having lawful registration from other than the state of Kansas and having marine toilets designed or intended to discharge marine sewage to the waters of the state, may be operated, launched, moored, docked or used on the waters of the state, if such vessel is in compliance with all applicable state and federal marine toilet requirements applicable and associated with the vessel registration. All vessels located on waters of this
state may be inspected at any time for the purpose of determining if such
vessel is in compliance with this act, and the secretary or the designees of
the secretary shall have all powers necessary to properly enforce such rules
and regulations.

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

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

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

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

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

(a) A majority of the qualified owners of irrigable lands within a proposed
irrigation district who shall be three or more persons and who own,
collectively, at least 60 acres of land—which that are susceptible of
irrigation, and who own a majority of the irrigable acres in such proposed
district, may petition and make application to the chief engineer of the
Kansas department of water and environment, division of water resources
of the Kansas department of agriculture, for the organization,
establishment and authority to incorporate an irrigation district under the
provisions of this act. Qualified owners of irrigable land shall be
understood and construed to mean taxpayers of such proposed district
owning irrigable land or some interest therein, in such proposed district. A
qualified owner of irrigable land who is a tenant in common shall be
understood and construed to own the number of acres of land—to which
that such person would be entitled to in the event that partition were made
of such real estate, in kind, upon an acreage basis and not a valuation
basis. A qualified owner of irrigable land who is a joint tenant shall be
understood and construed to own the number of acres such person would
receive in the event that the tract of land involved were divided, in kind,
equally among the joint tenants owning such tract, upon an acreage basis
and not upon a valuation basis. A corporation incorporated under the
provisions of K.S.A. 17-5901, and amendments thereto, trust, association
or partnership which legally holds title to such irrigable land shall be a
qualified owner of irrigable land under the provisions of this act. Lands to
be included in a district need not be contiguous. Irrigation districts may be
formed in order to cooperate with the United States under the federal
reclamation laws, heretofore or hereafter enacted, or under any act of
congress which shall permit the performance by the United States of
work in this state for the purpose of construction of irrigation works,
including drainage works, or for purchase, extension, operation, or
maintenance of constructed works, or for the assumption, as a principal or
guarantor, of indebtedness to the United States on account of district
works. When organized, irrigation districts shall have the authority and
power conferred, or that may hereafter be conferred, by law upon such
irrigation districts.

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

Sec. 55. K.S.A. 42-725 is hereby amended to read as follows: 42-725.
The holders of title, representing one-half or more of lands, which taken together constitute one tract of land located adjacent to the boundaries of an irrigation district or located within the same county as a part of an irrigation district, may file with the directors of such irrigation districts, a petition for the changing and extending the boundaries of such district to include such additional lands. The holders of title to lands located within the boundaries of an irrigation district may file with the directors of such irrigation district a petition for the changing of the boundaries of such district to exclude from the district lands which they own. The petition shall describe the boundaries of the proposed additional lands or lands to be excluded, and shall describe the boundaries of the several parcels respectively owned by each of the petitioners, but such description need not be more particular than is required by fractional portions of a quarter section of land. A certified copy of the petition and description of additional lands, proposed to be included in the district, or a description of the lands proposed to be excluded shall be filed with the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture. The board of directors of the irrigation district shall not take action upon such petition without the approval of said the chief engineer. A signer upon such petition shall not be permitted to withdraw his name as a signer except for fraud, undue influence or mutual mistake of fact.

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

Sec. 57. K.S.A. 47-1511 is hereby amended to read as follows: 47-1511. Upon request of the animal health commissioner, the secretary of health of water and environment shall make staff engineers available to assist: (1) An operator of any feedlot in the state of Kansas; and (2) any person who has applied for a license to operate a feedlot in the state of Kansas, in the development of plans and in the design for the construction of facilities for a feedlot in order to control pollution of streams and lakes. Nothing in this act shall be construed as limiting the authority of the
Sec. 58. K.S.A. 2021 Supp. 48-1603 is hereby amended to read as follows: 48-1603. As used in this act:

(a) "By-product material" means: (1) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;
(2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content;
(3) (A) any discrete source of radium-226 that is produced, extracted or converted after extraction for use for a commercial, medical or research activity; or
(B) any material that:
(i) Has been made radioactive by use of a particle accelerator; and
(ii) is produced, extracted or converted after extraction for use for a commercial, medical or research activity; or
(4) any discrete source of naturally occurring radioactive material, other than source material, that:
(A) The secretary declares by order would pose a threat to the public health and safety or the common defense and security similar to the threat posed by a discrete source of radium-226 after the United States nuclear regulatory commission, or any successor thereto, determines the same threat; and
(B) is extracted or converted after extraction for use in a commercial, medical or research activity.
(b) "Department" means the Kansas department of health water and environment.
(c) "Civil penalty" means any monetary penalty levied on a licensee or registrant because of violations of statutes, regulations, licenses or registration certificates, but does not include criminal penalties.
(d) "Closure" or "site closure" means all activities performed at a waste disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance and monitoring are necessary at the site following termination of licensed operation.
(e) "Decommissioning" means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material and to carry out any other activities to prepare the site for postoperational care.
(f) "Disposal of low-level radioactive waste" means the isolation of
such waste from the biosphere.

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

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

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

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

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

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

(2) high-level radioactive waste;

(3) transuranic waste;

(4) spent nuclear fuel; or

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

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

(m) "Radiation" means: (1) Ionizing radiation including gamma rays, X-rays, alpha particles, beta particles, and including neutrons; (2) any
electromagnetic radiation other than ionizing radiation—which that is generated during the operation of an electronic product; or (3) any sonic, ultrasonic, or infrasonic wave—which that is emitted from an electronic product as a result of the operation of an electronic circuit in such product.

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

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

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

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

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

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

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

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

(v) "Spent nuclear fuel" means irradiated nuclear fuel that has
undergone at least one year's decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, by-product material, source material and other radioactive material associated with fuel assemblies.

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

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

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

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

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

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

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

(c) The secretary may:

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

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

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

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

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

(6) institute training programs for the purpose of qualifying personnel to carry out the provisions of this act, and make personnel available for
participation in any program or programs of the federal government, other
states or interstate agencies in furtherance of the purposes of this act;
(7) fix, charge and collect fees for licenses and registrations, and
renewals thereof, issued under the nuclear energy development and
radiation control act to cover all or any part of the cost of administering
such act; and
(8) receive any moneys in the form of grants, gifts, licensing or
registration fees, or as paid under an agreement with the secretary or as
reimbursement for remedial action costs.
(d) Subject to the following limitations, the secretary may assess a fee
for the following categories of radiation protection services:

### Fee Category:

#### 1. Special nuclear material

<table>
<thead>
<tr>
<th>Fee Category</th>
<th>Description</th>
<th>Maximum annual fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A.</td>
<td>Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems</td>
<td>$950</td>
</tr>
<tr>
<td>1. B.</td>
<td>Any licenses not otherwise specified in this table for possession and use of special nuclear material, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical mass</td>
<td>$2,250</td>
</tr>
</tbody>
</table>

#### 2. Source material

<table>
<thead>
<tr>
<th>Fee Category</th>
<th>Description</th>
<th>Maximum annual fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. A.</td>
<td>Licenses that authorize only the possession, use and/or installation of source material for shielding</td>
<td>$365</td>
</tr>
<tr>
<td>2. B.</td>
<td>All other source material licenses not otherwise specified in this table</td>
<td>$5,700</td>
</tr>
</tbody>
</table>

#### 3. Radioactive or byproduct material

<table>
<thead>
<tr>
<th>Fee Category</th>
<th>Description</th>
<th>Maximum annual fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. A.</td>
<td>Licenses of broad scope for possession and use of radioactive or byproduct material issued for processing or manufacturing of items containing radioactive or byproduct material for commercial distribution</td>
<td>$10,900</td>
</tr>
<tr>
<td>3. B.</td>
<td>Other licenses for possession and use of radioactive or byproduct material issued for processing or manufacturing of items containing radioactive or byproduct material for commercial distribution</td>
<td>$3,300</td>
</tr>
<tr>
<td>3. C.</td>
<td>Licenses authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing</td>
<td></td>
</tr>
</tbody>
</table>
radioactive or byproduct material. This category also includes
the possession and use of source material for shielding when
included on the same license
Maximum annual fee..........................................................$5,450
D. Licenses and approvals authorizing distribution or
redistribution of radiopharmaceuticals, generators, reagent kits
and/or sources or devices not involving processing of
radioactive or byproduct material. This category also includes
the possession and use of source material for shielding when
included on the same license
Maximum annual fee..........................................................$2,350
E. Licenses for possession and use of radioactive or byproduct
material in sealed sources for irradiation of materials in which
the source is not removed from its shield (self-shielded units)
Maximum annual fee..........................................................$1,800
F. Licenses for possession and use of less than 10,000 curies of
radioactive or byproduct material in sealed sources for
irradiation of materials in which the source is exposed for
irradiation purposes. This category also includes underwater
irradiator for irradiation of materials in which the source is
not exposed for irradiation purposes
Maximum annual fee..........................................................$3,300
G. Licenses for possession and use of 10,000 curies or more of
radioactive or byproduct material in sealed sources for
irradiation of materials in which the source is exposed for
irradiation purposes. This category also includes underwater
irradiator for irradiation of materials in which the source is
not exposed for irradiation purposes
Maximum annual fee..........................................................$12,050
H. Licenses issued to distribute items containing radioactive or
byproduct material that require device review to persons
exempt from licensing, except specific licenses authorizing
redistribution of items that have been authorized for
distribution to persons exempt from licensing
Maximum annual fee..........................................................$3,000
I. Licenses issued to distribute items containing radioactive or
byproduct material or quantities of radioactive or byproduct
material that do not require device review to persons exempt
from licensing, except for specific licenses authorizing
redistribution of items that have been authorized for
distribution to persons exempt from licensing
Maximum annual fee..........................................................$3,050
J. Licenses issued to distribute items containing radioactive or
byproduct material that require sealed source and/or device
review to persons generally licensed, except specific licenses
authorizing redistribution of items that have been authorized
for distribution to persons generally licensed
Maximum annual fee..................................................$1,100
K. Licenses issued to distribute items containing radioactive or
byproduct material or quantities of radioactive or byproduct
material that do not require sealed source and/or device review
to persons generally licensed, except specific licenses
authorizing redistribution of items that have been authorized
for distribution to persons generally licensed
Maximum annual fee..................................................$700
L. Licenses of broad scope for possession and use of radioactive
or byproduct material issued for research and development that
do not authorize commercial distribution
Maximum annual fee..................................................$5,900
M. Other licenses for possession and use of radioactive or
byproduct material issued for research and development that
do not authorize commercial distribution
Maximum annual fee..................................................$2,800
N. Licenses that authorize services for other licensees, except
(1) Licenses that authorize only calibration and/or leak testing
services are subject to the fees specified in fee category 3P;
and (2) licenses that authorize waste disposal services are
subject to the fees specified in fee categories 4A, 4B and 4C
Maximum annual fee..................................................$3,050
O. Licenses for possession and use of radioactive or byproduct
material for industrial radiography operations. This category
also includes the possession and use of source material for
shielding when authorized on the same license
Maximum annual fee..................................................$6,100
P. All other specific radioactive or byproduct material licenses
not otherwise specified in this table
Maximum annual fee..................................................$1,250
Q. Registration of generally licensed devices or sources
Maximum annual fee..................................................$225
4. Waste disposal and processing
A. Licenses authorizing the possession and use of waste
radioactive, by-product, source or special nuclear material for a
commercial low-level radioactive waste disposal facility.
Maximum annual fee..................................................Full cost
  i. Amendment to license concerning safety and environmental
questions
Maximum amendment fee...........................................Full cost
ii. Amendment to license concerning administration questions
    (no safety or environment questions)
    Maximum amendment fee...........................................Full cost
B. Licenses specifically authorizing the receipt of waste
    radioactive or byproduct material, source material or special
    nuclear material from other persons for the purpose of
    packaging or repackaging the material. The licensee will
    dispose of the material by transfer to another person authorized
    to receive or dispose of the material
    Maximum annual fee....................................................$5,150
C. Licenses specifically authorizing the receipt of prepackaged
    waste radioactive or byproduct material, source material or
    special nuclear material from other persons. The licensee will
    dispose of the material by transfer to another person authorized
    to receive or dispose of the material
    Maximum annual fee....................................................$3,700

5. Well logging
A. Licenses for possession and use of radioactive or byproduct
    material, source material and/or special nuclear material for
    well logging, well surveys and tracer studies other than field
    flooding tracer studies
    Maximum annual fee....................................................$2,350
B. Licenses for possession and use of radioactive or byproduct
    material for field flooding tracer studies
    Maximum annual fee....................................................$2,350

6. Nuclear laundries
A. Licenses for commercial collection and laundry of items
    contaminated with radioactive or byproduct material, source
    material or special nuclear material
    Maximum annual fee....................................................$11,550

7. Medical licenses
A. Licenses issued for human use of radioactive or byproduct
    material, source material or special nuclear material in sealed
    sources contained in teletherapy devices. This category also
    includes the possession and use of source material for shielding
    when authorized on the same license
    Maximum annual fee....................................................$5,500
B. Licenses of broad scope issued to medical institutions or two
    or more physicians authorizing research and development,
    including human use of radioactive or byproduct material
    except licenses for radioactive or byproduct material, source
    material or special nuclear material in sealed sources contained
in teletherapy devices. This category also includes the
possession and use of source material for shielding when
authorized on the same license. Separate annual fees will not
be assessed for pacemaker licenses issued to medical
institutions who also hold nuclear medicine licenses under
categories 7B or 7C

Maximum annual fee....................................................$12,350

C. Other license issued for human use of radioactive or byproduct
material, source material and/or special nuclear material except
licenses for radioactive or byproduct material, source material
or special nuclear material in sealed sources contained in
teletherapy devices. This category also includes the possession
and use of source material for shielding when authorized on
the same license. Separate annual fees will not be assessed for
pacemaker licenses issued to medical institutions who also
hold nuclear medicine licenses under categories 7B or 7C

Maximum annual fee...............................................$2,300

8. Civil defense

A. Licenses for possession and use of radioactive or byproduct
material, source material or special nuclear material for civil
defense activities

Maximum annual fee..................................................$650

9. Device, product or sealed source safety evaluation

A. Safety evaluation review of devices or products containing
radioactive or byproduct material, source material or special
nuclear material, except reactor fuel devices, for commercial
distribution. This fee shall apply to each device or product

Maximum annual fee...................................................$3,500

B. Safety evaluation review of devices or products containing
radioactive or byproduct material, source material or special
nuclear material manufactured in accordance with the unique
specifications of, and for use by, a single applicant, except
reactor fuel devices. This fee shall apply to each device or
product

Maximum annual fee...................................................$3,500

C. Safety evaluation of sealed sources containing radioactive or
byproduct material, source material or special nuclear material,
except reactor fuel, for commercial distribution. This fee shall
apply to each device or product

Maximum annual fee..................................................$1,100

D. Registrations issued for the safety evaluation of sealed sources
containing radioactive or byproduct material, source material
or special nuclear material, manufactured in accordance with
the unique specifications of, and for use by, a single applicant.
This fee shall apply to each device or product
Maximum annual fee.................................................$365

10. Special projects
A. Hourly rate for radiation control program activities for which
there is not an established fee category or for radiation
protection services provided to nonlicensees and nonregistrants
Maximum hourly rate..................................................$79

11. Reciprocity
A. Licensees who conduct activities under a reciprocal agreement
Maximum annual fee..................................................$750
B. Registrants who conduct activities under a reciprocal agreement
Maximum annual fee..................................................$200

12. X-ray machines
A. Base registration fee per facility
Maximum annual fee..................................................$200
B. Registration fee for each x-ray tube at a facility. This fee is in
addition to the base registration fee
Maximum annual fee per x-ray tube...............................$50

13. Accelerators
A. Particle accelerators
Maximum annual fee..................................................$300

14. New license and registration applications
A. New license and registration applications. Equal to annual fee
of applicable category
For licenses or registrations that authorize more than one activity, an
annual fee shall be assessed for each of the applicable categories.
(e) (1) An additional fee up to 50% of the maximum annual fee shall
be assessed for each noncontiguous site where radioactive material is
stored or used under the same license, per category.
(2) As used in this subsection, "noncontiguous site" means a location
more than one mile away from the main safety office where licensure
records are maintained.
(f) The secretary shall adopt rules and regulations fixing the fees for
the radiation protection services provided under this act and shall
periodically increase or decrease such fees consistent with the need to
cover all or any part of the cost of administering such act.
Sec. 60. K.S.A. 2021 Supp. 48-1608 is hereby amended to read as
follows: 48-1608. (a) (1) In any proceeding under this act for the adoption
or amendment of rules and regulations relating to control of sources of
radiation or for granting, suspending, revoking or amending any license,
the secretary shall afford an opportunity for a hearing on the record upon
the written request of any person whose interest may be affected by the proceeding and shall admit any such person as a party to such proceeding.

(2) In any proceeding for licensing ores processed primarily for their source material content and disposal of by-product material or source material mill tailings or for licensing disposal of low-level radioactive waste, the secretary shall provide an opportunity, after public notice, for written comments and a public hearing, and prior to any such proceeding the secretary shall prepare, for each licensed activity—\textit{which}\ that has a significant impact on the human environment, a written analysis of the impact of such licensed activity on the environment. The analysis shall be available to the public before the commencement of any such hearing and shall include an assessment of the radiological and nonradiological impacts to the public health; an assessment of any impact on any waterway and groundwater; consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted and consideration of the long-term impacts, including decommissioning, decontamination and reclamation of facilities and sites associated with the licensed activities and management of any radioactive materials—\textit{which}\ that will remain on the site after such decommissioning, decontamination and reclamation.

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

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

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

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

Sec. 61. K.S.A. 49-403 is hereby amended to read as follows: 49-403.

As used in the mined-land conservation and reclamation act:

(a) "Minerals" means coal.

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

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

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

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

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

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

(h) "Secretary" means the secretary of the Kansas department of health and environment.

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

(j) "Department" means the Kansas department of health and environment.

(k) "Abandoned mines" means mined land where mining operations
were completed prior to such mining operations being subject to the provisions of this act or the national surface mining control and reclamation act of 1977 (Public Law 95-87).

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

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

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

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

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

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

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

(1) Activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of
explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or, preparation, loading of coal at or near the mine site.

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

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

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

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

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

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

(b) "Infrastructure" means basic facilities, services and installations needed for the functioning of a community, including, but not limited to,
water service, fire protection, law enforcement services and retail establishments—which sell groceries, toiletries and other basic necessities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) No trustee shall be charged personally with any liability whatsoever by reason of any act or omission in the performance of the
trust or in the operation of the trust property but any act, liability for any
omission or obligation of a trustee or trustees, in the execution of the trust,
or in the operation of the trust property, shall extend to the whole of the
trust, or so much thereof as may be necessary to discharge such liability or
obligation, and not otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 68. K.S.A. 2021 Supp. 49-623 is hereby amended to read as follows: 49-623. (a) The secretary, with the approval of the commission, shall adopt such rules and regulations as necessary to administer and enforce the provisions of this act.
(b) The director shall determine annually the amount necessary to carry out and enforce the provisions of this act for the next ensuing fiscal year and shall recommend to the secretary such license renewal, registration application, registration and registration renewal fees as the director determines necessary for that purpose. The director shall adopt such fees by rules and regulations.

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

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

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

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

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

Sec. 69. K.S.A. 2021 Supp. 55-153 is hereby amended to read as follows: 55-153. There is hereby established the advisory committee on regulation of oil and gas activities to be composed of 12 members. One member shall be appointed by each of the following associations: Kansas petroleum council, Kansas independent oil and gas association and eastern Kansas oil and gas association. One member shall be appointed jointly by the Kansas farm bureau and Kansas livestock association and such person shall be an owner of a surface interest. One member shall be appointed jointly by the southwest Kansas royalty owners association and the eastern Kansas royalty owners association and such person shall be an owner of a mineral interest. One member shall be appointed by the governor from the general public. One member shall represent groundwater management districts and shall be appointed jointly by the presidents of each groundwater management district. All such appointees shall serve at the pleasure of the appointing authority. The following state agencies shall designate a person as a member of such committee: The commission, the department of health and environment, the Kansas geological survey, the Kansas water office department of water and environment, division of water and environmental planning and the Kansas department of water and environment, division of water resources of the Kansas department of agriculture. The designated person of the commission shall be the chairperson of the advisory committee. The committee shall meet at least once each quarter calendar year and upon the call of the chairperson. The
committee shall review and make recommendations on oil and gas activities, including but not limited to current drilling methods, geologic formation standards, plugging techniques, casing and cementing standards and materials and all matters pertaining to the protection of waters of the state from pollution relating to oil and gas activities.

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

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

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

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

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

(1) Salt solution mining;

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

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

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

(1) Site selection criteria;

(2) design and development criteria;

(3) operation criteria;

(4) casing requirements;

(5) monitoring and measurement requirements;

(6) safety requirements, including public notification;

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

(8) long term monitoring.

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

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

(B) permitting, monitoring and inspecting underground storage of liquid petroleum gas and hydrocarbons, other than natural gas in
underground porosity storage; and
(C) permitting, monitoring and inspecting underground storage of
natural gas in bedded salt.

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

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

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

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

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

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

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

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

Sec. 71. K.S.A. 2021 Supp. 55-1,117a is hereby amended to read as
follows: 55-1,117a. Not later than January 1, 2009, the secretary of health
and environment shall adopt, pursuant to K.S.A. 55-1,117, and
amendments thereto, rules and regulations governing underground crude
oil storage. The secretary, pursuant to K.S.A. 75-5616, and amendments
thereto, shall appoint an advisory committee to consult with and advise the
secretary on the promulgation of such rules and regulations. The advisory committee shall consist of five members who represent persons knowledgeable and experienced in areas related to crude oil storage.

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

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

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

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

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

(b) Subject to the provisions of subsection (h), on and after July 1, 2004, no person shall sell or deliver to any distributor within Kansas or import into Kansas for sale in this state any motor-vehicle fuel containing methyl tertiary-butyl ether (MTBE) in quantities greater than 0.5% by
(c) On and after July 1, 2003, the distributor shall be provided, at the
time of delivery of motor-vehicle fuel, on an invoice, bill of lading,
shipping paper or other documentation, a declaration of the MTBE
content, by volume percent, in the motor-vehicle fuel delivered.
(d) Determination of the volume percentage of MTBE in motor-
vehicle fuel shall be by one or more test methods approved by the
secretary of agriculture water and environment.
(e) In no event shall the provisions of this section be interpreted to
authorize quantities of MTBE in motor-vehicle fuels to exceed those
specified in any applicable Kansas or federal statute.
(f) The secretary of health water and environment or the director of
the Kansas department of water and environment, division of environment
and conservation, upon a finding that a person knowingly and willfully
has violated this section, may impose a penalty not to exceed $10,000
which that shall constitute an actual and substantial economic deterrent to
the violation for which it is assessed. In the case of a continuing violation,
every day such violation continues shall be deemed a separate violation.
No such penalty shall be imposed except after notice of violation and
opportunity for hearing upon the written order of the secretary or the
director of the division of environment and conservation issued to the
person who committed the violation. The order shall state the violation, the
penalty to be imposed and the right to request a hearing thereon. The
request for hearing shall be in writing, directed to the secretary and filed
with the secretary within 15 days after service of the order. The hearings
shall be conducted in accordance with the Kansas administrative procedure
act.
(g) Nothing in this section shall be construed to abridge, limit or
otherwise impair the right of any person to damages or other relief on
account of injury to persons or property and to maintain any action or
other appropriate proceeding therefor.
(h) The provisions of this section shall not take effect until the United
States environmental protection agency grants a waiver allowing the state
of Kansas to control or prohibit the use of MTBE in motor-vehicle fuels.
The secretary of health and environment shall apply for such waiver in a
timely manner in order to obtain such waiver prior to July 1, 2004.
Sec. 74. K.S.A. 65-153f is hereby amended to read as follows: 65-
153f. Each physician or other person attending a pregnant woman in this
state during gestation, with the consent of such woman, shall take or cause
to be taken a sample of blood of such woman within 14 days after
diagnosis of pregnancy is made. Such sample shall be submitted for
serological tests which that meet the standards recognized by the United
States public health service for the detection of syphilis and hepatitis b to a
laboratory approved by the secretary of health of the Kansas department of water and environment for such serological tests. Any state, United States public health service, or United States army, navy or air force laboratory or any laboratory approved by the state health agency of the state in which the laboratory is operated shall be considered approved for the purposes of this act. Any laboratory in this state, performing the tests required by this section shall make a report to the secretary of health and environment of all positive or reactive tests on forms provided by the secretary of health and environment and also shall make a report of the test results to the submitting physician or person attending the woman. Laboratory statements, reports, files and records prepared pursuant to this section shall be confidential and shall not be divulged to or open to inspection by any person other than state or local health officers or their duly authorized representatives, except by written consent of the woman.

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

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

Sec. 77. K.S.A. 65-159 is hereby amended to read as follows: 65-159.
The secretary of health water and environment and the county or joint boards of health shall have the power and authority to examine into all nuisances, sources of filth and causes of sickness that in their opinion may be injurious to the health of the inhabitants within any county or municipality in this state. Whenever any such nuisance, source of filth or cause of sickness shall be found to exist on any private property or upon any watercourse in this state, the secretary of health and environment or county or joint boards of health shall have the power and authority to order, in writing, the owner or occupant thereof at his or her own expense to remove the nuisance, source of filth or cause of sickness within twenty-four (24) hours, or within such reasonable time thereafter as such secretary or such county or joint board may order; and if
the owner or occupant shall fail to obey such order, such owner or
occupant upon conviction shall be fined not less than ten dollars ($10) nor
more than one hundred dollars ($100), and each day's continuance of such
nuisance, source of filth or cause of sickness, after the owner or occupant
thereof shall have been notified to remove the nuisance, source of filth or
cause of sickness, shall be a separate offense.

Sec. 78. K.S.A. 65-162a is hereby amended to read as follows: 65-
162a. As used in K.S.A. 65-163 and, 65-163a; and in K.S.A. 65-171m to
through 65-171t, inclusive and amendments thereto, unless the context
clearly requires otherwise, the following words and phrases shall have the
meanings respectively ascribed to them in this section:
(a) "Person" means an individual, corporation, company, association,
partnership, state, municipality or federal agency.
(b) "Public water supply system" means a system for the provision to
the public of piped water for human consumption, if such system has at
least ten (10) service connections or regularly serves an average of at least
twenty-five (25) individuals daily at least sixty (60) days out of the year.
Such term includes any source, treatment, storage or distribution facilities
under control of the operator of the system and used primarily in
connection with the system, and any source, treatment, storage or
distribution facilities not under such control but—which are used in
connection with such system.
(c) "Secretary" means the secretary of health the Kansas department
of water and environment.
(d) "Supplier of water" means any person who owns or operates a
public water supply system.

Sec. 79. K.S.A. 65-163 is hereby amended to read as follows: 65-163.
(a) (1) No person shall operate a public water supply system within the
state without a public water supply system permit from the secretary. An
application for a public water supply system permit shall be submitted for
review and approval prior to construction and shall include: (A) A copy of
the plans and specifications for the construction of the public water supply
system or the extension thereof; (B) a description of the source from which
the water supply is to be derived; (C) the proposed manner of storage,
purification or treatment for the supply; and (D) such other data and
information as required by the secretary of health and environment. No
source of water supply in substitution for or in addition to the source
described in the application, or in any subsequent application for which
that a public water supply system permit is issued for; shall be used by a
public water supply system, nor shall any change be made in the manner
of storage, purification or treatment of the water supply without an
additional public water supply system permit obtained in a manner similar
to that prescribed by this section from the secretary.
(2) Whenever application is made to the secretary for a public water supply system permit under the provisions of this section, it shall be the duty of the secretary to examine the application without delay and, as soon as possible thereafter, to grant or deny the public water supply system permit subject to any conditions which may be imposed by the secretary to protect the public health and welfare.

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

(b) (1) Whenever a complaint is made to the secretary by any city of the state, by a local health officer, or by a county or joint board of health concerning the sanitary quality of any water supplied to the public within the county in which the city, local health officer or county or joint board of health is located, the secretary shall investigate the public water supply system about which the complaint is made. Whenever the secretary has reason to believe that a public water supply system within the state is being operated in violation of an applicable state law or an applicable rule and regulation of the secretary, the secretary may investigate the public water supply system.

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

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

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

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

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

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

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

(f) There is hereby created an advisory committee to make recommendations regarding: (1) Fees to be adopted by the secretary under subsection (e); (2) means of strengthening on-site technical assistance to
public water supply systems; (3) standards for on-site and classroom water

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

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

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

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

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

(1) The average daily balance of moneys in the public water supply
fee fund for the preceding month; and
(2) the net earnings rate of the pooled money investment portfolio for
the preceding month.

(d) All expenditures from the public water supply fee fund shall be
made in accordance with appropriation acts upon warrants of the director
of accounts and reports issued pursuant to vouchers approved by the
secretary of health, the Kansas department of water and environment for
the purposes set forth in this section.
Sec. 81. K.S.A. 65-163d is hereby amended to read as follows: 65-163d. As used in K.S.A. 65-163d through 65-163u, and amendments thereto:

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

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

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

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

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

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

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

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

(1) Exclude from the priority list any project of a municipality which that has not adopted and implemented conservation plans and practices that are consistent with the guidelines developed and maintained by the Kansas water office department of water and environmental planning pursuant to K.S.A. 74-2608, and amendments thereto;

(2) in consultation with the Kansas water office division of water and environmental planning, encourage regional cooperative public water supply projects in accordance with the public water supply regionalization strategy of the state water plan; and

(3) ensure that a fair proportion, at least but not limited to 20%, of the
total dollar amount of loans to be made available from the fund in each
year will be made available for projects of municipalities having
populations of 5,000 or less, except that, if such municipalities are unable
to utilize the total amount made available under this subsection, the
secretary is authorized to make the unused amount available for other
projects on the priority list.

Sec. 83. K.S.A. 65-164 is hereby amended to read as follows: 65-164.
(a) No person, company, corporation, institution or municipality shall
place or permit to be placed or discharge or permit to flow into any of the
waters of the state any sewage, except as hereinafter provided. This act
shall not prevent the discharge of sewage from any public sewer system
owned and maintained by a municipality or sewerage company, if such
sewer system was in operation and was discharging sewage into the waters
of the state on March 20, 1907, but this exception shall not permit the
discharge of sewage from any sewer system that has been extended
subsequent to such date, nor shall it permit the discharge of any sewage
which that, upon investigation by the secretary of health and
environment as hereinafter provided, is found to be polluting the waters of
the state in a manner prejudicial to the health of the inhabitants thereof.

(b) For the purposes of this act, "sewage" means any substance that
contains any of the waste products or excrementitious or other discharges
from the bodies of human beings or animals, or chemical or other wastes
from domestic, manufacturing or other forms of industry.

(c) Whenever a complaint is made to the secretary of health and
environment by the mayor of any city of the state, by a local health
officer or by a county or joint board of health, complaining of the pollution
or of the polluted condition of any of the waters of the state situated within
the county within which where the city, local health officer or county or
joint board of health is located, it shall be the duty of the secretary of
health and environment to cause an investigation of the pollution or the
polluted condition complained of. Also, whenever the secretary of health
and environment otherwise has reason to believe that any of the waters of
the state are being polluted in a manner prejudicial to the health of any of
the inhabitants of the state, the secretary may initiate an investigation of
such pollution.

(d) Whenever an investigation is undertaken by the secretary of
health and environment, under subsection (c), it shall be the duty of
any person, company, corporation, institution or municipality concerned in
such pollution to furnish, on demand, to the secretary of health and
environment such information as required relative to the amount and
character of the polluting material discharged into the waters by such
person, company, corporation, institution or municipality. If the secretary
of health and environment finds that any of the waters of the state have
been or are being polluted in a manner prejudicial to the health of any of
the inhabitants of the state, the secretary of health and environment shall
have the authority to make an order requiring: (1) Such pollution to cease
within a reasonable time; (2) requiring such manner of treatment or of
disposition of the sewage or other polluting material as, in the secretary's
judgment, is necessary to prevent the future pollution of such waters; or
(3) both. It shall be the duty of the person, company, corporation,
institution or municipality to whom such order is directed to fully comply
with the order of the secretary of health and environment.

(e) Any person, company, corporation, institution or municipality
upon whom an order has been imposed pursuant to subsection (d) may
appeal to the secretary within 30 days after service of the order. If
appealed, a hearing shall be conducted in accordance with the provisions
of the Kansas administrative procedure act.

Sec. 84. K.S.A. 65-165 is hereby amended to read as follows: 65-165.
(a) Upon application made to the secretary of health and environment by the public authorities having by
law the charge of the sewer system of any municipality, township, county
or legally constituted sewer district, or any person, company, corporation,
institution, municipality or federal agency, the secretary of health and
environment shall consider the case of a sewage discharge or sewer
system, otherwise prohibited by this act from discharging sewage into any
of the waters of the state, or the extension of a sewer system. The secretary
shall issue a permit for the extension of the sewer system or for the
discharge of sewage, or both, if the secretary determines that: (1) The
general interests of the public health would be served thereby or the
discharge of such sewage would not detract from the quality of the waters
of the state for their beneficial uses for domestic or public water supply,
agricultural needs, industrial needs, recreational needs or other beneficial
use; and (2) such discharge meets or will meet all applicable state water
quality standards and applicable federal water quality and effluent
standards under the provisions of the federal water pollution control act,
and amendments thereto, as in effect on January 1, 1998. The secretary
shall stipulate in the permit the conditions on which such discharge
will be permitted and shall require such treatment of the sewage as
determined necessary to protect beneficial uses of the waters of the state in
accordance with the statutes and rules and regulations defining the quality
of the water affected by such discharge and may require treatment of the
sewage in accordance with rules and regulations predicated upon
technologically based effluent limitations. Indirect dischargers shall
comply with all applicable pretreatment regulations and water quality
standards.

(b) The secretary of health and environment may establish, by
rules and regulations, a program of annual certification of public sanitary
sewer systems to approve, without the necessity of securing an additional
permit from the secretary, sewer extensions for which when the plans: (1)
Are prepared by a professional engineer, as defined by K.S.A. 74-7003,
and amendments thereto; and (2) conform to the minimum standards of
design for water pollution control facilities published by the secretary. A
public sanitary sewer system shall qualify for such certification only if the
secretary determines that the system has staff, or persons under contract,
qualified to approve sewer extensions and the system complies with any
conditions that the secretary establishes to effectively monitor and control
the certification process, including but not limited to such periodic
reporting of sewer extensions approved or sewer connection permits
issued, or both, as the secretary may require.

(c) If, in the opinion of the secretary of health water and
environment, issuance of general permits is more appropriate than
issuance of individual permits, the secretary may establish, by rule and
regulation, procedures for issuance of general permits to the following
sources and facilities if such sources and facilities involve similar types of
operations, discharge the same types of wastes or engage in the same types
of sludge use or disposal practices, require similar monitoring
requirements or require the same effluent limitations, operating conditions,
or standards for sewage sludge use or disposal: (1) A category of point and
nonpoint sources of sewage such as storm water; (2) other categories of
point and nonpoint sources of sewage; or (3) categories of facilities
treating domestic sewage. Availability of general permits shall be limited
to areas defined by geographical or political boundaries such as, but not
limited to, city, county or state boundaries, state or county roads and
highways or natural boundaries such as drainage basins. The secretary may
establish, by rule and regulation, procedures for the issuance, revocation,
modification and change, reissuance or termination of general permits in
the manner provided by law.

(d) Any permit application may be denied and every permit for the
discharge of sewage shall be revocable, or subject to modification and
change, by the secretary of health water and environment, upon notice
having been served on the public authorities having, by law, the charge of
the sewer system any municipality, township, county or legally constituted
sewer district or on the person, company, corporation, institution,
municipality or federal agency owning, maintaining or using the sewage
system. The length of time after receipt of the notice within which when
the discharge of sewage shall be discontinued may be stated in the permit,
but in no case shall it be less than 30 days or exceed two years; if the
length of time is not specified in the permit, it shall be 30 days. On the
expiration of the period of time prescribed, after the service of notice of
denial, revocation, modification or change from the secretary of health and environment, the right to discharge sewage into any of the waters of the state shall cease and terminate, and the prohibition of this act against such discharge shall be in full force, as though no permit had been granted, but a new permit may thereafter again be granted, as hereinbefore provided.

(e) Any permittee or permit applicant upon whom notice of denial, revocation, modification or change has been served pursuant to subsection (d) may appeal to the secretary of water and environment within 30 days after service of the notice. All permit applications and requests for appeal are subject to the provisions of the Kansas administrative procedure act.

Sec. 85. K.S.A. 65-166 is hereby amended to read as follows: 65-166.

It is required of public authorities having by law the charge of the sewer system of any municipality, township, county, or legally constituted sewer district, and of each and every person, company, corporation, institution, municipality, or federal agency, that upon making application for a permit to discharge sewage into any waters of the state, or the extension of any sewer system, the application shall be accompanied by plans and specifications for the construction of the sewage collection systems and/or sewage treatment or disposal facilities, and any additional facts and information as the secretary of health water and environment may require to determine adequate protection of the public health of the state and the beneficial uses of waters of the state.

Sec. 86. K.S.A. 65-166a is hereby amended to read as follows: 65-166a. (a) The secretary of health water and environment is authorized and directed to establish by duly adopted rules or regulations a schedule of fees to defray all or any part of the costs of administering the water pollution control permit system established by K.S.A. 65-165 and 65-166, and amendments thereto. The amount of the fees so established shall be based upon the quantity of raw wastes or treated wastes to be discharged, units of design capacity of treatment facilities or structures, numbers of potential pollution units, physical or chemical characteristics of discharges and staff time necessary for review and evaluation of proposed projects. In establishing the fee schedule, the secretary of health and environment shall not assess fees for permits required in the extension of a sewage collection system, but such fees shall be assessed for all treatment devices, facilities or discharges where a permit is required by law and is issued by the secretary of health and environment or the secretary's designated representative. Such fees shall be nonrefundable.

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

(c) A permit shall be required for:

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

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

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

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

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

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

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

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

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

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

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

(f) The secretary of health water and environment shall remit all
moneys received from the fees established pursuant to this act to the state
treasurer in accordance with the provisions of K.S.A. 75-4215, and
amendments thereto. Upon receipt of each such remittance, the state
treasurer shall deposit the entire amount in the state treasury to the credit
of the water program management fund created in K.S.A. 65-166b, and
amendments thereto.

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

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

Sec. 87. K.S.A. 65-166b is hereby amended to read as follows: 65-166b. (a) There is hereby created in the state treasury the water program management fund. The secretary of water and environment shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys collected or received by the secretary from the following sources:

(1) Water pollution control permit system fees imposed pursuant to K.S.A. 65-166a, and amendments thereto;

(2) Interest attributable to investment of moneys in the water program management fund;

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

(4) Any other moneys provided by law.

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

(b) Moneys in the water program management fund shall be expended for the following purposes:

(1) Monitoring and investigating the quality of waters of the state;

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

(3) Payment for emergency action by the secretary of water and environment as necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release from a wastewater treatment facility;

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

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

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

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the water program management fund interest earnings based on:
(1) The average daily balance of moneys in the water program management fund for the preceding month; and
(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

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

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

Sec. 88. K.S.A. 65-167 is hereby amended to read as follows: 65-167. Upon conviction, the penalty for the willful or negligent discharge of sewage into or from the sewer system of any municipality, township, county or legally constituted sewer district by the public authorities having, by law, charge thereof or by any person, company, corporation, institution, municipality or federal agency, into any of the waters of the state without a permit, as required by this act, or in violation of any term or condition of a permit issued by the secretary of health water and environment, or in violation of any requirements made pursuant to K.S.A. 65-164, 65-165 or 65-166, and amendments thereto, shall be not less than $2,500 and not more than $25,000, and a further penalty of not more than $25,000 per day for each day the offense is maintained. The penalty for the discharge of sewage into or from any sewage system into any waters of the state without filing a report, in any case in which a report is required by this act to be filed shall be not less than $1,000 and not more than $10,000 per day for each day the offense is maintained.

Sec. 89. K.S.A. 65-169 is hereby amended to read as follows: 65-169. Any person, company, corporation, institution or municipality who shall fail to furnish, on demand, to the secretary of health water and environment such information as may be required by said the secretary under the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars ($50) and not more than five hundred dollars ($500). Any person, company, corporation, institution or municipality who shall fail to fully comply with the requirements of the secretary of health and environment herein authorized to be made shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-
five dollars ($25) and not more than one hundred dollars ($100) for each offense. The failure to comply with such requirements in each day—in which when such failure is made shall be considered to constitute a separate offense.

Sec. 90. K.S.A. 65-170 is hereby amended to read as follows: 65-170.

(a) For the purpose of carrying out the provisions of this act it shall be the duty of the director of the Kansas department of water and environment, division of environment and conservation to investigate and report upon all matters relating to water supply and sewerage and the pollution of the waters of the state that may come before the secretary of health of water and environment for investigation or action, and to make such recommendations in relation thereto as the director may deem wise and proper, and to make such special investigations in relation to methods of sewage disposal and to public water supply and the purification of water as may be necessary in order to make proper recommendations in regard thereto, or as may be required by the secretary of health and environment.

(b) Suits under the provisions of this act shall be brought in the name of the state of Kansas by the attorney general of the state in any court of competent jurisdiction, and the penalties and fines recoverable under the provisions of this act shall be paid to the state treasurer as provided in K.S.A. 20-2801, and amendments thereto.

Sec. 91. K.S.A. 65-170b is hereby amended to read as follows: 65-170b. (a) In performing investigations or administrative functions relating to water pollution or a public water supply system as provided by K.S.A. 65-161 through 65-171j, inclusive, or any and amendments thereto, the secretary of health of water and environment or the secretary's duly authorized representatives upon presenting appropriate credentials, may enter any property or facility which is subject to the provisions of K.S.A. 65-161 through 65-171j, inclusive, or any and amendments thereto, for the purpose of observing, monitoring, collecting samples, examining records and facilities to determine compliance or noncompliance with state laws and rules and regulations relating to water pollution or public water supply.

(b) The secretary of health of water and environment or the secretary's duly authorized representative shall make such requirements as they deem necessary relating to the inspection, monitoring, recording and reporting by any holder of a sewage discharge permit issued under K.S.A. 65-165, and amendments thereto, or any holder of a public water supply system permit issued under K.S.A. 65-163, and amendments thereto.

Sec. 92. K.S.A. 65-170d is hereby amended to read as follows: 65-170d. (a) Any person who violates: (1) Any term or condition of any sewage discharge permit issued pursuant to K.S.A. 65-165, and amendments thereto; (2) any effluent standard or limitation or any water
quality standard or other rule or regulation promulgated pursuant to K.S.A. 65-171d, and amendments thereto; (3) any filing requirement made pursuant to K.S.A. 65-164 or 65-166, and amendments thereto; (4) any reporting, inspection or monitoring requirement made pursuant to this act or K.S.A. 65-166, and amendments thereto; or (5) any lawful order or requirement of the secretary of health of water and environment shall incur, in addition to any other penalty provided by law, a civil penalty in an amount of up to $10,000 for every such violation. In the case of a continuing violation, every day such violation continues shall, for the purpose of this act, be deemed a separate violation.

(b) The director of the Kansas department of water and environment, division of environment and conservation, upon a finding that a person has violated any provision of subsection (a), may impose a penalty within the limits provided in this section, which and such penalty shall constitute an actual and substantial economic deterrent to the violation for which it is assessed.

(c) No such penalty shall be imposed except upon the written order of the director of the division of environment and conservation to such person stating the violation, the penalty to be imposed and the right of such person to appeal to the secretary of health of water and environment. Any such person may, within 15 days after service of the order make written request to the secretary of health and environment for a hearing thereon. The secretary of health and environment shall hear such person or persons in accordance with the provisions of the Kansas administrative procedure act within 30 days after receipt of such request.

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

Sec. 93. K.S.A. 65-170e is hereby amended to read as follows: 65-170e. (a) The attorney general, upon the request of the secretary of health of water and environment, may bring an action in the name of the state of Kansas in the district court of the county in which any person who violates any of the provisions of this act may do business, to recover penalties or damages as provided by this act.

(b) Any person having an identifiable interest which that is affected shall have the right to intervene in any civil actions brought under this section or K.S.A. 65-171b, and amendments thereto, or in administrative actions subsequent to the issuance of an administrative order by the agency pursuant to K.S.A. 65-164, 65-170d or 65-171d, and amendments thereto, or article 6 of chapter 77 of the Kansas Statutes Annotated, and amendments thereto, to enforce the provisions of the national pollutant discharge elimination system program as approved by the administrator of the United States environmental protection agency pursuant to sections
318, 402 and 405 of the clean water act, as in effect on January 1, 1989, which that seek:

(1) Restraint of persons from engaging in unauthorized activity which that is endangering or causing damage to public health or the environment;

(2) injunction of threatened or continuing violations of this act, rules and regulations promulgated thereunder and permit conditions;

(3) assessment of civil penalties for violations of this act, rules and regulations promulgated thereunder, permit conditions or orders of the Kansas department of water and environment, director of environment and conservation or secretary of health of water and environment.

Sec. 94. K.S.A. 65-170g is hereby amended to read as follows: 65-170g. Records, reports, data or other information obtained relative to or from sources or potential sources of discharges of water pollutants shall be available to the public except that upon a showing satisfactory to the secretary of health of water and environment by any person that such records, reports, data or other information would divulge methods or processes entitled to protection as trade secrets under the uniform trade secrets act (K.S.A. 60-3320 et seq., and amendments thereto), then the secretary of health and environment shall consider such records, reports, data, or other information as confidential. Nothing in this act shall be construed to make confidential any effluent data, including records, reports or information and permits, draft permits and permit applications. Any such records, reports, data, or other information considered confidential may be made available to other officers, employees or authorized representatives of the federal, state and local government with responsibilities in water pollution control and additionally may be utilized in any proceeding whether civil or criminal.

Sec. 95. K.S.A. 65-171a is hereby amended to read as follows: 65-171a. The authority of the secretary of health of water and environment in matters of stream pollution is hereby supplemented to include stream pollution found to be detrimental to public health or detrimental to the animal or aquatic life of the state.

Sec. 96. K.S.A. 65-171b is hereby amended to read as follows: 65-171b. It shall be the duty of the attorney general, on presentation by the secretary of health of water and environment of evidence of abatable pollution of the surface waters detrimental to the animal or aquatic life in the state, to take such action as may be necessary to secure the abatement of such pollution.

Sec. 97. K.S.A. 65-171c is hereby amended to read as follows: 65-171c. The secretary of health of water and environment shall have authority to appoint or employ such technical advisers as may be necessary in order to carry out the provisions of this act.

Sec. 98. K.S.A. 65-171d is hereby amended to read as follows: 65-
171d. (a) For the purpose of preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, and to protect designated uses of the waters of the state and to require the treatment of sewage predicated upon technologically based effluent limitations, the secretary of health of water and environment shall make such rules and regulations, including registration of potential sources of pollution, as may in the secretary's judgment be necessary to: (1) Protect the soil and waters of the state from pollution resulting from underground storage of liquid petroleum gas and hydrocarbons, other than underground porosity storage of natural gas; (2) control the disposal, discharge or escape of sewage as defined in K.S.A. 65-164, and amendments thereto, by or from municipalities, corporations, companies, institutions, state agencies, federal agencies or individuals and any plants, works or facilities owned or operated, or both, by them; and (3) establish water quality standards for the waters of the state to protect their designated uses, including establishment of water quality standards variances that may apply to specified pollutants, permittees, or waterbody segments that reflect the highest attainable condition during the specified time period for the variance. In no event shall the secretary's authority be interpreted to include authority over the beneficial use of water, water quantity allocations, protection against water use impairment of a beneficial use, or any other function or authority under the jurisdiction of the Kansas water appropriation act, K.S.A. 82a-701, and amendments thereto.

(b) The secretary of health of water and environment may adopt by reference any regulation relating to water quality and effluent standards promulgated by the federal government pursuant to the provisions of the federal clean water act, and amendments thereto, as in effect on January 1, 1989, which the secretary is otherwise authorized by law to adopt.

(c) For the purposes of this act, including K.S.A. 65-161 through 65-171h and K.S.A. 65-1,178 through 65-1,198, and amendments thereto, and rules and regulations adopted pursuant thereto:

(1) "Pollution" means: (A) Such contamination or other alteration of the physical, chemical or biological properties of any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to the plant, animal or aquatic life of the state or to other designated uses; or (B) such discharge as will or is likely to exceed state effluent standards predicated upon technologically based effluent limitations.

(2) "Confined feeding facility" means any building, lot, pen, pool or pond: (A) That is used for the confined feeding of animals or fowl for food, fur or pleasure purposes; (B) that is not normally used for raising crops; and (C) in which where no vegetation intended for animal food is
(3) (A) "Animal unit" means a unit of measurement calculated by
adding the following numbers: The number of beef cattle weighing more
than 700 pounds multiplied by 1.0; plus the number of cattle weighing less
than 700 pounds multiplied by 0.5; plus the number of mature dairy cattle
multiplied by 1.4; plus the number of swine weighing more than 55
pounds multiplied by 0.4; plus the number of swine weighing 55 pounds or
less multiplied by 0.1; plus the number of sheep or lambs multiplied by
0.1; plus the number of horses multiplied by 2.0; plus the number of
waterfowl multiplied by 0.018; plus the number of laying hens or broilers, if
the facility has continuous overflow watering, multiplied by 0.01; plus the
number of laying hens or broilers, if the facility has a liquid manure
system, multiplied by 0.033; plus the number of laying hens or broilers, if
the facility has a dry manure system, multiplied by 0.003; plus the number
of ducks multiplied by 0.2. However, each head of cattle will be counted
as one full animal unit for the purpose of determining the need for a
federal permit. A chicken facility using a dry manure system shall obtain a
federal permit if 125,000 or more broilers, or 82,000 or more laying hens,
are confined.

(B) "Animal unit" also includes the number of swine weighing 55
pounds or less multiplied by 0.1 for the purpose of determining applicable
requirements for new construction of a confined feeding facility for which
a permit or registration has not been issued before January 1, 1998, and for
which an application for a permit or registration and plans have not been
filed with the secretary of health and environment before January 1,
1998, or for the purpose of determining applicable requirements for
expansion of such facility.

(C) Except as otherwise provided, animal units for public livestock
markets shall be determined by using the average annual animal units sold
by the market during the past five calendar years divided by 365. Such
animal unit determination may be adjusted by the department if the public
livestock market submits documentation that demonstrates that such
adjustment is appropriate based on the amount of time in 24-hour
increments or partials thereof that animals are at the market.

(4) "Animal unit capacity" means the maximum number of animal
units that a confined feeding facility is designed to accommodate at any
one time.

(5) "Habitable structure" means any of the following structures that
are occupied or maintained in a condition that may be occupied and, in the
case of a confined feeding facility for swine, are owned by a person other
than the operator of such facility: A dwelling, church, school, adult care
home, medical care facility, child care facility, library, community center,
public building, office building or licensed food service or lodging
(6) "Wildlife refuge" means Cheyenne Bottoms wildlife management area, Cheyenne Bottoms preserve and Flint Hills, Quivera, Marais des Cygnes and Kirwin national wildlife refuges.

(d) In adopting rules and regulations, the secretary of health and environment, taking into account the varying conditions that are probable for each source of sewage and its possible place of disposal, discharge or escape, may provide for varying the control measures required in each case to those the secretary finds to be necessary to prevent pollution. If a freshwater reservoir or farm pond is privately owned and where complete ownership of land bordering the reservoir or pond is under common private ownership, such freshwater reservoir or farm pond shall be exempt from water quality standards except as it relates to water discharge or seepage from the reservoir or pond to waters of the state, either surface or groundwater, or as it relates to the public health of persons using the reservoir or pond or waters therefrom.

(e) (1) Whenever the secretary of health and environment or the secretary's duly authorized agents find that storage or disposal of salt water not regulated by the state corporation commission or refuse in any surface pond not regulated by the state corporation commission is causing or is likely to cause pollution of soil or waters of the state, the secretary or the secretary's duly authorized agents shall issue an order prohibiting such storage or disposal of salt water or refuse. Any person aggrieved by such order may within 15 days of service of the order request in writing a hearing on the order.

(2) Upon receipt of a timely request, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(3) Any action of the secretary pursuant to this subsection is subject to review in accordance with the Kansas judicial review act.

(f) The secretary of water and environment may adopt rules and regulations establishing fees for plan approval, monitoring and inspecting underground or buried petroleum products storage tanks, for which. The annual fee shall not exceed $5 for each tank in place.

(g) (1) Prior to any new construction of a confined feeding facility with an animal unit capacity of 300 or more, such facility shall register with the secretary of health of water and environment. Such registration shall be accompanied by a $25 fee. The secretary shall acknowledge the receipt of the registration in a form as designated by the secretary and publish a notice of such receipt.

(2) Such registration shall indicate that the proposed construction will occur within the prescribed tract of land and that the separation distances from the tract boundaries or proposed facility footprint comply with the requirements described in subsections (j), (l) and (m) or exceptions
described in (k).

(3) Within 30 days of receipt of such registration, the *Kansas* department of *health*, *water* and environment shall identify any significant water pollution potential or separation distance violations pursuant to subsection (j).

(A) (i) If the proposed facility has an animal unit capacity of 1,000 or more, or if a significant water pollution potential is identified for a facility of less than 1,000 but more than 300, such facility shall be required to obtain a permit from the secretary.

(ii) If there is no identified water pollution potential posed by a facility with an animal unit capacity of 300 or more but less than 1,000, the secretary shall certify that no permit is required.

(B) If the secretary certifies that no permit is necessary pursuant to subsection (g)(3)(A)(ii), the secretary shall take the following action in regard to separation distances of such facility:

(i) If the separation distances comply with the requirements for separation distances, the secretary shall certify the registration; or

(ii) if the separation distances do not comply with the requirements for separation distances, the secretary:

(a) May reduce the separation distance requirements pursuant to subsection (k) and certify the registration based on such reduction of separation distances; or

(b) shall report the conditions necessary to receive certification to the registrant.

(h) (1) Facilities with a capacity of less than 300 animal units may register with the secretary of *health*, *water* and environment. Such registration shall be accompanied by a $25 fee.

(2) Within 30 days of receipt of such registration, the *Kansas* department of *health*, *water* and environment shall identify any significant water pollution potential. If there is identified a significant water pollution potential, such facility shall be required to obtain a permit from the secretary. If there is no water pollution potential posed by such facility, the secretary may certify that no permit is required.

(i) (1) If a facility requires a permit pursuant to subsection (g)(3) or (h)(2), the registrant shall submit an application for such permit not later than 18 months after the date of receipt of registration or the registration shall expire.

(2) Upon petition by the registrant, the secretary of *water* and *environment* may extend the application period by not more than an additional 18 months, if the secretary believes such an extension is reasonable under the circumstances.

(3) Within 30 days of receipt of an application, the secretary shall notify the registrant of whether the application is complete or incomplete.
If the application is incomplete, such notice shall state the reasons why such application is incomplete. Once such registrant submits an application properly addressing each reason listed as a basis for the determination that the application is incomplete, the secretary shall issue an acknowledgment of receipt of the completed application within 30 days of properly addressing such reasons.

(4) Upon expiration of the application period or any extension thereof, the secretary shall not accept any further registrations pertaining to the same location for a period of not less than 180 days.

(j) (1) Any new construction or new expansion of a confined feeding facility, other than a confined feeding facility for swine, shall meet or exceed the following requirements in separation distances from any habitable structure in existence when the registration is received:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999; and
(B) 4,000 feet for facilities with an animal unit capacity of 1,000 or more.

(2) A confined feeding facility for swine shall meet or exceed the following requirements in separation distances from any habitable structure or city, county, state or federal park in existence when the registration is received:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999;
(B) 4,000 feet for facilities with an animal unit capacity of 1,000 to 3,724;
(C) 4,000 feet for expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion is within the perimeter from which separation distances are determined pursuant to subsection (m) for the existing facility; and
(D) 5,000 feet for: (i) Construction of new facilities with an animal unit capacity of 3,725 or more; or (ii) expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion extends outside the perimeter from which separation distances are determined pursuant to subsection (m) for the existing facility.

(3) Any construction of new confined feeding facilities for swine shall meet or exceed the following requirements in separation distances from any wildlife refuge:

(A) 10,000 feet for facilities with an animal unit capacity of 1,000 to 3,724; and
(B) 16,000 feet for facilities with an animal unit capacity of 3,725 or more.

(k) (1) The separation distance requirements of subsections (j)(1) and (2) shall not apply if the registrant obtains a written agreement from all
owners of habitable structures that are within the separation distance stating such owners are aware of the construction or expansion and have no objections to such construction or expansion. The written agreement shall be filed in the register of deeds office of the county in which where the habitable structure is located.

(2) (A) The secretary of water and environment may reduce the separation distance requirements of subsection (j)(1) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to public notice; or (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances.

(B) The secretary may reduce the separation distance requirements of subsection (j)(2)(A) or (B) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (n); (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances; or (iii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(C) The secretary may reduce the separation distance requirements of subsection (j)(2)(C) or (D) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (l); or (ii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(l) (1) The separation distances required pursuant to subsection (j)(1) shall not apply to:

(A) Confined feeding facilities that were permitted or certified by the secretary of the Kansas department of health and environment on July 1, 1994;

(B) confined feeding facilities that existed on July 1, 1994, and registered with the secretary before July 1, 1996; or

(C) expansion of a confined feeding facility, including any expansion for which an application was pending on July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000 or more prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion; or (ii) in the case of a facility with an animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion and the animal unit capacity of the facility after expansion does not exceed 2,000.
(2) The separation distances required pursuant to subsections (j)(2)
(A) and (B) shall not apply to:
(A) Confined feeding facilities for swine which that were permitted
or certified by the secretary on July 1, 1994;
(B) confined feeding facilities for swine which that existed on July 1,
1994, and registered with the secretary before July 1, 1996; or
(C) expansion of a confined feeding facility which that existed on
July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of
1,000 or more prior to July 1, 1994, the expansion is located at a distance
not less than the distance between the facility and the nearest habitable
structure prior to the expansion; or (ii) in the case of a facility with an
animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion
is located at a distance not less than the distance between the facility and
the nearest habitable structure prior to the expansion and the animal unit
capacity of the facility after expansion does not exceed 2,000.

(3) The separation distances required pursuant to subsections (j)(2)
(C) and (D) and (h)(3) shall not apply to the following, as determined in
accordance with subsections K.S.A. 65-1,178(a), (e) and (f), and
amendments thereto:
(A) Expansion of an existing confined feeding facility for swine if an
application for such expansion has been received by the department before
March 1, 1998; and
(B) construction of a new confined feeding facility for swine if an
application for such facility has been received by the Kansas department
of health and environment before March 1, 1998.

(m) The separation distances required by this section for confined
feeding facilities for swine shall be determined from the exterior perimeter
of any buildings utilized for housing swine, any lots containing swine, any
swine waste retention lagoons or ponds or other manure or wastewater
storage structures and any additional areas designated by the registrant for
future expansion. Such separation distances shall not apply to offices,
dwellings and feed production facilities of a confined feeding facility for
swine.

(n) The registrant shall give the notice required by subsections (k)(2)
(B) and (C) by certified mail, return receipt requested, to all owners of
habitable structures within the separation distance. The registrant shall
submit to the Kansas department of water and environment evidence,
satisfactory to the department, that such notice has been given.

(o) All plans and specifications submitted to the Kansas department
of water and environment for new construction or new expansion of
confined feeding facilities may be, but are not required to be, prepared by
a professional engineer or a consultant, as approved by the department.
Before approval by the department, any consultant preparing such plans
and specifications shall submit to the department evidence, satisfactory to  
the department, of adequate general commercial liability insurance  
coverage.

Sec. 99. K.S.A. 65-171e is hereby amended to read as follows: 65-  
171e. All investigations, services and orders rendered, issued or  
promulgated under the provisions of K.S.A. 65-171d, and amendments  
thereto, shall be made by such agency, section or division of the Kansas  
department of health and environment, or any of them, as may be  
designated by the secretary of health and environment, and all fees  
collected shall be remitted by the secretary to the state treasurer in  
accordance with the provisions of K.S.A. 75-4215, and amendments  
thereto. Upon receipt of each such remittance, the state treasurer shall  
deposit the entire amount in the state treasury to the credit of the state  
general fund.

Sec. 100. K.S.A. 65-171f is hereby amended to read as follows: 65-  
171f. Every public authority having by law the charge of the sewer system  
of any municipality, township, county or legally constituted sewer district  
or any person, company, corporation, institution, municipality or federal  
agency that shall willfully or negligently, fail to comply with the rules,  
regulations and orders of the secretary of health of water and environment  
authorized by K.S.A. 65-171d, as amended and amendments thereto, shall  
be punished upon conviction by a fine of not less than twenty-five dollars  
($25) and not more than ten thousand dollars ($10,000). Each day in which  
that the failure to comply with such requirements and orders continues  
shall constitute a separate offense.

Sec. 101. K.S.A. 65-171h is hereby amended to read as follows: 65-  
171h. The secretary of health of water and environment in pursuance of his  
exercising the secretary's general power of supervision over the interests  
of the health and life of the citizens of this state, and the sanitary  
conditions under which they live and in order to protect the quality of the  
waters of the state for beneficial uses is hereby authorized and empowered  
to develop, assemble, compile, approve and publish minimum standards of  
design, construction, and maintenance of sanitary water and sewage  
systems, and shall publish and make available such approved minimum  
standards to municipalities, communities and citizens of this state, and  
shall from time to time make recommendations to the appropriate  
committees of the legislature, for any legislation that may be required to  
adequately protect air in enclosed spaces, and water supply from  
contamination.

Sec. 102. K.S.A. 65-171l is hereby amended to read as follows: 65-  
171l. Whenever any water sample analysis is required by the secretary of  
health water and environment for the purposes of any permit or application  
for a permit under K.S.A. 65-163, 65-165 or 65-171d, or any amendments
thereto, such water sample analysis shall be performed by a laboratory which that has been certified and approved by the secretary of health and environment pursuant to this act and any rules and regulations adopted hereunder.

Sec. 103. K.S.A. 65-171m is hereby amended to read as follows: 65-171m. (a) The secretary of health and environment shall adopt rules and regulations for the implementation of this act. In addition to procedural rules and regulations, the secretary may adopt rules and regulations providing for but not limited to that: (a) (1) Provide for primary drinking water standards applicable to all public water supply systems in the state. The primary drinking water standards may: (1) (A) Identify contaminants which that may have an adverse effect on the health of persons; (2) (B) specify for each contaminant either a maximum contaminant level that is acceptable in water for human consumption, if it is economically and technologically feasible to ascertain the level of such contaminant in water in public water supply systems; or (C) the treatment techniques or methods which that lead to a reduction of the level of the contaminant sufficient to protect the public health, if it is not economically or technologically feasible to ascertain the level of the contaminant in the water in the public water supply system; and (b) (2) establish the requirements for adequate monitoring, maintenance of records and submission of reports, sampling and analysis of water, citing criteria and review and inspections to insure compliance with the contaminant levels or methods of treatment and to insure proper operation and maintenance of the public water supply system; and (e) (3) provide the definition of different categories of public water supply systems such as community water supply systems and noncommunity water supply systems and may provide for varying requirements for monitoring, maintenance of records and reporting, sampling and analysis of water, citing criteria, and review and inspections based on numbers of persons served, source of supply whether surface or groundwater or other conditions as the secretary may determine to be in the interest of public health and welfare and economic benefits.

(b) The standards established under this section shall be at least as stringent as the national primary drinking water regulations adopted under public law 93-523. No primary drinking water standard or rule and regulation may require the addition of fluorides to public water supplies.

Sec. 104. K.S.A. 65-171n is hereby amended to read as follows: 65-171n. The secretary of health and environment shall develop plans for emergency conditions and situations that may endanger the public health or welfare by contamination of drinking water. The plans shall identify potential sources of contaminants, situations or conditions that could place the contaminants in the public drinking water, techniques and methods to be used by public water supply systems to reduce or eliminate the dangers
to public health caused by the emergency situations or conditions, methods and times for analysis or testing during emergency situations or conditions, alternate sources of water available to public water supply systems and methods of supplying drinking water to consumers if a public water supply system cannot supply the water.

Sec. 105. K.S.A. 65-171o is hereby amended to read as follows: 65-171o. (a) The secretary of health and environment may require a supplier of water to give notice to the persons served by the public water supply system and to the secretary of health and environment whenever the public water supply system:

- is not in compliance with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a primary drinking water standard adopted under K.S.A. 65-171m, and amendments thereto; or
- fails to perform monitoring, testing, analyzing or sampling as required; or
- is subject to a variance or exception; or
- is not in compliance with the requirements prescribed by a variance or exemption; or
- is subject to potential lead contamination from either or both of the following: (1) The lead content in the construction materials of the public water distribution system; (2) corrosivity of the water supply sufficient to cause leaching of lead.

(b) The secretary of health and environment shall by rule and regulation prescribe the form and manner for giving such notice.

Sec. 106. K.S.A. 65-171p is hereby amended to read as follows: 65-171p. (a) The secretary of health and environment may grant a variance from an applicable primary drinking water standard to a public water supply system where the variance will not result in an unreasonable risk to the public health and where, because of the characteristics of the raw water sources reasonably available to the public water supply system, the public water supply system cannot meet the maximum contaminant levels of the primary drinking water standards despite application of the best technology, treatment techniques or other means which the secretary finds are generally available, taking costs into consideration.

(b) Prior to granting a variance, the secretary shall provide notice in a newspaper of general circulation serving the area served by the public water supply system of the proposed variance and that interested persons may request a public hearing on the proposed variance. If a public hearing is requested the secretary shall set a time and place for the hearing. The hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Frivolous or insubstantial requests for a hearing may be denied by the secretary.
(c) A variance shall be conditioned on monitoring, testing, analyzing or other requirements to insure the protection of the public health. A variance granted shall include a schedule of compliance under which the public water supply system is required to meet each contaminant level for which a variance is granted within a reasonable time as specified by the secretary.

Sec. 107. K.S.A. 65-171q is hereby amended to read as follows: 65-171q. (a) The secretary of health and environment may grant an exemption from any requirement relating to a maximum contaminant level or from any treatment technique requirement, or from both, of an applicable primary drinking water standard to a public water supply system upon a finding that: (1) The exemption will not result in an unreasonable risk to the public health; (2) the public water supply system is unable to comply with the contaminant level or treatment technique requirement due to compelling factors, which may include economic factors; and (3) the public water supply system was in operation on the effective date of the contaminant level or treatment technique requirement.

(b) Prior to granting an exemption, the secretary shall provide notice in a newspaper of general circulation serving the area served by the public water supply system of the proposed exemption and that interested persons may request a public hearing on the proposed exemption.

(c) If a public hearing is requested the secretary shall set a time and place for the hearing. Frivolous and insubstantial requests for a hearing may be denied by the secretary. An exemption shall be conditioned on monitoring, testing, analyzing or other requirements to insure the protection of the public health. An exemption granted shall include a schedule of compliance under which the public water supply system is required to meet each contaminant level or treatment technique requirement for which an exemption is granted within a reasonable time as specified by the secretary.

Sec. 108. K.S.A. 65-171r is hereby amended to read as follows: 65-171r. The following acts are prohibited:

(a) The operation of a public water supply system without first obtaining a valid public water supply system permit under K.S.A. 65-163, and amendments thereto;

(b) the operation of a public water supply system in violation of the conditions of the public water supply system permit under K.S.A. 65-163, and amendments thereto;

(c) the failure of a supplier of water under investigation to furnish information to the secretary under K.S.A. 65-163, and amendments thereto;

(d) the failure of a supplier of water to comply with any final order of the secretary issued under the provisions of K.S.A. 65-163 or 65-163a,
and amendments thereto;

(e) the failure of a supplier of water to comply with a primary drinking water standard established under K.S.A. 65-171m, and amendments thereto, and rules and regulations adopted pursuant thereto unless a variance or exception has been granted;

(f) the failure of a supplier of water to comply with the rules and regulations of the secretary for monitoring, maintenance of records and submission of reports, sampling and analysis of water and inspections adopted under K.S.A. 65-171m, and amendments thereto;

(g) the failure of a supplier of water to give notice as required under K.S.A. 65-171o, and amendments thereto, and rules and regulations adopted pursuant thereto;

(h) using any pipe, solder or flux in the installation or repair of any public water supply system or any plumbing in a residential or nonresidential facility providing water for human consumption, which is not lead-free, except that this paragraph shall not apply to leaded joints necessary for the repair of cast iron pipes. As used in this paragraph, "lead-free" means: (1) With respect to its usage in conjunction with solder and flux, solder and flux containing not more than .2% lead, and (2) with respect to its usage in conjunction with pipes and pipe fittings, pipes and pipe fittings containing not more than 8% lead;

(i) the sale of unmarked lead solders and fluxes. A seller of lead solders and fluxes in Kansas shall not sell any solder or flux containing more than .2% lead unless the seller displays a sign and a label is affixed to such product which states: "Contains lead: Kansas law and federal law prohibits the use of this product in any plumbing installation providing water for human consumption."

(j) the application of fertilizers, pesticides or other chemicals by any person through any lawn irrigation system connected to a public water supply system except that in areas where the public water supply system has adopted a program for the detection and elimination of cross connections and prevention of backflow and backsyphonage which has been approved by the secretary of health and environment, such application may be permitted by the public water supply system upon its periodic inspection and current approval of the installed air gap or reduced pressure zone backflow prevention device which isolates the irrigation system; and

(k) the use by any person of a public water supply system as a source of make-up water for bulk chemical application tanks except that: (1) In areas where the public water supply system has adopted a program for the detection and elimination of cross connections and prevention of backflow and backsyphonage which has been approved by the secretary of health and environment, such use may be permitted by the public water
supply system upon its periodic inspection and current approval of an air
gap or reduced pressure zone backflow prevention device to protect the
public water supply; and (2) in areas where the public water supply system
has not adopted a program approved by the secretary of health and
environment, such use shall be permitted if an air gap or reduced pressure
zone backflow prevention device is used and such device meets nationally
recognized standards, as determined by the secretary of health and
environment.

Sec. 109. K.S.A. 65-171t is hereby amended to read as follows: 65-
171t. The attorney general, upon the request of the secretary of health and
environment, shall bring an action in the name of the state of Kansas to
seek injunctive relief to prevent the violation, or to enjoin any continuing
violation, of any provision of this act or any rule and regulation adopted
pursuant to the provisions of this act.

Sec. 110. K.S.A. 65-171u is hereby amended to read as follows: 65-
171u. As used in this act, "person" means any individual, company,
corporation, institution, municipality, township, county, federal agency or
legally constituted sewer district. Any person who violates any of the
provisions of K.S.A. 65-161 to through 65-171, inclusive and amendments
thereo, or any duty imposed therein or who violates an order or other
determination of the secretary of health and environment or
authorized representatives of such secretary made pursuant to the
provisions of such sections, including the stipulations of conditions of a
permit to discharge sewage, and, in the course thereof, causes the death of,
or injury to, fish, animals, vegetation or other resources of the state
whether natural or structural, or otherwise causes a reduction in the quality
of the waters of the state below the standards set by the secretary of health
and environment, thereby damaging the same, shall be liable to pay the
state damages in an amount equal to the sum of money necessary to
restock such waters, replenish or replace such resources and otherwise
restore the stream, lake or other water source to its condition prior to the
injury, as such condition is determined by the Kansas department of water
and environment, division of environment of the department of health and
environment and conservation. Such damages shall not include damages
to private rights or persons or damages to such person. If the person
responsible for damage to resources fails to promptly submit payment for
damages to resources of the state when notified in reasonable detail, then
such damages shall be recoverable in an action brought by the attorney
general on behalf of the people of the state of Kansas in the district court
of the county in which such damages occurred. If damages occurred
in more than one county the attorney general may bring action in any of
the counties where the damages occurred. Any money so recovered by the
attorney general shall be transferred to the agency of the state having
jurisdiction over the resource damaged and for which said such moneys were recovered, as appropriate. The agency receiving such money shall utilize the same on activities or projects to remedy the resources damaged. No action shall be authorized under this section against any person operating in compliance with the conditions of a waste discharge permit issued pursuant to K.S.A. 65-165, and amendments thereto.

Sec. 111. K.S.A. 2021 Supp. 65-171v is hereby amended to read as follows: 65-171v. (a) As used in this section:

(1) "Cleanup" means all actions necessary to contain, collect, control, identify, analyze, treat, disperse, remove or dispose of a pollutant necessary to restore the environment to the extent practicable and minimize the harmful effects from the release;

(2) "cleanup costs" means all costs incurred by the state during a cleanup of a release of a pollutant, including costs necessary for regulator oversight of the cleanup;

(3) "department" means the Kansas department of water and environment;

(4) "emergency" means any release that poses an imminent risk to public health or the environment;

(4)/(5) "person" means any individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency;

(5)/(6) "pollutant" means any substance that alters the natural physical, chemical or biological properties of any waters or soils of the state so as to render such waters or soils harmful, detrimental or injurious to public health, or to the plant, animal or aquatic life of the state or to other designated uses. "Pollutant" does not include any animal or crop waste or manure on an agricultural operation or in an agricultural facility; and

(6)/(7) "release" means any threatened or real emission, discharge, spillage, leakage, pumping, pouring, emptying, escape or dumping of a pollutant into or onto the waters or soil of the state, except when done in compliance with the conditions of a federal or state permit or in accordance with the product label or as part of normal agricultural activities; and

(8) "secretary" means the secretary of the Kansas department of water and environment.

(b) For the purpose of preventing water and soil pollution detrimental to public health or the environment, the secretary of health and environment shall:

(1) Adopt rules and regulations that, in the secretary's judgment, are necessary to respond to and report the release of a pollutant;

(2) designate a 24-hour statewide telephone number whereby the
notice of any release of a pollutant may be made;
(3) provide minimum reportable quantities;
(4) order a person responsible for the release of a pollutant to perform
a cleanup of the release; and
(5) take necessary action to perform a cleanup of a release if the
person responsible for the release cannot be identified within a reasonable
period of time.
(c) The secretary may:
(1) Provide technical guidance, oversight and assistance to other state
agencies, political subdivisions of the state and other persons for the
cleanup of and response to the release of a pollutant;
(2) take necessary action to perform a cleanup of a release of a
pollutant if a person responsible for the release fails to take reasonable
actions required by the secretary to perform a cleanup of the release; and
(3) perform a cleanup of a release of a pollutant if the release poses
an emergency.
(d) (1) Whenever a pollutant is released intentionally, accidentally or
inadvertently, the person responsible for the release shall be responsible
for the cleanup of the release.
(2) The person responsible for the release of any pollutant, regardless
of phase or physical state, shall give notice to the department of health and
environment when the release exceeds reportable quantities.
(3) The person responsible for the release shall be responsible for
repayment of the cleanup costs incurred by the department upon
reasonably detailed notice by the secretary or the secretary's designee. If
the responsible party fails to submit payment for costs of the cleanup
operations promptly after giving notice, repayment costs shall be
recoverable in an action brought by the attorney general in the district
court of the county where such costs were incurred.
(e) (1) Upon a finding that a person has violated any provision of this
section or rules and regulations or orders adopted hereunder, the secretary
may impose a penalty not to exceed $5,000. In the case of a continuing
violation, the maximum penalty shall not exceed $15,000.
(2) Any moneys recovered under this section shall be remitted to the
state treasurer in accordance with K.S.A. 75-4215, and amendments
thereto. Upon each such remittance, the state treasurer shall deposit the
entire amount in the state treasury to the credit of the emergency response
activities account in the natural resources damages trust fund established
pursuant to K.S.A. 75-5672(f), and amendments thereto.
(3) No penalty shall be imposed except after notice of the violation
and an opportunity for a hearing upon the written order of the secretary
issued to the person who committed the violation. The order shall state the
violation, the penalty to be imposed and the right to request a hearing. The
request for a hearing shall be in writing, directed to the secretary and filed with the secretary within 15 calendar days after service of such order. Hearings under this subsection shall be conducted in accordance with the Kansas administrative procedure act.

Sec. 112. K.S.A. 2021 Supp. 65-180 is hereby amended to read as follows: 65-180. The secretary of health of water and environment shall:

(a) Institute and carry on an intensive educational program among physicians, hospitals, public health nurses and the public concerning congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases detectable with the same specimen. This educational program shall include information about the nature of such conditions and examinations for the detection thereof in early infancy in order that measures may be taken to prevent intellectual disability or morbidity resulting from such conditions.

(b) Provide recognized screening tests for phenylketonuria, galactosemia, hypothyroidism and such other diseases as may be appropriately detected with the same specimen. The initial laboratory screening tests for these diseases shall be performed by the Kansas department of health water and environment or its designee for all infants born in the state. Such services shall be performed without charge.

(c) Provide a follow-up program by providing test results and other information to identified physicians; locate infants with abnormal newborn screening test results; with parental consent, monitor infants to assure appropriate testing to either confirm or not confirm the disease suggested by the screening test results; with parental consent, monitor therapy and treatment for infants with confirmed diagnosis of congenital hypothyroidism, galactosemia, phenylketonuria or other genetic diseases being screened under this statute; and establish ongoing education and support activities for individuals with confirmed diagnosis of congenital hypothyroidism, galactosemia, phenylketonuria and other genetic diseases being screened under this statute and for the families of such individuals.

(d) Maintain a registry of cases including information of importance for the purpose of follow-up services to prevent intellectual disability or morbidity.

(e) Provide, within the limits of appropriations available therefor, the necessary treatment product for diagnosed cases for as long as medically indicated, when the product is not available through other state agencies. In addition to diagnosed cases under this section, diagnosed cases of maple syrup urine disease shall be included as a diagnosed case under this subsection. Where the applicable income of the person or persons who have legal responsibility for the diagnosed individual meets medicaid eligibility, such individuals' needs shall be covered under the medicaid state plan. Where the applicable income of the person or persons who have
legal responsibility for the diagnosed individual is not medicaid eligible,
but is below 300% of the federal poverty level established under the most
recent poverty guidelines issued by the United States department of health
and human services, the Kansas department of health and environment shall provide reimbursement of between 50% to 100% of the
product cost in accordance with rules and regulations adopted by the
secretary of health and environment. Where the applicable
income of the person or persons who have legal responsibility for the
diagnosed individual exceeds 300% of the federal poverty level
established under the most recent poverty guidelines issued by the United
States department of health and human services, the Kansas department of
health and environment shall provide reimbursement of an amount
not to exceed 50% of the product cost in accordance with rules and
regulations adopted by the secretary of health and environment.

(f) Provide state assistance to an applicant pursuant to subsection (e)
only after it has been shown that the applicant has exhausted all benefits
from private third-party payers, medicare, medicaid and other government
assistance programs and after consideration of the applicant's income and
assets. The secretary of health and environment shall adopt rules and regulations establishing standards for
determining eligibility for state assistance under this section.

(g) (1) Except for treatment products provided under subsection (e), if
the medically necessary food treatment product for diagnosed cases must
be purchased, the purchaser shall be reimbursed by the Kansas department
of health and environment for costs incurred up to $1,500 per year
per diagnosed child age 18 or younger at 100% of the product cost upon
submission of a receipt of purchase identifying the company from which
the product was purchased. For a purchaser to be eligible for
reimbursement under this subsection, the applicable income of the person
or persons who have legal responsibility for the diagnosed child shall not
exceed 300% of the poverty level established under the most recent
poverty guidelines issued by the federal department of health and human
services.

(2) As an option to reimbursement authorized under subsection (g)
(1), the department of health and environment may purchase food
treatment products for distribution to diagnosed children in an amount not
to exceed $1,500 per year per diagnosed child age 18 or younger. For a
diagnosed child to be eligible for the distribution of food treatment
products under this subsection, the applicable income of the person or
persons who have legal responsibility for the diagnosed child shall not
exceed 300% of the poverty level established under the most recent
poverty guidelines issued by the federal department of health and human
services.
(3) In addition to diagnosed cases under this section, diagnosed cases of maple syrup urine disease shall be included as a diagnosed case under this subsection.

(h) The Kansas department of health and environment shall continue to receive orders for both necessary treatment products and necessary food treatment products, purchase such products, and shall deliver the products to an address prescribed by the diagnosed individual. The department of health and environment shall bill the person or persons who have legal responsibility for the diagnosed patient for a pro-rata share of the total costs, in accordance with the rules and regulations adopted pursuant to this section.

(i) The secretary of health and environment shall adopt rules and regulations as needed to require, to the extent of available funding, newborn screening tests to screen for treatable disorders listed in the core uniform panel of newborn screening conditions recommended in the 2005 report by the American college of medical genetics entitled "newborn screening: toward a uniform screening panel and system" or another report determined by the Kansas department of health and environment to provide more appropriate newborn screening guidelines to protect the health and welfare of newborns for treatable disorders.

(j) In performing the duties under subsection (i), the secretary of health and environment shall appoint an advisory council to advise the department of health and environment on implementation of subsection (i).

(k) The Kansas department of health and environment shall periodically review the newborn screening program to determine the efficacy and cost effectiveness of the program and determine whether adjustments to the program are necessary to protect the health and welfare of newborns and to maximize the number of newborn screenings that may be conducted with the funding available for the screening program.

(l) There is hereby established in the state treasury the Kansas newborn screening fund that shall be administered by the secretary of health and environment. All expenditures from the fund shall be for the newborn screening program. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee. On July 1 of each year, the director of accounts and reports shall determine the amount credited to the medical assistance fee fund pursuant to K.S.A. 40-3213, and amendments thereto, and shall transfer the estimated portion of such amount that is necessary to fund the newborn screening program for the ensuing fiscal year as certified by the secretary of health and environment or the secretary's designee to the Kansas newborn screening
fund. Such amount shall not exceed $2,500,000 in any one fiscal year, except that such amount shall not exceed $5,000,000 in fiscal years 2021 and 2022.

Sec. 113. K.S.A. 65-1,107 is hereby amended to read as follows: 65-1,107. The secretary of health and environment may adopt rules and regulations establishing:

(a) The procedures, testing protocols and qualifications of authorized personnel, instruments and methods used in laboratories performing tests for the presence of controlled substances included in schedule I or II of the uniform controlled substances act or metabolites thereof;

(b) the procedures, testing protocols, qualifications of personnel and standards of performance in the testing of human breath for law enforcement purposes, including procedures for the periodic inspection of apparatus, equipment and devices, other than preliminary screening devices, approved by the secretary of health and environment for the testing of human breath for law enforcement purposes;

(c) the requirements for the training, certification and periodic testing of persons who operate apparatus, equipment or devices, other than preliminary screening devices, for the testing of human breath for law enforcement purposes;

(d) criteria for preliminary screening devices for testing of breath for law enforcement purposes, based on health and performance considerations; and

(e) a list of preliminary screening devices which are approved for testing of breath for law enforcement purposes and which law enforcement agencies may purchase and train officers to use as aids in determining: (1) Probable cause to arrest and grounds for requiring testing pursuant to K.S.A. 8-1001, and amendments thereto; and (2) violations of K.S.A. 41-727, and amendments thereto.

Sec. 114. K.S.A. 65-1,178 is hereby amended to read as follows: 65-1,178. As used in K.S.A. 65-1,178 through 65-1,198, and amendments thereto, except as the context otherwise requires:

(a) "Application" means:

(1) The applicable fee, all properly completed and executed documents furnished by the department and any additional required documents or information necessary for obtaining a permit, including but not limited to a registration, construction plans, specifications and any required manure management, nutrient utilization, emergency response, odor control, facility closure and dead swine handling plans; or

(2) registration with the department before July 1, 1996, which has not been acted on by the department before March 1, 1998.

(b) "Best available technology for swine facilities" means the best available technology for swine facilities, as determined by the department...
in consultation with Kansas state university, owners and operators of
permitted swine facilities and other appropriate persons, entities and state
and federal agencies.

(c) "Best management practices for swine facilities" means those
schedules of activities, maintenance procedures and other management
practices of a swine facility that are designed to minimize or prevent
pollution of the air, water or soil or to control odor, flies, rodents and other
pests, as determined by the department in consultation with Kansas state
university, owners and operators of permitted swine facilities and other
appropriate persons, entities and state and federal agencies.

(d) "Department" means the Kansas department of health, water and
environment.

(e) "Existing swine facility" means any swine facility in existence and
registered with or permitted by the secretary before the effective date of
this act.

(f) "In existence" means constructed or in place and capable of
confining, feeding and maintaining swine. If the department has taken
final formal administrative action requiring abandonment of a swine
facility or cessation of a swine facility operation for reasons other than
separation distances, the department shall conclude the past facility or
operation was illegal and not eligible to continue previously legal acts. A
facility for which the department has taken such an action shall be
considered a new swine facility for the purpose of separation distance
requirements.

(g) "Permit" means a water pollution control permit for a swine
facility pursuant to K.S.A. 65-166a and 65-171d, and amendments thereto.

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

(i) "Significant water pollution potential" means any significant
potential for pollution of groundwater or surface waters as defined by rules
and regulations adopted by the secretary.

(j) "Swine facility" means a confined feeding facility for swine.

(k) "Swine waste management system" means all constructed,
excavated or natural receptacles used for the collection, conveyance,
storage or treatment of manure or wastewater, or both, from a swine
facility, including swine containment buildings.

(l) "Swine waste retention lagoon or pond" means an excavated or
diked structure, or a natural depression, provided for or used by a swine
facility for the purpose of containing or detaining swine wastes or other
wastes generated in the production of swine.

Sec. 115. K.S.A. 65-1,182 is hereby amended to read as follows: 65-
1,182. (a) The department of health and environment shall not issue or
renew a permit for any swine facility that has an animal unit capacity of
HB 2686  129

1,000 or more and that applies manure or wastewater to land unless:

(1) The land application process complies with the applicable requirements of this section; and

(2) the nutrient utilization plan required by this section is approved by the secretary of health and environment as specified by K.S.A. 2021 Supp. 2-3318, and amendments thereto.

(b) (1) If the manure management plan prepared pursuant to K.S.A. 65-1,181, and amendments thereto, provides for land application of manure or wastewater:

(A) The applicant for a permit for construction of a new swine facility or for expansion of an existing swine facility shall submit with the application for a permit a nutrient utilization plan on a form prescribed by the secretary of health and environment as applicable and shall comply with the plan when the permit is issued by the department of health and environment; and

(B) the operator of an existing swine facility shall submit to the department of health and environment, within six months after the rules and regulations implementing this act are adopted, a nutrient utilization plan on a form prescribed by the secretary of health and environment, for approval by the secretary of health and environment and shall comply with the plan by a date established by the secretary of health and environment.

(2) Each nutrient utilization plan shall address site-specific conditions for land application of manure, wastewater and other nutrient sources, comply with the requirements of this section and contain, at minimum, the following:

(A) A site map of all land application areas, including section, township and range;

(B) crop rotations on the land application areas;

(C) annual records of soil tests, manure nutrient analyses, and calculations required by subsection (c);

(D) nutrient budgets for the land application areas;

(E) rates, methods, frequency and timing of application of manure, wastewater and other nutrient sources to the land application areas;

(F) the amounts of nitrogen and phosphorus applied to the land application areas;

(G) precipitation records and the amounts of irrigation and other water applied;

(H) records of inspections and preventive maintenance of equipment required by subsection (f)(6);

(I) copies of all landowner agreements for land that is not owned by the swine facility and is scheduled to receive manure or wastewater;

(J) names of employees and contractors whom the operator of the swine facility has identified pursuant to subsection (f)(7) to supervise the
process of transferring manure or wastewater to land application
equipment and the process of land application;
(K) records of training of all personnel who supervise and conduct
the land application of manure or wastewater, as required by subsection (f)
(7); and
(L) any other information required by the secretary of health and
environment to facilitate approval.
(3) (A) A swine facility that is required to have a nutrient utilization
plan shall amend such plan whenever warranted by changes in the facility,
soil test results or other conditions affecting the facility.
(B) Amendments to the nutrient utilization plan—must shall be
approved by the secretary of health and environment.
(4) A swine facility that is required to have a nutrient utilization plan
shall maintain such plan in accordance with K.S.A. 65-1,185, and
amendments thereto.
(c) (1) Each swine facility that has a manure management plan that
includes land application of manure or wastewater shall:
(A) Conduct soil tests, including but not limited to tests for nitrogen,
phosphate, chloride, copper and zinc, on the land application areas prior to
preparation of the nutrient utilization plan and at least annually thereafter,
or as often as required by best available soil science and standards relative
to the soils of, and crops to be grown on, the land application areas or as
required by the secretary of health and environment; and
(B) include the results of such tests in its nutrient utilization plan.
(2) Each swine facility that has a manure management plan that
includes land application of manure or wastewater or sells or gives manure
or wastewater to third persons pursuant to subsection (h) of K.S.A. 65-
1,181(h), and amendments thereto, shall:
(A) Conduct manure nutrient analyses of its manure and wastewater
prior to preparation of its nutrient utilization plan and at least every two
years thereafter; and
(B) include the results of such analyses in its nutrient utilization plan.
(3) Each swine facility that has a manure management plan that
includes land application of manure or wastewater shall:
(A) Compare the manure nutrient analyses required by subsection (c)
(2) with the soil tests required by subsection (c)(1) to calculate needed
fertility and application rates for pasture production and crop target yields
on the land application areas prior to the preparation of the nutrient
utilization plan and each time thereafter when new soil tests or manure
nutrient analyses are conducted; and
(B) include such calculations in the nutrient utilization plan.
(d) If a swine facility is required to have a nutrient utilization plan
and finds that the soil tests required pursuant to this act indicate that the
phosphorus holding capacity for any soils in the facility's land application
areas may be exceeded within five years, the facility shall promptly initiate
the process to obtain access to the additional land application areas
needed, or make other adjustments, to achieve the capability to apply
manure or wastewater at appropriate agronomic rates.

(e) The Kansas department of health and environment may require a
swine facility that is required to have a nutrient utilization plan to apply
manure or wastewater on all or a portion of the facility's land application
areas at a rate within the agronomic phosphorus needs of the crops or
pasture, or the soil phosphorus holding capacity, in less than the time
originally allowed in the approved nutrient utilization plan if the
department of health and environment finds that the land application
actions of the facility are contributing to the impairment of groundwater or
surface water.

(f) (1) Each swine facility that is required to have a nutrient
utilization plan shall include in such plan, and thereafter comply with, the
requirements that manure or wastewater shall not be applied on bare
ground by any process, other than incorporation into the soil during the
same day, within 1,000 feet of any habitable structure, wildlife refuge or
city, county, state or federal park, unless:

(A) The manure or wastewater has been subjected to physical,
biological or biochemical treatment or other treatment method for odor
reduction approved by the department of health and environment;

(B) the manure or wastewater is applied with innovative treatment or
application that is best available technology for swine facilities and best
management practices for swine facilities or other technology approved by
the department of health and environment; or

(C) the owner of the habitable structure has provided a written waiver
to the facility.

(2) The separation distance requirements of subsection (f)(1) shall not
apply to any structure constructed or park designated as a city, county,
state or federal park after the effective date of this act, for swine facilities
in existence on the effective date of this act, or any structure constructed or
park designated as a city, county, state or federal park after submission of
an application for a permit for a new swine facility or expansion of an
existing swine facility.

(3) Swine facilities that are required to have a nutrient utilization plan
shall not apply manure or wastewater:

(A) To lands classified as highly erodible according to the
conservation compliance provisions of the federal food security act of
1985, as in effect on the effective date of this act, and classified as highly
erodible on the basis of erosion resulting from water runoff, except where
soil conservation practices to control erosion and runoff in compliance
with the requirements of this section are identified in the facility's nutrient utilization plan and are followed by the facility;

(B) during rain storms, except where soil conservation practices to control erosion and runoff in compliance with the requirements of this section are identified in the facility's nutrient utilization plan and are followed by the facility;

(C) to frozen or saturated soil, except where soil conservation practices to control runoff in compliance with the requirements of this section are identified in the facility's nutrient utilization plan and are followed by the facility; and

(D) to any areas to which the separation distance requirements of subsection (f) apply.

(4) Swine facilities that are required to have a nutrient utilization plan shall follow procedures and precautions in the land application of manure or wastewater to prevent discharge of manure or wastewater to surface water and groundwater due to excess infiltration, penetration of drainage tile lines, introduction into tile inlets or surface runoff, including appropriate soil conservation practices to protect surface water from runoff carrying eroded soil and manure particles.

(5) Swine facilities that are required to have a nutrient utilization plan and that conduct wastewater irrigation shall:

(A)Employ measures to irrigate under conditions that reasonably prevent surface runoff; and

(B) use reasonable procedures and precautions to avoid spray drift from the land to which it is applied.

(6) Each swine facility that is required to have a nutrient utilization plan and that land applies manure or wastewater shall ensure that any equipment used in the land application process is properly maintained and calibrated and monitor the use of the equipment so that any malfunction that develops during the land application process is detected and the process ceases until the malfunction is corrected.

(7) The operator of each swine facility that is required to have a nutrient utilization plan and that land applies manure or wastewater shall:

(A) Identify, train and keep current the training of each employee and contractor who supervises the transfer of manure or wastewater to land application equipment and the conducting of land application activities; and

(B) train, and keep current the training of, all employees and contractors who conduct land application activities.

(g) Each swine facility that is required to have a nutrient utilization plan shall amend such plan whenever warranted by changes in conditions. The operator of the facility shall file such plan and any amendments to such plan with the department of health and environment.
(h) The secretary of health and environment shall make a determination to approve or disapprove a nutrient utilization plan not later than 45 days after the plan is received by the department of health and environment.

Sec. 116. K.S.A. 65-1,201 is hereby amended to read as follows: 65-1,201. As used in the residential childhood lead poisoning prevention act:

(a) "Abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards as defined in the federal program.

(b) "Accredited training program" means a training program that has been accredited by the federal program or the secretary to present training courses to individuals engaged in lead-based paint activities.

(c) "Business entity" means a company, partnership, corporation, sole proprietorship, association, or other business concern.

(d) "Certificate" means an authorization issued by the secretary permitting an individual to engage in lead-based paint activities.

(e) "Federal program" means subpart L, lead-based paint activities of 40 C.F.R. part 745, as in effect on the effective date of this act.

(f) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter or more than 0.5% by weight.

(g) "Lead-based paint activities" means the inspection, assessment and abatement of lead-based paint, including the disposal of waste generated therefrom.

(h) "License" means an authorization issued by the secretary permitting a business entity to engage in lead-based paint activities.

(i) "Public agency" means any state agency or political or taxing subdivision of the state and those federal departments, agencies or instrumentalities thereof which are not subject to preemption.

(j) "Secretary" means the secretary of health and the Kansas department of water and environment.

(k) "Residential dwelling" means a detached single family dwelling or a single family dwelling unit in a structure that contains more than one separate residential dwelling unit used as a place of residence for habitation by an individual or the individual's immediate family, or both.

(l) "Habitation" means a place of abode or residence constructed before 1978 where individuals eat, sleep and reside.

(m) "Immediate family" means spouse, parent, stepparent, child, stepchild or sibling.

Sec. 117. K.S.A. 65-1,222 is hereby amended to read as follows: 65-1,222. As used in this act:

(a) "Department" means the Kansas department of health water and environment.
(b) "Environmental use control" means an institutional or administrative control, a restriction, prohibition or control of one or more uses of, or activities on, a specific property, as requested by the property owner at the time of issuance, to ensure future protection of public health and the environment when environmental contamination—which that exceeds department standards for unrestricted use remains on the property following the appropriate assessment and/or remedial activities as directed by the department pursuant to the secretary's authority. For the purposes of this act, "environmental contamination" does not mean animal or process waste from a confined feeding facility as defined in K.S.A. 65-171d, and amendments thereto, livestock operations or the application of livestock waste for use as a plant nutrient. Any environmental use control created pursuant to this act runs with the property and is binding on the owner and subsequent owners, lessees and other users of the land.

(c) "Owner" means any owner of record of property, and any person or entity with written authorization from the owner to make decisions regarding the transfer of the subject property or placement of encumbrances on the subject property, other than by the exercise of eminent domain.

(d) "Person" means any individual, trust, firm, joint stock company, public or private corporation, limited liability company or partnership; the federal government or any agency or instrumentality thereof; any state, or any agency, instrumentality or political or taxing subdivision thereof; or any interstate body.

(e) "Protective structure" means an engineered physical structure implemented as part of the remedial action to control or respond to a release or threat of release of environmental contamination. Protective structure includes capping, fencing, berming, diking, drainage structures and other structures that may control migration or other releases of environmental contamination.

(f) "Property" means real property.

(g) "Remedial activity" means any site cleanup, soil or groundwater monitoring associated with a contaminated property, remedial action, corrective action, emergency action, removal action or other action necessary or appropriate to respond to a release or threat of release of environmental contamination.

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

Sec. 118. K.S.A. 65-1629 is hereby amended to read as follows: 65-1629. The board and its duly authorized agents and employees may inspect in a lawful manner the drugs kept for sale, offered for sale or for dispensing, or sold in the state of Kansas by any pharmacist, or kept in stock by any duly licensed practitioner or institutional drug room in the
state, or when such inspection is required by the secretary of health of water and environment the drugs kept in stock by any medical care facility; and for this purpose shall have the right to enter and inspect during business hours any institutional drug room or any pharmacy or any other place in the state of Kansas where drugs are manufactured, packed, packaged, made, sold, offered for sale or kept for sale and may collect samples of such drugs upon payment therefor. The samples thus collected may be submitted for analysis to the office of laboratory services of the Kansas department of health water and environment and the results of the analysis may be published by the state Kansas department of health water and environment.

Sec. 119. K.S.A. 65-3002 is hereby amended to read as follows: 65-3002. As used in this act, unless the context clearly requires otherwise:

(a) "Air contaminant" means dust, fumes, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof, but not including water vapor or steam condensate.

(b) "Air contamination" means the presence in the outdoor atmosphere of one or more air contaminants.

(c) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is, or tends significantly to be, injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property, or would contribute to the formation of regional haze.

(d) "Alter" means any physical change in, or change in the method of operation of, an air contaminant emission stationary source which results in the emission of any regulated air pollutant not previously emitted.

(e) "Modification," when used in conjunction with an approval or permit action, means an amendment to an existing approval or
permit initiated by the permittee. When used to describe a change in any air contaminant emission stationary source, "modify" shall have the same meaning as the term "alter."

(i) "Permittee" means the holder of an approval or the holder of a permit and includes both the owner and the operator of any approved or permitted air contaminant emission source.

(j) "Person" means any individual, partnership, firm, association, municipality, public or private corporation, subdivision or agency of the state or federal government, trust, estate or any other legal entity.

(k) "Regional haze" means visibility impairment, measured in deciviews, occurring over a large geographic area caused by the cumulative emissions of gaseous and particulate air contaminants from numerous sources.

(l) "Reopen" means to seek an amendment to an existing approval or permit initiated by any person other than the permittee.

(m) "Secretary" means the secretary of health the Kansas department of water and environment.

(n) "Stationary source" means any building, structure, facility or installation which emits or may emit any air contaminant.

Sec. 120. K.S.A. 65-3003 is hereby amended to read as follows: 65-3003. The responsibility for air quality conservation and control of air pollution is hereby placed with the secretary of health and environment. The secretary shall administer this act through the Kansas department of water and environment, division of environment and conservation.

Sec. 121. K.S.A. 65-3005 is hereby amended to read as follows: 65-3005. (a) The secretary shall have the power to:

(1) Adopt, amend and repeal rules and regulations implementing and consistent with this act.

(2) Hold hearings relating to any aspect of or matter in the administration of this act concerning air quality control, and in connection therewith, compel the attendance of witnesses and the production of evidence.

(3) Issue such orders, permits and approvals as may be necessary to effectuate the purposes of this act and enforce the same by all appropriate administrative and judicial proceedings.

(4) Require access to records relating to emissions which cause or contribute to air pollution.

(5) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution originating in Kansas that affects air quality in Kansas or in other states or both.

(6) Adopt rules and regulations governing such public notification and comment procedures as authorized by this act.

(7) Encourage voluntary cooperation by persons or affected groups to
achieve the purposes of this act.

(8) (A) Encourage local units of government to handle air pollution problems within their respective jurisdictions and on a cooperative basis; (B) provide technical and consultative assistance therefor; and (C) enter into agreements with local units of government to administer all or part of the provisions of the Kansas air quality act in the units' respective jurisdictions.

(9) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control.

(10) Encourage air contaminant emission sources to voluntarily implement strategies, including the development and use of innovative technologies, market-based principles and other private initiatives to reduce or prevent pollution.

(11) Determine by means of field studies and sampling the degree of air contamination and air pollution in the state and the several parts thereof.

(12) Establish ambient air quality standards for the state as a whole or for any part thereof.

(13) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

(14) Advise, consult and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.

(15) Accept, receive and administer grants or other funds or gifts from public and private entities, including the federal government, for the purpose of carrying out any of the functions of this act. Such funds received by the secretary pursuant to this section shall be deposited in the state treasury to the account of the Kansas department of health, water and environment.

(16) Enter into contracts and agreements with other state agencies or subdivisions, local governments, other states, interstate agencies, the federal government or its agencies or private entities as is necessary to accomplish the purposes of the Kansas air quality act.

(17) Conduct or participate in intrastate or interstate emissions trading programs or other programs that demonstrate equivalent air quality benefits for the prevention, abatement and control of air pollution in Kansas or in other states or both.

(18) Prepare and adopt a regional haze plan as may be necessary to prevent, abate and control air pollution originating in Kansas that affects air quality in Kansas or in other states or both. Any regional haze plan prepared by the secretary shall be no more stringent than is required by 42 U.S.C. § 7491.
(19) Participate in the activities of any visibility transport commission established under 42 U.S.C. § 7492. The secretary shall report to the governor and the legislature on the activities of any such visibility transport commission annually.

(b) It is a policy of the state to regulate the air quality of the state and implement laws and regulations that are applied equally and uniformly throughout the state and consistent with those of the federal government.

(1) The secretary shall have the authority to promulgate rules and regulations to establish standards to ensure that the state is in compliance with the provisions of the federal clean air act, as amended (42 U.S.C. section 7401 et seq.). The standards so established shall not be any more stringent, restrictive or expansive than those required under the federal clean air act, as amended, nor shall the rules and regulations be enforced in any area of the state prior to the time required by the federal clean air act. If the secretary determines that more stringent, restrictive or expansive rules and regulations are necessary, the secretary may implement the rules and regulations only after approval by an act of the legislature. The restrictions of this subsection shall not apply to the parts of the state implementation plan developed by the secretary to bring a nonattainment area into compliance when needed to have a United States environmental protection agency approved state implementation plan.

(2) For any application for a permit required by federal or state law, the secretary shall not deny or delay the issuance of such permit when the requirements of this act have been met.

Sec. 122. K.S.A. 65-3011 is hereby amended to read as follows: 65-3011. (a) If the secretary or the director of the Kansas department of water and environment, division of environment and conservation finds that any person has violated any provision of any approval, permit or compliance plan or any provision of this act or any rule and regulation promulgated under this act, the secretary may issue an order finding such person in violation of the act and directing the person to take such action as necessary to correct the violation. Any order issued shall specify the length of time after receipt of the order during which the person must correct the violations.

(b) Any person to whom an order is issued pursuant to subsection (a) may request a hearing within 15 days after service of the order. Hearings before the secretary shall be conducted in accordance with the Kansas administrative procedure act.

Sec. 123. K.S.A. 65-3018 is hereby amended to read as follows: 65-3018. (a) The secretary or the director of the Kansas department of water and environment, division of environment and conservation, upon a finding that a person has violated any provision of K.S.A. 65-3025 and amendments thereto, may impose a penalty not to exceed $10,000 which...
Such penalty shall constitute an actual and substantial economic deterrent to the violation for which it is assessed. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) No penalty shall be imposed pursuant to this section except after notice of violation and opportunity for hearing upon the written order of the secretary or the director of the division of environment and conservation issued to the person who committed the violation. The order shall state the violation, the penalty to be imposed and the right to request a hearing thereon. The request for hearing shall be in writing, directed to the secretary and filed with the secretary within 15 days after service of the order. Hearings under this section shall be conducted in accordance with the Kansas administrative procedure act.

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

Sec. 124. K.S.A. 65-3022 is hereby amended to read as follows: 65-3022. In order to defray costs in determining and monitoring the environmental impact of power generation facilities with respect to air quality and, in the case of nuclear powered generation facilities, the overall radiological impact thereof, the secretary is authorized and directed to adopt rules and regulations to provide for the establishment of fees and for the collection thereof from each such facility. Such fees shall be determined and collected annually, and such determination shall be based upon the size and type of such facilities. In establishing programs for determining and monitoring environmental impact, the secretary shall take into consideration monitoring programs conducted by other persons and where possible avoid duplication of effort and expense. The secretary may also provide for quality review and evaluation of monitoring conducted by other persons in order to further the objectives of this act and to determine the extent and necessity of monitoring programs to be conducted by the Kansas department of health, water and environment.

Sec. 125. K.S.A. 65-3027 is hereby amended to read as follows: 65-3027. (a) There is hereby created the small business stationary source technical and environmental compliance assistance program, to be administered by the secretary. The program shall include each of the following:

1. Adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources and programs to encourage lawful cooperation among such sources and other persons to further compliance with this act.

2. Adequate mechanisms for assisting small business stationary
souces with pollution prevention and accidental release detection and
prevention, including providing information concerning alternative
technologies, process changes, products and methods of operation that
help reduce air pollution.

(3) A designated office within the Kansas department of health and environment, reporting directly to the secretary, to serve as
ombudsman for small business stationary sources in connection with
implementation of this act.

(4) A compliance assistance program for small business stationary
sources which assists small business stationary sources in determining
applicable requirements and in receiving permits under this act in a timely
and efficient manner.

(5) Adequate mechanisms to assure that small business stationary
sources receive notice of their rights under this act in such manner and
form as to assure reasonably adequate time for such sources to evaluate
compliance methods and any relevant or applicable proposed or final rule
and regulation or standard adopted under this act.

(6) Adequate mechanisms for informing small business stationary
sources of their obligations under this act, including mechanisms for
referring such sources to qualified auditors or for providing audits of the
operations of such sources to determine compliance with this act.

(7) Procedures for consideration of requests from a small business
stationary source for modification of: (A) Any work practice or
technological method of compliance; or (B) the schedule of milestones for
implementing such work practice or method of compliance preceding any
applicable compliance date, based on the technological and financial
capability of any such small business stationary source. No such
modification may be granted unless it is in compliance with the applicable
requirement of this act and rules and regulations promulgated hereunder.

(b) "Small business stationary source" means a stationary air
contaminant emission source that:

(1) Is owned or operated by a person that employs 100 or fewer
individuals;

(2) is a small business concern as defined in the federal small
business act;

(3) is not a major stationary source;

(4) does not emit 50 tons or more per year of any regulated air
contaminant; and

(5) emits less than 75 tons per year of all regulated air contaminants.

(c) Upon petition by a source, the secretary, after notice and
opportunity for public comment, may include as a small business
stationary source for purposes of this section any stationary source which
that does not meet the criteria of subsection (b)(3), (4) or (5) but which
does not emit more than 100 tons per year of all regulated air contaminants.

(d) The secretary may exclude from the small business stationary source definition any category or subcategory of sources that the administrator of the United States environmental protection agency determines to have sufficient technical and financial capabilities to meet the requirements of the federal clean air act without the application of this program, as provided by section 507(c)(3)(A) of the 1990 amendments to the federal clean air act.

(e) The secretary, in consultation with the administrator of the United States environmental protection agency and the administrator of the United States small business administration and after providing notice and the opportunity for public hearing, may exclude from the small business stationary source definition any category or subcategory of sources that the secretary determines to have sufficient technical and financial capabilities to meet the requirements of the act without the application of this section.

(f) There is hereby created a compliance advisory panel composed of seven individuals. The compliance advisory panel shall:

(1) Render advisory opinions concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program, difficulties encountered and degree and severity of enforcement;

(2) make periodic reports to the administrator of the United States environmental protection agency concerning compliance of the small business stationary source technical and environmental compliance assistance program with the requirements of the federal paperwork reduction act, the regulatory flexibility act and the equal access to justice act;

(3) review information for small business stationary sources to assure such information is understandable by the layperson; and

(4) have the small business stationary source technical and environmental compliance assistance program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

(g) The compliance advisory panel shall consist of:

(1) Two members who are not owners, or representatives of owners, of small business stationary sources, appointed by the governor to represent the general public;

(2) two members who are owners, or who represent owners, of small business stationary sources, one appointed by the speaker and one appointed by the minority leader of the Kansas house of representatives;

(3) two members who are owners, or who represent owners, of small business stationary sources, one appointed by the president and one appointed by the minority leader of the Kansas senate; and
(4) one member appointed by the secretary to represent the Kansas department of health, water and environment.

(h) Members of the compliance advisory panel serving on the effective date of this act by appointment by the governor, the speaker of the house of representatives or the president of the senate shall serve for terms ending June 30, 1998; members serving on the effective date of this act by appointment by the minority leader of the house of representatives, the minority leader of the senate or the secretary of health and environment shall serve for terms ending June 30, 1997. Upon expiration of such terms, the term of each member appointed to a vacancy created by expiration of a term shall be two years commencing on July 1 immediately following expiration of the term of the member's predecessor. Any vacancy occurring on the panel shall be filled for the unexpired term by appointment by the original appointing authority.

(i) A chairperson shall be elected annually by the members of the compliance advisory panel. A vice chairperson shall be designated by the chairperson to serve in the absence of the chairperson.

(j) The secretary of water and environment may reduce any fee required by this act for any classification of small business sources to take into account the financial resources of such classification.

Sec. 126. K.S.A. 65-3303 is hereby amended to read as follows: 65-3303. The secretary of health of water and environment, hereafter referred to as the "secretary" in K.S.A. 65-3303 through 65-3308, and amendments thereto, is hereby authorized and empowered, pursuant to the provisions of this act, to order and make approved grants from such account to municipalities. The state's contribution towards the construction of water pollution control projects shall not exceed twenty-five percent (25%) of the eligible cost of each project or portions of such projects as qualify under the provisions of the aforesaid federal act.

Sec. 127. K.S.A. 65-3308 is hereby amended to read as follows: 65-3308. The secretary of health and environment shall promulgate rules and regulations, guidelines, standards and procedures for the development of countywide wastewater management plans, and any other rules and regulations necessary for effective implementation of this act.

Sec. 128. K.S.A. 65-3309 is hereby amended to read as follows: 65-3309. (a) Each county preparing a plan shall organize a wastewater management committee as provided in subsection (b). However, counties with populations of 30,000 or less, may at their discretion, apply to the secretary of health of water and environment to be exempt from the requirement of preparing a plan. The secretary, after receipt of an application for exemption, shall determine whether sufficient necessity exists to justify the preparation of a countywide wastewater management plan, and shall in the secretary's sole discretion, either grant or deny the
exemption application. Each county preparing a plan shall submit to the
secretary a workable plan for wastewater management within such county
as prepared by the county wastewater management committee. The
wastewater management plan shall provide for comprehensive countywide
management to be effective throughout the county. The plan shall
incorporate and coordinate existing plans, ordinances and guidelines and
shall address (1) city and county cooperation in management of existing
point sources of pollution; (2) the management of onsite residential
wastewater treatment facilities, including septic tanks; (3) industrial waste
treatment; (4) procedures for approval of water delivery and wastewater
systems for new developing areas; and (5) urban stormwater runoff.

(b) There is hereby created in each county of this state required to
prepare a wastewater management plan a county wastewater management
committee. The county wastewater management committee shall be one of
the following:

(1) In any county where subsection (b)(2) or (3) does not apply, the
committee shall include one member of the board of county
commissioners who shall serve as chairperson of the committee, the
county engineer, the county health officer or such officer's designated
representative, the director of planning where one exists, one
representative from each city affected by the county wastewater
management plan and two members selected from the public at large. The
member of the committee from each city affected by the plan shall be
appointed by the mayor of such city, and the members of the public at
large shall be appointed by the board of county commissioners.

(2) In any county where a multijurisdictional planning commission is
functioning solely within that county, such planning commission is hereby
designated as the county wastewater management committee. An advisory
committee to said such planning commission is hereby created which shall
include one member of the board of county commissioners, the county
engineer, the county health officer or such officer's designated
representative, the director of planning, one representative from each city
affected by the county wastewater management plan, one representative
from each improvement district affected by the county wastewater
management plan and two members selected from the public at large. The
member of the committee from each city affected by the plan shall be
appointed by the mayor of such city, and the members of the public at
large shall be appointed by the board of county commissioners.

The multijurisdictional planning commission functioning as the county
wastewater management committee may in its discretion designate the
advisory committee as the county wastewater management committee.

(3) In any county where a wastewater management agency or
agencies has been established in the Kansas water quality management
plan pursuant to section 208 of the federal water pollution act and
amendments thereto, such agency or agencies is hereby designated as the
county wastewater management committee.
(c) Every plan required by a county wastewater management
committee shall:
(1) Reasonably conform to the rules and regulations, standards and
procedures adopted by the secretary of water and environment for
implementation of this act;
(2) integrate and coordinate existing comprehensive plans, population
trend projections, engineering and economics so as to plan adequately for
changing conditions;
(3) take into account existing acts and regulations affecting the
development, use and protection of air, water or land resources;
(4) include such other reasonable information as the secretary shall
require.
(d) All entities affected by or that can contribute to the wastewater
management plan shall have adequate opportunity for comment and input
in the development of the plan. Such entities shall include, but not be
limited to, rural water districts, water districts and improvement districts.
The plan shall be reviewed by each local governing body affected and by
appropriate official planning agencies within the area covered by the plan
for consistency with programs of comprehensive planning for the county
and for each other local governing unit. All such reviews shall be
transmitted to the secretary of water and environment with the proposed
plan.
(e) The secretary of water and environment is authorized to approve
or disapprove plans for countywide wastewater management submitted in
accordance with this act. If the plan is disapproved, the secretary shall
furnish all reasons for such disapproval. Any action of the secretary
pursuant to this subsection is subject to review as provided in K.S.A. 65-
3312 and amendments thereto. If the plan is disapproved by the secretary,
the county shall modify the plan so as to obtain the secretary's approval
unless otherwise ordered by the court on review.
(f) Any city or county commission of any county required to develop
a countywide wastewater management plan under the act of which this
section is amendatory may act on behalf of the other units of government
of said such county in filing the necessary documents to obtain state and
federal grants in aid and in such case shall act as contracting agency for
employment of any consultants necessary for plan development and shall
also act as financial disbursement manager for development of the plan.
Sec. 129. K.S.A. 65-3310 is hereby amended to read as follows: 65-
3310. The secretary of health of water and environment is authorized and
directed to:
(a) Adopt rules and regulations, standards and procedures to be used by counties in the development and the periodic updating of wastewater management plans, and to enable the secretary to carry out the purposes and provisions of this act;
(b) receive and disburse any federal funds received for development and implementation of countywide wastewater management plans;
(c) administer the wastewater management program and enforce the provisions of each county wastewater management plan adopted pursuant to the provisions of this act;
(d) provide technical assistance to counties, including the training of personnel;
(e) institute, conduct and support research, demonstration projects and investigations and coordinate all state agency research programs with applicable federal programs pertaining to wastewater management; and
(f) conduct and contract for researchers and investigations in the area of wastewater management of point source pollution.

Sec. 130. K.S.A. 65-3311 is hereby amended to read as follows: 65-3311. In carrying out its duties with regard to the implementation of a countywide wastewater management plan, any county planning committee may recommend such reasonable ordinances, rules, regulations and standards for industrial siting, onsite residential wastewater treatment facilities (including septic tanks) and water delivery and wastewater systems in newly developing areas within the county to the county commissioners or municipal government authorized to enact such ordinances, rules and regulations, which governmental unit is hereby authorized to enact and enforce. The rules and regulations and standards shall be in conformity with the rules and regulations and standards adopted by the secretary of water and environment for wastewater management of point source pollution.

Sec. 131. K.S.A. 65-3312 is hereby amended to read as follows: 65-3312. Any action of the secretary of health water and environment pursuant to this act is subject to review in accordance with the Kansas judicial review act.

Sec. 132. K.S.A. 65-3313 is hereby amended to read as follows: 65-3313. No provision of this act shall be deemed mandatory until seventy-five percent (75%) or more of the moneys necessary to implement such provisions are certified by the secretary of health of water and environment to be available from the federal government. The remaining costs of implementation of such provisions shall be shared equally by the state and county.

Sec. 133. K.S.A. 65-3321 is hereby amended to read as follows: 65-3321. As used in K.S.A. 65-3321 through 65-3329, and amendments thereto:
(a) "Fund" means the Kansas water pollution control revolving fund established by K.S.A. 65-3322 of this act, and amendments thereto.

(b) "Municipality" means any city, county, township, sewer district, improvement district, or other political subdivision of the state, or any combination thereof, which that is authorized by law to construct, operate, and maintain wastewater treatment works.

(c) "Wastewater treatment works" means any treatment works, as defined in the federal act, which that is publicly owned.

(d) "Project" means the acquisition, construction, improvement, repair, rehabilitation, or extension of a wastewater treatment works.

(e) "Project costs" means all costs or expenses— which that are necessary or incident to a project and which that are directly attributable thereto.

(f) "Federal act" means the federal clean water act as amended by the federal water quality act of 1987.

(g) "Administrator" means the administrator of the United States environmental protection agency.

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

Sec. 134. K.S.A. 65-3329 is hereby amended to read as follows: 65-3329. The activities of the Kansas department of health water and environment in administering and performing the powers, duties and functions prescribed by the provisions of K.S.A. 65-3321 through 65-3329, and amendments thereto, and providing for the payment of the matching grant requirements under the federal act from the proceeds of revenue bonds issued for such purpose by the Kansas development finance authority are hereby approved for the purposes of subsection (b) of K.S.A. 74-8905(b), and amendments thereto, and the authorization of the issuance of such bonds by the Kansas development finance authority in accordance with that statute. The provisions of subsection (a) of K.S.A. 74-8905(a), and amendments thereto, shall not prohibit the issuance of bonds for such purposes when so authorized and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905(a), and amendments thereto.

Sec. 135. K.S.A. 65-3330 is hereby amended to read as follows: 65-3330. (a) As used in this section:

(1) "Department" means the Kansas department of health water and environment.

(2) "Eligible borrower" means:

(A) Any individual, limited liability agricultural company, limited agricultural partnership or family farm corporation, as defined in K.S.A. 17-5903, and amendments thereto, involved in farming or livestock production;
(B) a responsible party or an owner of real property, but does not include the state, any state agency, the federal government or any agency of the federal government; or
(C) a person who: (i) Is involved in a transaction related to real property; (ii) is not a responsible party or owner of the real property; (iii) voluntarily takes corrective action on the property in response to a request or order for corrective action from the department; and (iv) voluntarily implements an eligible conservation practice.

(3) "Eligible financial institution" means a bank or other financial institution or association chartered or incorporated under the laws of this state, or organized under the laws of the United States or another state, which that has a main or branch office or chapter in this state that agrees to participate in the Kansas local conservation lending program and is eligible to be a depository of state funds.

(4) "Eligible practice" means a conservation practice that prevents or reduces water pollution from nonpoint sources by using the most effective and practicable means of achieving water quality goals. Eligible practices include, but are not limited to, structural and nonstructural controls or systems as identified in the nonpoint source management plan.

(5) "Eligible project" means an individual conservation practice or system of conservation practices located within Kansas and identified in the nonpoint source management plan as eligible for a low interest loan through the local conservation lending program.

(6) "Linked deposit agreement" means the agreement and associated attachments provided by the secretary to the eligible financial institution for participation in the program.

(7) "Project application" means the forms provided by the department for the purpose of determining and certifying eligibility for funding a project through the local conservation lending program.

(8) "Secretary" means the secretary of health the Kansas department of water and environment.

(b) There is hereby created a local conservation linked deposit lending program, hereby referred to as the local conservation lending program. The secretary may establish and administer the local conservation lending program to facilitate loans by eligible financial institutions for the construction, design, rehabilitation and enhancement of nonpoint source control systems for public or private owners thereof. The eligible financial institution shall enter into a linked deposit agreement with the secretary, which shall include requirements necessary to implement the purposes of the local conservation lending program.

(c) The secretary shall prepare a nonpoint source management plan. The nonpoint source management plan, shall identify eligibility criteria, practices eligible for funding through the local conservation lending
program, eligibility criteria for borrowers, eligibility criteria for costs, project completion and certification requirements and process, and establish other program requirements.

(d) The secretary shall authorize a linked deposit in the amount certified by the secretary using long-term investment funds available from the Kansas water pollution control revolving fund, K.S.A. 65-3322, and amendments thereto, or from other available sources to the secretary, into eligible financial institutions in the form of low-yielding certificates of deposit or time or demand deposits, or other authorized deposits or investments. If sufficient funds are not available for a linked deposit then the applications may be considered when funds become available at an interest rate identified annually by the secretary in the nonpoint source management plan.

(e) The secretary is hereby authorized to disseminate information regarding eligibility for potential participants in this program.

(f) The secretary may accept or reject a project application based on the secretary's determination of project eligibility consistent with the eligibility criteria in the nonpoint source management plan. Upon acceptance of a project application, the secretary shall notify the eligible financial institution and borrower of approval.

(g) An eligible financial institution that agrees to receive a local conservation loan deposit shall accept and review applications for loans from eligible borrowers. The eligible financial institution shall apply all usual lending standards to determine the credit worthiness of eligible borrowers.

(h) The eligible financial institution may approve or reject a loan application based on the financial institution's evaluation of the eligible borrowers included in the application, the amount of the loan in the application and other appropriate considerations.

(i) The eligible financial institution shall enter into a local conservation linked deposit participation agreement with the secretary, which shall include requirements necessary to implement the purposes of the Kansas local conservation loan deposit program.

(j) The loans authorized by this act shall not be deemed to constitute a debt or liability of the state or the secretary, and shall not constitute a pledge of the full faith and credit of the state, any political subdivision thereof or the secretary. The state, any political subdivision thereof or the secretary shall not, in any event, be liable for the payment of the principal or interest on any such loan made by an eligible financial institution to an eligible borrower. Any delay in payments or default on the part of an eligible borrower does not, in any manner, affect the linked deposit agreement between the eligible financial institution and the secretary.

(k) The secretary is hereby authorized to adopt any rules and
regulations necessary to carry out the provisions of this section.

Sec. 136. K.S.A. 65-3401 is hereby amended to read as follows: 65-3401. It is hereby declared that protection of the health and welfare of the citizens of Kansas requires the safe and sanitary disposal of solid wastes. The legislature finds that the lack of adequate state regulations and control of solid waste and solid waste management systems has resulted in undesirable and inadequate solid waste management practices that are detrimental to the health of the citizens of the state; degrade the quality of the environment; and cause economic loss. For these reasons it is the policy of the state to:

(a) Establish and maintain a cooperative state and local program of planning and technical and financial assistance for comprehensive solid waste management.

(b) Utilize the capabilities of private enterprise as well as the services of public agencies to accomplish the desired objectives of an effective solid waste management program.

(c) Require a permit for the operation of solid waste processing and disposal systems.

(d) Achieve and maintain status for the Kansas department of health, water and environment as an approved state agency for the purpose of administering federal municipal solid waste management laws and regulations.

(e) Encourage the wise use of resources through development of strategies that reduce, reuse and recycle materials.

Sec. 137. K.S.A. 65-3402 is hereby amended to read as follows: 65-3402. As used in this act, unless the context otherwise requires:

(a) "Solid waste" means garbage, refuse, waste tires as defined by K.S.A. 65-3424, and amendments thereto, and other discarded materials, including, but not limited to, solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Solid waste does not include hazardous wastes as defined by subsection (f) of K.S.A. 65-3430(f), and amendments thereto, recyclables or the waste of domestic animals as described by subsection (a)(1) of K.S.A. 65-3409(a)(1), and amendments thereto.

(b) "Solid waste management system" means the entire process of storage, collection, transportation, processing, and disposal of solid wastes by any person engaging in such process as a business, or by any state agency, city, authority, county or any combination thereof.

(c) "Solid waste processing facility" means incinerator, composting facility, household hazardous waste facility, waste-to-energy facility, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored, salvaged or otherwise
processed prior to being transported to a final disposal site. This term does
not include a scrap material recycling and processing facility.

d) "Solid waste disposal area" means any area used for the disposal
of solid waste from more than one residential premises, or one or more
commercial, industrial, manufacturing or municipal operations. "Solid
waste disposal area" includes all property described or included within any
permit issued pursuant to K.S.A. 65-3407, and amendments thereto.

e) "Person" means individual, partnership, firm, trust, company,
association, corporation, individual or individuals having controlling or
majority interest in a corporation, institution, political subdivision, state
agency or federal department or agency.

f) "Waters of the state" means all streams and springs, and all bodies
of surface or groundwater, whether natural or artificial, within the
boundaries of the state.

g) "Secretary" means the secretary of health and environment the
Kansas department of water and environment.

h) "Department" means the Kansas department of health water and
environment.

i) "Disposal" means the discharge, deposit, injection, dumping,
spilling, leaking or placing of any solid waste into or on any land or water
so that such solid waste or any constituent thereof may enter the
environment or be emitted into the air or discharged into any water.

j) "Open dumping" means the disposal of solid waste at any solid
waste disposal area or facility which that is not permitted by the secretary
under the authority of K.S.A. 65-3407, and amendments thereto, or the
disposal of solid waste contrary to rules and regulations adopted pursuant
to K.S.A. 65-3406, and amendments thereto.

k) "Generator" means any person who produces or brings into
existence solid waste.

l) "Monitoring" means all procedures used to (1) systematically
inspect and collect data on the operational parameters of a facility, an area
or a transporter, or (2) to systematically collect and analyze data on the
quality of the air, groundwater, surface water or soils on or in the vicinity
of a solid waste processing facility or solid waste disposal area.

m) "Closure" means the permanent cessation of active disposal
operations, abandonment of the disposal area, revocation of the permit or
filling with waste of all areas and volume specified in the permit and
preparing the area for the long-term care.

n) "Postclosure" means that period of time subsequent to closure of a
solid waste disposal area when actions at the site must be performed.

o) "Reclamation facility" means any location—at which where
material containing a component defined as a hazardous substance
pursuant to K.S.A. 65-3452a, and amendments thereto, or as an industrial
waste pursuant to this section is processed.

(p) "Designated city" means a city or group of cities which through interlocal agreement with the county in which they are located, is delegated the responsibility for preparation, adoption or implementation of the county solid waste plan.

(q) "Nonhazardous special waste" means any solid waste designated by the secretary as requiring extraordinary handling in a solid waste disposal area.

(r) "Recyclables" means any materials that will be used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product. "Recyclables" includes, but is not limited to, paper, glass, plastic, municipal water treatment residues, as defined by K.S.A. 65-163, and amendments thereto, and metal, but does not include yard waste.

(s) "Scrap material processing industry" means any person who accepts, processes and markets recyclables.

(t) "Scrap material recycling and processing facility" means a fixed location that utilizes machinery and equipment for processing only recyclables.

(u) "Construction and demolition waste" means solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities; untreated wood and untreated sawdust from any source; treated wood from construction or demolition projects; small amounts of municipal solid waste generated by the consumption of food and drinks at construction or demolition sites, including, but not limited to, cups, bags and bottles; furniture and appliances from which ozone depleting chlorofluorocarbons have been removed in accordance with the provisions of the federal clean air act; solid waste consisting of motor vehicle window glass; and solid waste consisting of vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm-related cleanup. Such wastes include, but are not limited to, bricks, concrete and other masonry materials, roofing materials, soil, rock, wood, wood products, wall or floor coverings, plaster, drywall, plumbing fixtures, electrical wiring, electrical components containing no hazardous materials, nonasbestos insulation and construction related packaging. "Construction and demolition waste" shall not include waste material containing friable asbestos, garbage, furniture and appliances from which ozone depleting chlorofluorocarbons have not been removed in accordance with the provisions of the federal clean air act, electrical equipment containing hazardous materials, tires, drums and containers even though such wastes resulted from construction and demolition activities. Clean rubble that is mixed with other construction and demolition waste during demolition or transportation shall be considered to be construction and demolition waste.
"Construction and demolition landfill" means a permitted solid waste disposal area used exclusively for the disposal on land of construction and demolition wastes. This term shall not include a site that is used exclusively for the disposal of clean rubble.

"Clean rubble" means the following types of construction and demolition waste: Concrete and concrete products including reinforcing steel, asphalt pavement, brick, rock and uncontaminated soil as defined in rules and regulations adopted by the secretary.

"Industrial waste" means all solid waste resulting from manufacturing, commercial and industrial processes—\textit{which} that is not suitable for discharge to a sanitary sewer or treatment in a community sewage treatment plant or is not beneficially used in a manner that meets the definition of recyclables. Industrial waste includes, but is not limited to: Mining wastes from extraction, beneficiation and processing of ores and minerals unless those minerals are returned to the mine site; fly ash, bottom ash, slag and flue gas emission wastes generated primarily from the combustion of coal or other fossil fuels; cement kiln dust; waste oil and sludges; waste oil filters; and fluorescent lamps.

"Composting facility" means any facility that composts wastes and has a composting area larger than one-half acre.

"Household hazardous waste facility" means a facility established for the purpose of collecting, accumulating and managing household hazardous waste and may also include small quantity generator waste or agricultural pesticide waste, or both. Household hazardous wastes are consumer products that when discarded exhibit hazardous characteristics.

"Waste-to-energy facility" means a facility that processes solid waste to produce energy or fuel.

"Transfer station" means any facility where solid wastes are transferred from one vehicle to another or where solid wastes are stored and consolidated before being transported elsewhere, but shall not include a collection box provided for public use as a part of a county-operated solid waste management system if the box is not equipped with compaction mechanisms or has a volume smaller than 20 cubic yards.

"Municipal solid waste landfill" means a solid waste disposal area where residential waste is placed for disposal. A municipal solid waste landfill also may receive other nonhazardous wastes, including commercial solid waste, sludge and industrial solid waste.

"Construction related packaging" means small quantities of packaging wastes that are generated in the construction, remodeling or repair of structures and related appurtenances. "Construction related packaging" does not include packaging wastes that are generated at retail establishments selling construction materials, chemical containers generated from any source or packaging wastes generated during
maintenance of existing structures.

(ee) "Industrial facility" includes all operations, processes and structures involved in the manufacture or production of goods, materials, commodities or other products located on, or adjacent to, an industrial site and is not limited to a single owner or to a single industrial process. For purposes of this act, it includes all industrial processes and applications that may generate industrial waste which may be disposed at a solid waste disposal area which is permitted by the secretary and operated for the industrial facility generating the waste and used only for industrial waste.

Sec. 138. K.S.A. 65-3419 is hereby amended to read as follows: 65-3419. (a) Any person who violates any provision of subsection (a) of K.S.A. 65-3409(a), and amendments thereto, shall incur, in addition to any other penalty provided by law, a civil penalty in an amount of up to $5,000 for every such violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) The director of the Kansas department of water and environment, division of environment and conservation, upon a finding that a person has violated any provision of subsection (a) of K.S.A. 65-3409(a), and amendments thereto, may impose a penalty within the limits provided in this section, which penalty shall constitute an actual and substantial economic deterrent to the violation for which it is assessed.

(c) No penalty shall be imposed pursuant to this section except upon the written order of the director of the division of environment and conservation, to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of such person to appeal to a hearing before the secretary of health and environment. Any such person may, within 15 days after service of the order, make written request to the secretary for a hearing thereon. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(d) Any action of the secretary pursuant to subsection (c) is subject to review in accordance with the Kansas judicial review act.

(e) Notwithstanding any other provision of this act, the secretary, upon receipt of information that the storage, transportation, processing, treatment or disposal of any waste may present a substantial hazard to the health of persons or to the environment or for a threatened or actual violation of this act or rules and regulations adopted pursuant thereto, or any permit conditions required thereby, may take such action as the secretary determines to be necessary to protect the health of such persons or the environment. The action the secretary may take shall include, but not be limited to:

(1) Issuing an order directing the owner, generator, transporter or the
operator of the processing, treatment or disposal facility or site, or the
custodian of the waste, which constitutes such hazard or threatened or
actual violation, to take such steps as are necessary to prevent the act or
eliminate the practice which constitutes such hazard. Such action may
include, with respect to a facility or site, permanent or temporary cessation
of operation.

(2) Commencing an action to enjoin acts or practices specified in
paragraph (1) or requesting that the attorney general or appropriate district
or county attorney commence an action to enjoin those acts or practices or
threatened acts or practices. Upon a showing by the secretary that a person
has engaged in those acts or practices or intends to engage in those acts or
practices, a permanent or temporary injunction, restraining order or other
order may be granted by any court of competent jurisdiction. An action for
injunction under this paragraph (2) shall have precedence over other cases
in respect to order of trial.

(3) Applying to the district court in the county in which an
order of the secretary under paragraph (1) will take effect, in whole or in
part, for an order of that court directing compliance with the order of the
secretary. Failure to obey the court order shall be punishable as contempt
of the court issuing the order. The application under this paragraph (3) for
a court order shall have precedence over other cases in respect to order of
trial.

(f) In any civil action brought pursuant to this section in which a
temporary restraining order, preliminary injunction or permanent
injunction is sought, it shall not be necessary to allege or prove at any
stage of the proceeding that irreparable damage will occur should the
temporary restraining order, preliminary injunction or permanent
injunction not be issued or that the remedy at law is inadequate, and the
temporary restraining order, preliminary injunction or permanent
injunction shall issue without such allegations and without such proof.

Sec. 139. K.S.A. 65-3423 is hereby amended to read as follows: 65-
3423. (a) When a city or a county or any combination of cities or counties,
or both, provides for a facility or facilities to recover materials or energy as
a part of an approved solid waste management plan, the city or county or
the separate legal entity created to govern the combination of cities or
counties, or both, if such an entity exists, may enter into contracts with
private persons for the performance of any such functions of the plan
which in the opinion of the city or county or such separate legal
entity, can desirably and conveniently be carried out by a private person
under contract provided any such contract shall contain such terms and
conditions as will enable the city or county or such separate legal entity to
retain overall supervision and control of the business, design, operating
management, transportation, marketing, planning and research and
development functions to be carried out or to be performed by such private
persons pursuant to such contract. Such contracts may be entered into
either on a negotiated or an open-bid basis, and the city or county or such
separate legal entity in its discretion may select the type of contract it
deems most prudent to utilize considering the scope of work, the
management complexities associated therewith, the extent of current and
future technological development requirements and the best interests of the
state.

(b) Private entities may construct, operate, maintain and own resource
recovery facilities; form contracts to supply solid waste to the resource
recovery facility or facilities; form contracts to market materials or energy
recovered from such facility or facilities; or utilize such facility or
facilities to conserve materials or energy by reducing the volume of solid
waste under the supervision of and with the approval of the city or county
or such separate legal entity, subject to the approval of the Kansas
department of health and environment, and in accordance with the
approved local solid waste management plan.

Sec. 140. K.S.A. 65-3424d is hereby amended to read as follows: 65-
3424d. (a) In addition to any other tax imposed upon the retail sale of new
vehicle tires, there is hereby imposed on retail sales of new vehicle tires
(excluding innertubes), including new tires mounted on a vehicle sold at
retail for the first time, an excise tax of $.25 per vehicle tire. Such tax shall
be paid by the purchaser of such tires and collected by the retailer thereof.

(b) The tax imposed by this section collected by the retailer shall
become due and payable as follows: When the total tax for which any
retailer is liable under this act does not exceed the sum of $80 in any
calendar year, the retailer shall file an annual return on or before January
25 of the following year; when the total tax liability does not exceed
$1,600 in any calendar year, the retailer shall file returns quarterly on or
before the 25th day of the month following the end of each calendar
quarter; when the total tax liability exceeds $1,600 in any calendar year,
the retailer shall file a return for each month on or before the 25th day of
the following month. Each person collecting the tax imposed pursuant to
this section shall make a true report to the department of revenue, on a
form prescribed by the secretary of revenue, providing such information as
may be necessary to determine the amounts of taxes due and payable
hereunder for the applicable month or months, which report shall be
accompanied by the tax disclosed thereby. Records of sales of new tires
shall be kept separate and apart from the records of other retail sales made
by the person charged to collect the tax imposed pursuant to this section in
order to facilitate the examination of books and records as provided herein.

(c) The secretary of revenue or the secretary's authorized
representative shall have the right at all reasonable times during business
hours to make such examination and inspection of the books and records
of the person required to collect the tax imposed pursuant to this section as
may be necessary to determine the accuracy of such reports required
hereunder.

(d) The secretary of revenue is hereby authorized to administer and
collect the tax imposed by this section and to adopt such rules and
regulations as may be necessary for the efficient and effective
administration and enforcement of the collection thereof. Whenever any
person liable to collect the taxes imposed hereunder refuses or neglects to
pay them, the amount, including any penalty, shall be collected in the
manner prescribed for the collection of the retailers' sales tax by K.S.A.
79-3617, and amendments thereto.

(e) The secretary of revenue shall remit all revenue collected under
the provisions of this section to the state treasurer in accordance with the
provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
each such remittance, the state treasurer shall deposit the entire amount in
the state treasury to the credit of the waste tire management fund.

(f) Whenever, in the judgment of the secretary of revenue, it is
necessary, in order to secure the collection of any taxes, penalties or
interest due, or to become due, under the provisions of this act, the
secretary may require any person charged with the collection of such tax to
file a bond with the director of taxation under conditions established by
and in such form and amount as prescribed by rules and regulations
adopted by the secretary.

(g) The secretary of revenue and the secretary of health of water and
environment shall cooperate to: (1) Ensure that retailers required to collect
the tax imposed by this section collect such tax on sales of tires for all
vehicles, as defined by K.S.A. 65-3424, and amendments thereto; and (2)
develop and distribute to tire retailers educational materials that emphasize
appropriate waste tire management practices.

Sec. 141. K.S.A. 65-3424i is hereby amended to read as follows: 65-
3424i. (a) Except as provided by subsection (b), no tire retailer shall refuse
to accept waste tires from customers.

(b) A tire retailer may: (1) Ask customers if they wish to retain their
old tires at the time of sale; (2) refuse to accept more tires from a customer
than purchased by that customer at the time of sale; or (3) refuse to accept
waste tires from a customer purchasing replacement tires for commercial
use if the tire retailer does not mount such replacement tires.

(c) Tire retailers shall prominently display or make available to
customers educational materials provided by the department of health and
environment and the Kansas department of revenue relating to proper
waste tire management practices.

Sec. 142. K.S.A. 65-3426 is hereby amended to read as follows: 65-
There is hereby established within the Kansas Department of Health and Environment the solid waste grants advisory committee, which shall be composed of eight members as follows:

1. Seven members appointed by the governor, two of whom shall represent the interests of regional solid waste management entities, two of whom shall represent the interests of counties, one of whom shall represent the interests of cities, one of whom shall represent the interests of waste tire generators or handlers and one of whom shall represent the interests of the private sector;

2. The secretary of Health and Environment or the secretary's designee.

Appointive members of the solid waste grants advisory committee shall serve terms of two years. The secretary of Health and Environment or the person designated by the secretary shall serve as chairperson of the advisory committee.

Members of the solid waste grants advisory committee shall receive amounts provided by subsection (e) of K.S.A. 75-3223(e), and amendments thereto, for each day of actual attendance at any meeting of the advisory committee or any subcommittee meeting authorized by the advisory committee.

The secretary of Health and Environment shall provide technical support related to the activities of the solid waste grants advisory committee, including but not limited to establishing project selection criteria, performing technology evaluations, assessing technical feasibility and determining consistency with the statewide solid waste management plan, the applicable county or regional solid waste management plan and regional activities.

In accordance with schedules established by the secretary of Health and Environment, the solid waste grants advisory committee shall meet to review competitive grant applications submitted pursuant to subsection (b) of K.S.A. 65-3415(b), and amendments thereto. The advisory committee shall establish a project priority list for each fiscal year based upon the availability of funds as estimated by the secretary and shall make recommendations regarding the selection of grantees and the disbursement of moneys.
thereto:

(a) "Department" means the Kansas department of health and environment.

(b) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

(c) "Facility" means all contiguous land, structures and other appurtenances and improvements on the land utilized for the purpose of treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units.

(d) "Generator" means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation.

(e) (1) "Hazardous waste" means any waste or combination of wastes which, because of its quantity, concentration or physical, chemical, biological or infectious characteristics or as otherwise determined by the secretary: (A) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (B) poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed.

(2) "Hazardous waste" does not include: (A) Household waste; (B) agricultural waste returned to the soil as fertilizer; (C) mining waste and overburden from the extraction, beneficiation and processing of ores and minerals, if returned to the mine site; (D) drilling fluids, produced waters and other wastes associated with the exploration, development and production of crude oil, natural gas or geothermal energy; (E) fly ash, bottom ash, slag and flue gas emission control wastes generated primarily from the combustion of coal or other fossil fuels; (F) cement kiln dust; or (G) materials listed in 40 C.F.R. 261.4, as in effect on July 1, 1983 or any later version as established in rules and regulations adopted by the secretary.

(f) "Hazardous waste facility" means a facility or part of a facility where: (1) - at which Hazardous waste is treated; (2) - at which hazardous waste is stored; or (3) - at which hazardous waste is disposed and will remain after closure. "Hazardous waste facility" includes a hazardous waste injection well.

(g) "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous waste.

(h) "Hazardous waste transfer facility" means any hazardous waste
transportation-related facility, other than the location of generation or of final treatment or disposal, that, during the course of transportation, serves as an area for the accumulation, consolidation, distribution or transfer of hazardous waste shipments, including loading docks, parking areas, rail spurs and other similar areas where shipments of hazardous waste are held during the normal course of transportation. "Hazardous waste transfer facility" does not include hazardous waste facilities or permitted household hazardous waste facilities.

(i) "Manifest" means the form prescribed by the secretary to be used for identifying the quantity, composition, origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

(j) "Modification" means the expansion or enlargement of a facility beyond the boundaries established by an existing permit or any material or substantial alteration or addition to an existing permitted facility which would justify the application of permit conditions that would be materially or substantially different from the conditions of the existing permit or are absent from the existing permit.

(k) "Monitoring" means all procedures used to: (1) Systematically inspect and collect samples or require information and copy records or data on the operational parameters of a facility, generator or a transporter; or (2) to systematically collect and analyze data on the quality of the air, groundwater, surface water or soil on or in the vicinity of a hazardous waste generator, transporter or facility.

(l) "Off-site facility" means a facility where treatment, storage or disposal activities are conducted by a person other than the hazardous waste generator.

(m) "On-site facility" means a facility which is solely owned and operated by the generator exclusively for the treatment, storage or disposal of wastes which have been generated on the contiguous property and which includes the same or geographically contiguous property which may be divided by public or private right-of-way, provided if the entrance and exit between the properties is at a crossroads intersection and access is by crossing and not going along the right-of-way or noncontiguous properties owned by the same person but connected by a right-of-way which the person controls and to which the public does not have access.

(n) "Permit" means the document issued to a person by the secretary which allows such person to construct and operate a hazardous waste facility in the state.

(o) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, including a government corporation, partnership, state, municipality, commission, political subdivision of a
state or any interstate body.

(p) "Secretary" means the secretary of the Kansas department of health, water and environment.

(q) "Storage" means the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of or stored elsewhere.

(r) "Transporter" means any person who is engaged in the off-site transportation of hazardous waste by air, rail, land, highway or water.

(s) "Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste or so as to recover energy or material resources from the waste, to render such waste nonhazardous, less hazardous, safer to transport, store or dispose of, amenable for recovery or storage, or reduced in volume.

(t) "Waste" means any garbage, refuse, sludge or other discarded material, which is abandoned or committed to treatment, storage or disposal, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining, community and agricultural activities. "Waste" does not include solid or dissolved materials in domestic sewage or irrigation return flows or solid or dissolved materials or industrial discharges, which are point sources subject to permits under K.S.A. 65-165, and amendments thereto.

(u) "Acutely hazardous waste" means:

(1) A commercial chemical product or manufacturing chemical intermediate having a generic name listed in 40 C.F.R. 261.33(e), as in effect on July 1, 1984 or 2006, or any later version as established in rules and regulations adopted by the secretary; or

(2) an off-specification commercial product or manufacturing chemical intermediate, which, if either met specifications, would have a generic name listed in 40 C.F.R. 261.33(e), as in effect on July 1, 1984 or 2006, or any later version as established in rules and regulations adopted by the secretary.

(v) "Underground injection" means the subsurface emplacement of fluids through a well for which a permit has been issued by the secretary.

(w) "Land treatment" means the practice of applying hazardous waste onto or incorporating hazardous waste into the soil surface so that such waste degrades or decomposes and renders the waste nonhazardous.

(x) "Above ground storage" means the placement of containerized hazardous waste into an above ground structure for a temporary period prior to the reuse or ultimate treatment or disposal of such waste.

(y) "Closure plan" means a written document, which identifies the procedures by which the owner or operator of a hazardous waste facility will close such facility so as to control, minimize or eliminate, to the
extent necessary to prevent a threat to human health and the environment, post-closure escape of hazardous waste, hazardous waste constituents, leachate, contaminated rainfall or waste decomposition products to the ground, groundwater, surface waters or to the atmosphere.

(z) "Post-closure plan" means the written document which identifies the procedures by which the owner or operator of a hazardous waste facility shall provide, for a minimum of 30 years, for groundwater protection, site security and maintenance of cover and leachate collection systems.

Sec. 145. K.S.A. 65-3446 is hereby amended to read as follows: 65-3446. (a) The secretary of the department of health and environment or the director of the Kansas department of water and environment, division of environment and conservation, if designated by the secretary, upon a finding that a person has violated any provision of K.S.A. 65-3441, and amendments thereto, may impose a penalty not to exceed $10,000 which. Such penalty shall constitute an actual and substantial economic deterrent to the violation for which it is assessed and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) No penalty shall be imposed pursuant to this section except after notice of violation and opportunity for hearing upon the written order of the secretary or the director of the division of environment and conservation, if designated by the secretary, to the person who committed the violation. The order shall state the violation, the penalty to be imposed and, in the case of an order of the director of the division of environment and conservation, the right to appeal to the secretary for a hearing thereon. Any person may appeal an order of the director of the division of environment and conservation by making a written request to the secretary for a hearing within 15 days of service of such order. The secretary shall hear the person within 30 days after receipt of such request, unless such time period is waived or extended by written consent of all parties or by a showing of good cause. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

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

Sec. 146. K.S.A. 65-3458 is hereby amended to read as follows: 65-3458. (a) The underground burial of hazardous waste produced by persons generating quantities of such waste greater than those specified in K.S.A. 65-3451, and amendments thereto, is prohibited except as provided by order of the secretary of health of water and environment issued pursuant to this act. Such prohibition shall not be construed as prohibiting—(1) mound landfill,—(2) aboveground storage,—(3) land treatment,—(4)—
underground injection of hazardous waste or—(5) on-site disposal or consolidation of solid and hazardous wastes, including soils, sediments and debris, if the wastes are generated as the result of a clean-up, approved by the secretary, at the site, which may include adjacent or nearby property under separate ownership that is part of the approved clean-up. Any existing hazardous waste facility—which that utilizes underground burial shall cease such practice and, with the approval of the secretary, shall implement closure and postclosure plans for all units of the facility—in which where hazardous wastes have been disposed of underground.

(b) (1) The secretary of water and environment shall decide whether or not an exception to the prohibition against underground burial of hazardous waste shall be granted for a particular hazardous waste. No decision to grant an exception shall be rendered unless it is demonstrated to the secretary that, except for underground burial, no economically reasonable or technologically feasible methodology exists for the disposal of a particular hazardous waste. The procedures for obtaining an exception to the prohibition against underground burial of hazardous waste shall include a public hearing conducted in accordance with the provisions of the Kansas administrative procedure act and such other procedures as are established and prescribed by rules and regulations adopted by the secretary. Such rules and regulations shall include requirements for the form and contents of a petition desiring an exception.

(2) Within 90 days after submission of a petition desiring an exception, the secretary decides whether to grant an exception to the prohibition against underground burial of hazardous waste, the secretary of health water and environment shall issue an order so providing. Any action by the secretary pursuant to this section is subject to review in accordance with the Kansas judicial review act.

Sec. 147. K.S.A. 65-3491 is hereby amended to read as follows: 65-3491. (a) There is hereby created in the state treasury the hazardous waste management fund.

(b) Subject to the provisions of subsection (c), moneys credited to the hazardous waste management fund may be expended for the following purposes:

(1) Technical reviews of applications for permits pursuant to K.S.A. 65-3430 through 65-3460, and amendments thereto, including permit modifications and permit renewals for hazardous waste facilities;

(2) evaluating options available for minimizing the generation of hazardous wastes;

(3) completing background investigations of applicants pursuant to subsection (c) of K.S.A. 65-3437(c), and amendments thereto;

(4) completing site investigations pursuant to—subsection (d) of—
K.S.A. 65-3437(d), and amendments thereto;

(5) assuring that a permittee pursuant to K.S.A. 65-3430 through 65-3460, and amendments thereto, fulfills all permit conditions during the effective period of the permit; and

(6) payment of the administrative, technical and legal costs incurred by the secretary of water and environment in carrying out the provisions of K.S.A. 65-3430 through 65-3460, and amendments thereto, including the cost of any additional employees or increased operating costs of the Kansas department of water and environment attributable thereto.

(c) Moneys credited to the hazardous waste management fund from fees established pursuant to subsection (v)(1) of K.S.A. 65-3431(v)(1), and amendments thereto, shall be expended only to recover costs associated with the review and processing of the permit application for which the fee was paid.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the hazardous waste management fund interest earnings based on:

(1) The average daily balance of moneys in the hazardous waste management fund for the preceding month; and

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

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

(f) The hazardous waste management fund shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the fund shall remain intact and inviolate for the purposes set forth in this section and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(g) On the effective date of this act, the director of accounts and reports shall transfer all moneys in the hazardous waste perpetual care trust fund and the environmental permit fund, created pursuant to K.S.A. 65-3431 as it existed immediately before the effective date of this act, to the hazardous waste management fund. On the effective date of this act, all liabilities of the hazardous waste perpetual care trust fund and the environmental permit fund are hereby transferred to and imposed upon the hazardous waste management fund. On the effective date of this act, the hazardous waste perpetual care trust fund and the environmental permit fund are hereby abolished.

Sec. 148. K.S.A. 65-34,102 is hereby amended to read as follows: 65-
 ':' Aboveground storage tank means:
(1) Any storage tank where greater than 90% of the tank volume, including volume of the piping, is not below the surface of the ground; or
(2) any storage tank situated in an underground area, such as a basement, cellar, mine working, drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor.
(b) "Aboveground fund" means the aboveground petroleum storage tank release trust fund.
(c) "Department" means the Kansas department of health and environment.
(d) "Facility" means all contiguous land, structures and other appurtenances and improvements on the land used in connection with one or more storage tanks.
(e) "Federal act" means the solid waste disposal act (42 U.S.C. § 3152 et seq., and 42 U.S.C. § 6991 et seq., as in effect on January 1, 2012), and rules and regulations adopted pursuant to such federal laws and in effect on January 1, 2012.
(f) "Financial responsibility" means insurance, guarantee, surety bond, letter of credit, qualification as a self-insurer or any other method satisfactory to the secretary to provide for taking corrective action, including cleanup and restoration of any damage to the land, air or waters of the state, and compensating third parties for cleanup, bodily injury or property damage resulting from a sudden or nonsudden release of a regulated substance arising from the construction, relining, ownership or operation of an underground storage tank and in the amount specified in the federal act.
(g) "Guarantor" means any person, other than an owner or operator, who provides evidence of financial responsibility for an owner or operator.
(h) "Operator" means any person in control of or having responsibility for the daily operation of a storage tank, but such term shall not include a person whose only responsibility regarding such storage tank is filling such tank with a regulated substance and who does not dispense or have control of the dispensing of regulated substances from the storage tank.
(i) "Own" means to hold title to or possess an interest in a storage tank or the regulated substance in a storage tank.
(j) (1) "Owner" means any person who: (A) Is or was the owner of any underground storage tank which was in use on November 8, 1984, or brought into use subsequent to that date; (B) in the case of an underground storage tank in use prior to November 8, 1984, owned such tank immediately prior to the discontinuation of its use; (C) is or was the
owner of any aboveground storage tank which that was in use on July 1, 1992, or brought into use subsequent to that date; or (D) in the case of an aboveground storage tank in use prior to July 1, 1992, owned such tank immediately prior to the discontinuation of its use.

(2) "Owner" does not include: (A) A person who holds an interest in a petroleum storage tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the storage tank; and (B) any city or county which that obtains a storage tank or regulated substance as a result of tax foreclosure proceedings.

(k) "Person" means an individual, trust, firm, joint venture, consortium, joint-stock company, corporation, partnership, association, state, interstate body, municipality, commission, political subdivision or any agency, board, department or bureau of this state or of any other state or of the United States government.

(l) "Petroleum" means petroleum, including crude oil or any fraction thereof, which that is liquid at standard conditions of temperature and pressure, 60 degrees Fahrenheit and 14.7 pound per square inch absolute, including, but not limited to, gasoline, gasohol, diesel fuel, fuel oils, kerosene and biofuels.

(m) "Petroleum product" means petroleum other than crude oil.

(n) "Petroleum storage tank" means any storage tank used to contain an accumulation of petroleum.

(o) "Regulated substance" means petroleum or any element, compound, mixture, solution or substance defined in section 101(14) of the comprehensive environmental response, compensation and liability act of 1980 of the United States as in effect on January 1, 1989, but not if regulated as a hazardous waste under the resource conservation and recovery act of 1976, 42 U.S.C. §§ 6921 through 6939b, as in effect on January 1, 1989.

(p) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from a storage tank into groundwater, surface water or soils.

(q) "Removal" means the process of removing or disposing of a storage tank; that is no longer in service; and also shall mean the process of abandoning such tank; in place.

(r) "Repair" means to restore a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other UST system component that has caused a release or a suspected release of product from the UST system or has failed to function properly. The term "Repair" includes modification or correction of a storage tank through such means as relining, replacement of piping, valves, fillpipes, vents and liquid level monitoring systems; and
the maintenance and inspection of the efficacy of cathodic protection devices, but the term "repair" does not include the process of conducting a tightness test to establish the integrity of a tank.

(s) "Secretary" means the secretary of health and environment.

(t) "Storage tank" means any one or combination of tanks used to contain an accumulation of regulated substances, the associated piping and ancillary equipment and the containment system.

(u) "Tank" means a stationary device designed to contain an accumulation of substances and constructed of non-earthen materials such as concrete, steel or plastic, that provide structural support.

(v) "Terminal" means a bulk storage facility for storing petroleum supplied by pipeline or marine vessel.

(w) "Trade secret" has the same meaning as provided in K.S.A. 60-3320, and amendments thereto.

(x) "Underground storage tank" means any storage tank in which 10% or more of the tank volume, including volume of the piping, is below the surface of the ground. "Underground storage tank" does not include any storage tank situated in an underground area, such as a basement, cellar, mine working, drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the floor.

(y) "Underground storage tank contractor" or "contractor" means a business which holds itself out as being qualified to install, repair or remove underground storage tanks.

(z) "Underground fund" means the underground petroleum storage tank release trust fund.

(aa) "Underground storage tank installer" or "installer" means an individual who has an ownership interest or exercises a management or supervisory position with an underground storage tank contractor. The term shall include and includes the crew chief, expeditor, engineer, supervisor, leadman or foreman in charge of a tank installation project.

(bb) "UST redevelopment fund" means the Kansas UST property redevelopment trust fund.

(cc) "Abandoned underground storage tank" means an underground storage tank that exhibits one or more of the following conditions:

1. Is not in use for more than three months;
2. does not have a current tank permit issued by the department; or
3. has been temporarily closed, in accordance with department guidelines, for more than 12 months.

(dd) "Property owner" means, for the purposes of the UST redevelopment fund, a person who owns real property on which an abandoned underground storage tank is located.

(ee) "Installation of a new motor fuel dispenser system" means the
installation of a new motor fuel dispenser and the equipment necessary to
connect the dispenser to the underground storage tank system, but does not
mean the installation of a motor fuel dispenser installed separately from
the equipment needed to connect the dispenser to the underground storage
tank system.

(ff) "Replaced" means:
(1) For a tank, to remove a tank and install another tank; and
(2) for piping, to remove 50% or more of piping and install other
piping, excluding connectors, connected to a single tank. For tanks with
multiple piping runs, this definition applies independently to each piping
run.

(gg) "Secondary containment" or "secondarily contained" means a
release prevention and release detection system for a tank or piping. These
systems have an inner and outer barrier with an interstitial space that is
monitored for a release of regulated substances from the underground
storage tank and piping.

(hh) "Safe suction piping" means underground piping that conveys
regulated substances under suction, is designed and constructed to operate
at less than atmospheric pressure, is sloped so that the contents of the pipe
drain back into the storage tank if the suction is released and contains only
one check valve in each suction line that is located directly below and as
close as practical to the suction pump.

(ii) "Under-dispenser containment" means containment underneath a
dispenser system designed to prevent dispenser system leaks from
reaching soil or groundwater. The containment must shall be:
(1) Liquid tight on its sides, bottom and at any penetrations;
(2) compatible with the substance conveyed by the piping; and
(3) allow for visual inspection and access to the components in the
containment or be monitored for a release of regulated substances from
dispenser and piping.

Sec. 149. K.S.A. 65-34,126 is hereby amended to read as follows: 65-
34,126. (a) The commissioner of insurance shall adopt and implement a
plan for applicants for insurance who are in good faith entitled to
insurance necessary to achieve compliance with the financial
responsibility requirements for third-party liability imposed by 40 C.F.R.
part 280, subpart H, and part 281 adopted by the federal environmental
protection agency. Insurers undertaking to transact the kinds of insurance
specified in subsection (b) or (c) of K.S.A. 40-1102(b) or (c), and
amendments thereto, and rating organizations which that file rates for such
insurance shall cooperate in the preparation and submission to the
commissioner of insurance of a plan or plans for the insurance specified in
this section. Such plan shall provide:
(1) Insurance necessary to achieve compliance with the financial
responsibility requirements for third-party liability imposed by 40 C.F.R. part 280, subpart H, and part 281;

(2) for the appointment by the plan of a servicing carrier—which that shall be: (A) An insurance company authorized to transact business in this state; (B) an insurance company—which that is listed with the commissioner pursuant to K.S.A. 40-246e and amendments thereto; or (C) a risk retention group, as defined by K.S.A. 40-4101 and amendments thereto, which that meets the requirements established under the federal liability risk retention act of 1986 (15 U.S.C. 3901 et seq.), and has registered with the commissioner pursuant to K.S.A. 40-4103, and amendments thereto;

(3) reasonable rules governing the plan, including provisions requiring, at the request of the applicant, an immediate assumption of the risk by an insurer or insurers upon completion of an application, payment of the specified premium and deposit of the application and the premium in the United States mail, postage prepaid and addressed to the plan's office;

(4) rates and rate modifications applicable to such risks, which and such rates shall be established as provided by subsection (b);

(5) the limits of liability—which that the insurer shall be required to assume;

(6) coverage for only underground storage tanks located within this state;

(7) coverage for at least 12 months from the date of the original application with respect to any underground storage tank—which that has been installed for less than 10 years, and may provide such coverage with respect to any such tank—which that has been installed 10 or more years, without requiring tank integrity tests, soil tests or other tests for insurability if, within six months immediately preceding application for insurance, the tank has been made to comply with all provisions of federal and state law; and all applicable rules and regulations adopted pursuant thereto, but the plan may provide for renewal or continuation of such coverage to be contingent upon satisfactory evidence that the tank or tanks to be insured continue to be in compliance with such laws and rules and regulations;

(8) exclusion from coverage of any damages for noneconomic loss and any damages resulting from intentional acts of the insured or agents of the insured;

(9) to the extent allowed by law, subrogation of the insurer to all rights of recovery from other sources for damages covered by the plan or plans;

(10) an optional deductible of the first $2,500, $5,000 or $10,000 of liability per occurrence at any one location for compensation of third parties for bodily injury and property damage caused by either gradual or
sudden and accidental releases from underground petroleum storage tanks, but no such deductible shall apply to reasonable and necessary attorney fees and other reasonable and necessary expenses incurred in defending a claim for such compensation;

(11) coverage only of claims for occurrences that commenced during the term of the policy and that are discovered and reported to the insurer during the policy period or within six months after the effective date of the cancellation or termination of the policy;

(12) a method whereby applicants for insurance, insureds and insurers may have a hearing on grievances and the right of appeal to the commissioner;

(13) a method whereby adequate reserves are established for open claims and claims incurred but not reported based on advice from an independent actuary retained by the plan at least annually, the cost of which shall be borne by the plan;

(14) a method whereby the plan shall compare the premiums earned to the losses and expenses sustained by the plan for the preceding fiscal year and if, for that year:

(A) There is any excess of losses and expenses over premiums earned, plus amounts transferred pursuant to subsection (a)(15), an amount equal to such excess losses and expenses shall be transferred from the underground fund established by K.S.A. 65-34,114, and amendments thereto to the plan; or

(B) there is any surplus of premiums earned, plus amounts transferred pursuant to subsection (a)(15), over losses, including loss reserves, and expenses sustained, 1/2 of such surplus shall be transferred to such fund from the plan and the remaining 1/2 of such surplus shall be refunded from the plan to the insureds in proportion to the amount each paid into the plan during the preceding fiscal year; and

(15) a method whereby, during any fiscal year, whenever the losses and expenses sustained by the plan exceed premiums earned, an amount equal to the excess of losses and expenses shall be transferred from the underground fund established by K.S.A. 65-34,114, and amendments thereto, to the plan upon receipt by the secretary of health and environment of evidence, satisfactory to the secretary, of the amount of the excess losses and expenses.

(b) The commissioner of insurance shall establish rates, effective January 1 of each year, for coverage provided under the plan adopted pursuant to this section. Such rates shall be reasonable, adequate and not unfairly discriminatory. Such rates shall be based on loss and expense experience developed by risks insured by the plan and shall be in an amount deemed sufficient by the commissioner to fund anticipated claims based upon reasonably prudent actuarial principles, except that:
(1) Due consideration shall be given to the loss and expense experience developed by similar plans operating or trust funds offering third party liability coverage in other states and the voluntary market; and

(2) before January 1, 1992, the annual rate shall be not more than $500 for each tank for which coverage is provided under the plan with selection of a $10,000 deductible.

in establishing rates pursuant to this subsection, the commissioner shall establish, as appropriate, lower rates for tanks complying with all federal standards, including design, construction, installation, operation and release detection standards, with which such tanks are or will be required to comply by 40 C.F.R. part 280 as in effect on the effective date of this act.

(c) The commissioner of insurance shall appoint a governing board for the plan. The governing board shall meet at least annually to review and prescribe operating rules of the plan. Such board shall consist of five members appointed as follows: One representing domestic or foreign insurance companies, one representing independent insurance agents, one representing underground storage tank owners and operators and two representing the general public. No member representing the general public shall be, or be affiliated with, an insurance company, independent insurance agent or underground storage tank operator. Members shall be appointed for terms of three years, except that the initial appointment shall include two members appointed for two-year terms and one member appointed for a one-year term, as designated by the commissioner.

(d) Before adoption of a plan pursuant to this section, the commissioner of insurance shall hold a hearing thereon.

(e) An insurer participating in the plan adopted by the commissioner of insurance pursuant to this section may pay a commission with respect to insurance assigned under the plan to an agent licensed for any other insurer participating in the plan or to any insurer participating in the plan.

(f) The commissioner of insurance may adopt such rules and regulations as necessary to administer the provisions of this section.

(g) The department of health and environment and the plan shall provide to each other such information as necessary to implement and administer the provisions of this section. Any such information which is confidential while in the possession of the department or plan shall remain confidential after being provided to the other pursuant to this subsection.

(h) This section shall be a part of and supplemental to the Kansas storage tank act.

Sec. 150. K.S.A. 65-34,133 is hereby amended to read as follows: 65-34,133. (a) There is hereby established the UST redevelopment fund compensation advisory board composed of five members, including the
state fire marshal or the state fire marshal's designee, the director of the
Kansas department of water and environment, division of environment of
the department and conservation or the director's designee, two
representatives from the petroleum industry, at least one of which shall be
a petroleum marketer, and one representative from the petroleum
equipment installation industry. The governor shall appoint the appointive
members of the board, and the members so appointed shall serve for terms
of the duration of the UST redevelopment fund. The governor also shall
designate a member of the board as its chair, to serve in such
capacity at the pleasure of the governor. The secretary shall provide staff
to support the activities of the board.

(b) Appointed members of the board attending meetings of such
board, or attending a subcommittee meeting thereof, when authorized by
such board, shall receive the amounts provided in subsection (e) of K.S.A.
75-3223(e), and amendments thereto.

(c) The board shall provide advice and counsel and make
recommendations to the secretary regarding disputes over the
disbursement of moneys from the UST redevelopment fund.

Sec. 151. K.S.A. 65-34,142 is hereby amended to read as follows: 65-
34,142. As used in this act:

(a) "Chlorinated drycleaning solvent" means any drycleaning solvent
which contains a compound that has a molecular structure
containing the element chlorine.

(b) "Corrective action" means those activities described in subsection
(a) of K.S.A. 65-34,148(a), and amendments thereto.

(c) "Corrective action plan" means a plan approved by the secretary
to perform corrective action at a drycleaning facility.

(d) "Department" means the Kansas department of health water and
environment.

(e) "Drycleaning facility" means a commercial establishment that
operates, or has operated in the past, in whole or in part for the purpose of
cleaning garments or other fabrics utilizing a process that involves any use
of drycleaning solvents. "Drycleaning facility" includes all contiguous
land, structures and other appurtenances and improvements on the land
used in connection with a "drycleaning facility" but does not include
prisons or governmental entities.

(f) "Drycleaning solvent" means any and all nonaqueous solvents
used or to be used in the cleaning of garments and other fabrics at a
drycleaning facility and includes, but is not limited to, perchloroethylene,
also known as tetrachloroethylene, and petroleum-based solvents, and the
products into which such solvents degrade.

(g) "Drycleaning unit" means a machine or device which utilizes
drycleaning solvents to clean garments and other fabrics and includes any
associated piping and ancillary equipment and any containment system.

(h) "Fund" means the drycleaning facility release trust fund.

(i) "Immediate response to a release" means containment and control of a known release in excess of a reportable quantity and notification to the department within 48 hours of any known release in excess of a reportable quantity.

(j) "Owner" means any person who owns or leases, or has owned or leased, a drycleaning facility and who is or has been responsible for the operation of drycleaning operations at such drycleaning facility.

(k) "Person" means an individual, trust, firm, joint venture, consortium, joint-stock company, corporation, partnership, association or limited liability company. "Person" does not include any governmental organization.

(l) "Release" means any spill, leak, emission, discharge, escape, leak or disposal of drycleaning solvent from a drycleaning facility into the soils or waters of the state.

(m) "Reportable quantity" means a known release of a chlorinated drycleaning solvent in excess of one quart over a 24-hour period or a known release of a nonchlorinated drycleaning solvent in excess of one gallon over a 24-hour period.

(n) "Retailer" means any business that: (1) Is registered for purposes of the Kansas retailers sales tax act and provides drycleaning, or drycleaning and laundry, services to final consumers; or (2) has provided a drycleaning, or drycleaning and laundry, facility with a resale exemption certificate and is responsible for charging and collecting retailers' sales tax from final consumers of drycleaning or laundry services.

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

Sec. 152. K.S.A. 65-34,144 is hereby amended to read as follows:

(a) It shall be unlawful for any person to:

(1) Operate a drycleaning facility in violation of this act, rules and regulations adopted pursuant to this act or orders of the secretary pursuant to this act;

(2) prevent or hinder a properly identified officer or employee of the department or other authorized agent of the secretary from entering, inspecting, sampling or responding to a release as authorized by this act;

(3) knowingly make any false material statement or representation in any record, report or other document filed, maintained or used for the purpose of compliance with this act;

(4) knowingly destroy, alter or conceal any record required to be maintained by this act or rules and regulations adopted under this act;

(5) willfully allow a release or knowingly fail to make an immediate response to a release in accordance with this act and rules and regulations
pursuant to this act.

(b) The director of the Kansas department of water and environment, division of environment and conservation, upon a finding that a person has violated a provision of subsection (a), may impose on such person an administrative penalty in an amount not to exceed $500 for every violation.

(c) In assessing an administrative penalty under this section, the director of the division of environment shall consider, when applicable, the following factors:

1. The extent to which that the violation presents a hazard to human health;
2. the extent to which that the violation has or may have an adverse effect on the environment;
3. the amount of the reasonable costs incurred by the state in detection and investigation of the violation; and
4. the economic savings realized by the person in not complying with the provision for which a violation is charged.

Sec. 153. K.S.A. 65-34,153 is hereby amended to read as follows: 65-34,153. (a) Any person adversely affected by any order or decision of the director of the Kansas department of water and environment, division of environment and conservation or the secretary under this act may, within 15 days of service of the order or decision, make a written request for a hearing. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(b) Any person adversely affected by any final action of the secretary pursuant to this act may obtain a review of the action in accordance with the Kansas judicial review act.

Sec. 154. K.S.A. 65-34,162 is hereby amended to read as follows: 65-34,162. As used in this act:

(a) "Contaminant" means such alteration of the physical, chemical or biological properties of any soils and waters of the state as will or is likely to create a nuisance or render such soils or waters potentially harmful, or injurious to public health, safety or welfare, or to the plant, animal or aquatic life of the state.

(b) "Department" means the Kansas department of health, water and environment.

(c) "Secretary" means the secretary of health, the Kansas department of water and environment.

Sec. 155. K.S.A. 65-34,175 is hereby amended to read as follows: 65-34,175. (a) There is hereby created in the state treasury the environmental stewardship fund. All moneys received pursuant to K.S.A. 65-34,117(b) (5), and amendments thereto, shall be deposited into the environmental stewardship fund.
(b) Fund expenditures from the environmental stewardship fund shall be used by the secretary of health and environment for:

(1) The secretary of health and environment to take whatever emergency action necessary or appropriate in response to an environmental threat to public health or safety;

(2) state-led programs to investigate, monitor, remediate and perform long-term care actions;

(3) state matching funds and long-term care actions at federal remedial actions; and

(4) the administrative, personnel and contractual service expenses incurred in undertaking the provisions of this section.

(c) The secretary of health and environment shall undertake cost recovery actions for expenditures from the environmental stewardship fund if a responsible party is identified.

(d) The environmental stewardship fund shall be used for the purposes set forth in this act and for no other governmental purposes. Moneys in the environmental stewardship fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

(e) All such expenditures from the environmental stewardship fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee.

Sec. 156. K.S.A. 65-34,176 is hereby amended to read as follows: 65-34,176. (a) (1) For a site to be eligible to participate in the risk management program, the secretary shall make a finding that the site:

(A) Is subject to an agreement or order under the authority of the secretary's bureau of environmental remediation; and

(B) poses a low risk to human health and the environment.

(2) In making eligibility determinations, the secretary shall have authority to consider such additional factors as deemed relevant.

(3) Any changes in site conditions or property use that results in a change in the risks posed by the site shall make a site ineligible for acceptance or continued participation in the risk management program.

(b) (1) Funding for the risk management plan may be satisfied by the secretary where adequate funding is supplied by federal grants, designated fee funds or other funding sources. The secretary shall remit to the state treasurer, in accordance with K.S.A. 75-4215, and amendments thereto, all moneys received from this act. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the risk management fund. Funding requirements for the risk
management plan payment will be based on the size and risk of the site to which the risk management plan applies, amount of contaminated groundwater, toxicity and mobility of the contaminants, frequency of long term care activities and oversight costs, as determined by the secretary.

(2) Upon acceptance of the application, participants shall make a one-time payment for the risk management plan of a minimum of $2,500.

(c) (1) There is hereby established in the state treasury the risk management fund. Moneys from the following sources shall be deposited in the state treasury and credited to the fund:

(A) Moneys collected from the one-time payments;
(B) moneys received by the secretary in the form of gifts, grants, reimbursements or appropriations from any source intended to be used for purposes of the fund; and
(C) interest attributable to the investment of moneys in the fund.

(2) Moneys in the risk management plan fund shall be expended only for the costs of:

(A) Review of risk management applications;
(B) oversight of risk management plan requirements;
(C) implementation of the risk management plan upon failure of the participant;
(D) activities performed by the secretary to address immediate or emergency threats to human health or the environment related to properties subject to risk management plans;
(E) development, operation and maintenance of the risk management plan tracking system; and
(F) administration and enforcement of the provisions of this act.

(3) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the risk management fund interest earnings based on:

(A) Average daily balance of moneys in the risk management fund for the preceding month; and
(B) net earnings rate of the pooled money investment portfolio for the preceding month.

(4) All expenditures from the risk management plan fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or the secretary's designee for purposes set forth in this section.

(d) (1) A risk management plan shall terminate if it is demonstrated to the secretary's satisfaction that the risk management plan is no longer necessary to protect human health or the environment. Any person shall submit a request to the secretary for approval to terminate a risk management plan. The secretary shall review the request and provide the secretary's decision to approve or deny the request within 120 days after
the secretary's receipt of the request. If the secretary denies the request, justification shall be provided with a written explanation of the denial, including that the person has not provided the documentation to demonstrate that the request is protective of human health and the environment, as determined by the secretary.

(2) A risk management plan agreement shall be an enforceable contract that may be transferred to another person upon approval by the secretary. Any risk management plan may be modified by mutual written agreement by the person and the secretary. The secretary shall not acquire any liability by virtue of approving a risk management plan or by approving expiration of all or a portion of a risk management plan.

e) A risk management plan pursuant to this section may include or require:
(1) Prompt notification to the secretary of any transfer of property that is the subject of a risk management plan, such notice to be given by the participant;
(2) prompt notification to the secretary of any change in use of the property that is the subject of a risk management plan;
(3) maintenance of protective structures or remedial systems at the site, such as soil caps, soil covers, soil surfaces, berms, drainage structures, vegetation, monitoring wells or other structures or systems;
(4) access to the property by agents of the secretary as necessary to inspect and monitor the risk management plan activities;
(5) any other obligations necessary to reduce or eliminate risks or threats to human health and the environment from the site; or
(6) restrictions, prohibitions and zoning requirements placed on property in the site by a local or state government. Such restrictions, prohibitions and zoning requirements may be utilized in addition with any risk management plan activities approved by the secretary. This provision does not grant or expand authority of local government to restrict, prohibit, zone or regulate land.

f) Upon receipt of information that an approved risk management plan is not being implemented as written or that property subject to an approved risk management plan presents a hazard to human health or the environment, the secretary may take such actions as may be necessary to protect human health or the environment. The action the secretary may take shall include, but not be limited to:
(1) Issuing an order directing the participant to take such steps as are necessary to correct any deficiencies and fully implement the approved risk management plan.
(2) Issuing an order retracting the approval of the risk management plan and require the participant to implement remediation of the site to a cleanup standard that will allow for unrestricted use of the site.
(3) Assessing an administrative penalty of up to $500 per day for failure to comply with the terms of the risk management plan.

(4) Performing actions required by the risk management plan and recovering any and all costs from the person responsible for performance of such actions.

(5) Commencing an action enjoining acts or practices set forth in the approved risk management plans or requesting that the attorney general or appropriate district or county attorney commence an action to enjoin such actions that result in approved risk management plans not being implemented or not being fully or properly implemented or that present a substantial and imminent threat or hazard to human health or the environment.

(g) Prior to the secretary's approval of the risk management plan, the participant shall provide written notification to all property owners and occupants within the site and provide proof of such notification to the secretary. The secretary may choose based on public interest to initiate and participate in public meetings to discuss the pending risk management plan.

(h) Any person adversely affected by any order or decision of the secretary pursuant to this act, within 15 days after service of the order or decision, may request in writing a hearing. Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act. Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(i) As used in this section:

(1) "Long term care" means any activity, approved in the risk management plan, that provides assurances that the contamination at the site is not impacting human health;

(2) "owner" means any owner of record of property or authorized representative;

(3) "participant" means any person who has submitted an application for a risk management plan and the plan has been approved by the secretary and successor in interest to the risk management plan agreement;

(4) "person" means any individual, trust, firm, joint stock company, public or private corporation, limited liability company or partnership, the federal government or any agency or instrumentality thereof, any state, state agency, instrumentality, political or taxing subdivision thereof or any interstate body;

(5) "property" means real property;

(6) "remedial activity" means any assessment, cleanup or other action necessary or appropriate to respond to a release or threat of release of environmental contamination at a site;
"risk management plan" means a long term care plan approved by
the secretary and intended to protect human health and the environment at
a site where residual contamination is above cleanup standards;
(8) "risk management plan agreement" means an enforceable
agreement between the participant and the secretary that enacts the risk
management plan;
(9) "secretary" means the secretary of health, the Kansas department
of water and environment;
(10) "site" means all areas and media to which environmental
contamination or pollution has been released, transported, migrated or to
which contamination may migrate.
(j) The secretary shall adopt rules and regulations to implement the
provisions of this act.
(k) The provisions of this section are declared to be severable and if
any provision, word, phrase or clause of the section or the application
thereof to any person shall be held invalid, such invalidity shall not affect
the validity of the remaining portions of this section or the application
thereof.
Sec. 157. K.S.A. 65-34,178 is hereby amended to read as follows: 65-34,178. As used in this act:
(a) "Certificate of environmental liability release" or "CELR" means
a certificate issued by the department that releases the purchaser from
environmental liability for contamination existing at the time of issuance
of the CELR on a property from actions taken by the bureau of
environmental remediation under K.S.A. 65-159, 65-161 through 65-171z,
65-3401 et seq., 65-3430 et seq. and 65-3452a et seq., and amendments
thereto.
(b) "Department" means the Kansas department of health, water
and environment.
(c) "Owner" means any owner of record of property or authorized
representative.
(d) "Person" means any individual, trust, firm, joint stock company,
public or private corporation, limited liability company or partnership; the
federal government or any agency or instrumentality thereof; any state, or
any agency, instrumentality or political or taxing subdivision thereof; or
any interstate body.
(e) "Property" means real property.
(f) "Purchaser" means any person who is acquiring property through
purchase, foreclosure or default. For purposes of this act, "purchaser" does
not include the federal government or a person who acquires property
through gifts, bequests or inheritance.
(g) "Secretary" means the secretary of health, the Kansas department
of water and environment.
(h) "Site" means all areas and media to which environmental contamination or pollution has been released, transported or migrated.

Sec. 158. K.S.A. 65-4501 is hereby amended to read as follows: 65-4501. As used in this act, unless otherwise specifically defined, the following words and phrases shall have the meanings respectively ascribed to them herein:
(a) "Department" shall mean the Kansas department of health and water and environment.
(b) "Secretary" means the secretary of health and the Kansas department of water and environment.
(c) "Person" means an individual, partnership, corporation or association.
(d) "Water supply system" shall mean the system of pipes, structures and facilities through which water is obtained, treated and sold, distributed or otherwise offered to the public for household use or any use by humans.
(e) "Waste water Wastewater treatment facility" shall mean the facility or group of units provided for the treatment of wastewater, including sewage or wastes or both.
(f) "Operator" means the person who has direct responsibility for supervising the operation of a water supply system or a wastewater treatment facility.
(g) "Certificate" shall mean a certificate of competency issued by the secretary stating that the operator has met the requirements for the specified operator classification of the certification program.

Sec. 159. K.S.A. 65-5301 is hereby amended to read as follows: 65-5301. As used in this act:
(a) "Asbestos project" means an activity undertaken to remove or encapsulate friable asbestos containing materials.
(b) "Business entity" means a partnership, firm, association, corporation, sole proprietorship or other business concern.
(c) "License" means an authorization issued by the secretary permitting a business entity to engage in an asbestos project.
(d) "Secretary" means the secretary of the Kansas department of water and environment.
(e) "Friable asbestos containing material" means any material that contains more than 1% asbestos, by weight, which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building and, when dry, may be crumbled, pulverized or reduced to powder by hand pressure.
(f) "Asbestos" means that asbestiform varieties of: Chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite.

Sec. 160. K.S.A. 65-7003 is hereby amended to read as follows: 65-
7003. As used in K.S.A. 65-7001 through 65-7015, and amendments thereto:

(a) "Act" means the Kansas chemical control act;
(b) "administer" means the application of a regulated chemical whether by injection, inhalation, ingestion or any other means, directly into the body of a patient or research subject, such administration to be conducted by:
   (1) A practitioner, or in the practitioner's presence, by such practitioner's authorized agent; or
   (2) the patient or research subject at the direction and in the presence of the practitioner;
(c) "agent or representative" means a person who is authorized to receive, possess, manufacture or distribute or in any other manner control or has access to a regulated chemical on behalf of another person;
(d) "bureau" means the Kansas bureau of investigation;
(e) "department" means the Kansas department of health, water and environment;
(f) "director" means the director of the Kansas bureau of investigation;
(g) "dispense" means to deliver a regulated chemical to an ultimate user, patient or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the regulated chemical for that delivery;
(h) "distribute" means to deliver other than by administering or dispensing a regulated chemical;
(i) "manufacture" means to produce, prepare, propagate, compound, convert or process a regulated chemical directly or indirectly, by extraction from substances of natural origin, chemical synthesis or a combination of extraction and chemical synthesis, and includes packaging or repackaging of the substance or labeling or relabeling of its container. The term excludes the preparation, compounding, packaging, repackaging, labeling or relabeling of a regulated chemical:
   (1) By a practitioner as an incident to the practitioner's administering or dispensing of a regulated chemical in the course of the practitioner's professional practice; or
   (2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to research, teaching or chemical analysis and not for sale;
(j) "person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity;
(k) "practitioner" means a person licensed to practice medicine and
surgery, pharmacist, dentist, podiatrist, veterinarian, optometrist, or
scientific investigator or other person authorized by law to use a controlled
substance in teaching or chemical analysis or to conduct research with
respect to a controlled substance;

(l) "regulated chemical" means a chemical that is used directly or
indirectly to manufacture a controlled substance or other regulated
chemical, or is used as a controlled substance analog, in violation of the
state controlled substances act or this act. The fact that a chemical may be
used for a purpose other than the manufacturing of a controlled substance
or regulated chemical does not exempt it such chemical from the
provisions of this act. "Regulated chemical" includes:

(1) Acetic anhydride (CAS No. 108-24-7);
(2) benzaldehyde (CAS No. 100-52-7);
(3) benzyl chloride (CAS No. 100-44-7);
(4) benzyl cyanide (CAS No. 140-29-4);
(5) diethylamine and its salts (CAS No. 109-89-7);
(6) ephedrine, its salts, optical isomers and salts of optical isomers
(CAS No. 299-42-3), except products containing ephedra or ma huang,
which do not contain any chemically synthesized ephedrine alkaloids,
and are lawfully marketed as dietary supplements under federal law;
(7) hydriodic acid (CAS No. 10034-85-2);
(8) iodine (CAS No. 7553-56-2);
(9) lithium (CAS No. 7439-93-2);
(10) methylamine and its salts (CAS No. 74-89-5);
(11) nitroethane (CAS No. 79-24-3);
(12) chloroephedrine, its salts, optical isomers, and salts of optical
isomers (CAS No. 30572-91-9);
(13) phenylacetic acid, its esters and salts (CAS No. 103-82-2);
(14) phenylpropanolamine, its salts, optical isomers, and salts of
optical isomers (CAS No. 14838-15-4);
(15) piperidine and its salts (CAS No. 110-89-4);
(16) pseudoephedrine, its salts, optical isomers, and salts of optical
isomers (CAS No. 90-82-4);
(17) red phosphorous (CAS No. 7723-14-0);
(18) sodium (CAS No. 7440-23-5); and
(19) thionylchloride (CAS No. 7719-09-7);
(20) gamma butyrolactone (GBL), including butyrolactone;
butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-
2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-
butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid
lactone and 4-hydroxybutanoic acid lactone; CAS No. 96-48-0; and
(21) 1,4 butanediol, including butanediol; butane-1,4-diol; 1,4-
butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene
glycol; tetramethylene glycol; tetramethylene 1,4-diol; CAS No. 110-63-4;

(m) "regulated chemical distributor" means any person subject to the
provisions of the Kansas chemical control act who manufactures or
distributes a regulated chemical;

(n) "regulated chemical retailer" means any person who sells
regulated chemicals directly to the public;

(o) "regulated chemical transaction" means the manufacture of a
regulated chemical or the distribution, sale, exchange or other transfer of a
regulated chemical within or into the state or from this state into another
state; and

(p) "secretary" means the secretary of health the Kansas department
of water and environment.

Sec. 161. K.S.A. 68-1414 is hereby amended to read as follows: 68-
1414. Whenever it is necessary to replace, reconstruct, or repair any bridge
over any navigable river on any county road, which if such road connects
with a county road of another county within or outside this state, or to
protect any such bridge by changing the channel of the river or by the
errection of structures, such as levees, jetties or other structures necessary
to protect the new channel or such bridge, and which such bridge shall
have been destroyed or rendered impassable by flood, high water, fire or
other casualty, then the board of county commissioners is hereby
authorized and empowered to expend not to exceed the sum of $160,000 to
pay the entire cost or the county's share of the cost of such replacement,
reconstruction or repair of such bridge or such change of channel or
erection of the structures hereinbefore described. No such change of
channel shall be made without first securing the approval of the chief
engineer of the Kansas department of water and environment, division of
water resources of the Kansas department of agriculture. Such expenditure
may be made from any unallocated and available funds in the county road
and bridge fund or from revenue derived from the issuance of bonds, or
from the separate fund for the construction of roads and bridges on the
county secondary system or from two or more of such sources, and such
county is hereby authorized to issue bonds for such purpose. Such bonds
shall be issued, registered, sold, delivered and retired in accordance with
the provisions of the general bond law and may be issued without
submitting the question of their issuance to a vote of the electors. The
board of county commissioners may receive and expend any federal, state;
or other funds made available for such improvement which expenditure
may be in addition to the amount authorized to be expended by the county.
The provisions of K.S.A. 19-214, 19-215 and 19-216, and amendments
thereto, shall be applicable to any improvement made under the authority
conferred by this section. This act shall be construed as a separate and
additional method for the replacement, reconstruction and repair of bridges
and no other law of this state except as herein expressly provided shall apply. The total amount expended by any county under the authority conferred by this section plus the amount expended by such county under the authority conferred by K.S.A. 68-1413, and amendments thereto, shall not exceed the sum of $160,000.

Sec. 162. K.S.A. 68-2203 is hereby amended to read as follows: 68-2203. (a) The term "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(b) "Automobile graveyard" shall mean any establishment which that is maintained, used, or operated, for storing, keeping, buying, or selling 10 or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles, but such term shall "automobile graveyard" does not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture.

(c) "Junkyard" shall mean an establishment which that is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include "junkyard" includes garbage dumps.

(d) "Interstate system" means that portion of the national system of interstate and defense highways, including city connecting links and portions of the Kansas turnpikes, located within this state, as officially designated, or as may hereafter be so designated, by the secretary, and approved by the proper federal authority as provided by law.

(e) "Primary system" means that portion of connected main highways, including city connecting links, as officially designated, or as may hereafter be so designated, by the secretary, and approved by the proper federal authority as provided by law.

(f) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company or corporation, including municipal corporation.

(g) "Commission" means the secretary of transportation.

(h) "Board" means the secretary of transportation.

Sec. 163. K.S.A. 74-2608 is hereby amended to read as follows: 74-2608. The Kansas water office department of water and environment, division of water and environmental planning shall:

(a) Collect and compile information pertaining to climate, water and soil as related to the usage of water for agricultural, industrial and municipal purposes and the availability of water supplies in the several
watersheds of the state, and, in so doing, the office shall collect and
compile the information obtainable from other agencies, instrumentalities
of the state, political subdivisions of the state and the federal government;-
(b) develop a state plan of water resources management, conservation
and development for water planning areas as determined by the office-
division of water and environmental planning, and cooperate with any
agency or instrumentality of the state or federal government now or
hereafter engaged in the development of plans or having developed plans
affecting any such area of the state;
(c) develop and maintain guidelines for water conservation plans and
practices. Such guidelines shall:
(1) Not prejudicially or unreasonably affect the public interest;
(2) be technologically and economically feasible for each water user
to implement;
(3) be designed to curtail the waste of water;
(4) consider the use of other water if the use of freshwater is not
necessary;
(5) not require curtailment in water use which that will not benefit
other water users or the public interest;
(6) not result in the unreasonable deterioration of the quality of the
waters of the state;
(7) consider the reasonable needs of the water user at the time;
(8) not conflict with the provisions of the Kansas water appropriation
act and the state water planning act;
(9) be limited to practices of water use efficiency except for drought
contingency plans for municipal users; and
(10) take into consideration drought contingency plans for municipal
and industrial users.
When developing such guidelines, the Kansas water office division of
water and environmental planning shall consider existing guidelines of
groundwater management districts and the cost to benefit ratio effect of
any plan.; and
(d) the Kansas water office division of water and environmental
planning, with the approval of the Kansas water authority, shall establish
guidelines as to when conditions indicative of drought exist. When the
Kansas water office division determines that such conditions exist in an
area, it shall so advise the governor and shall recommend the assembling
of the governor's drought response team.
Sec. 164. K.S.A. 74-2609 is hereby amended to read as follows: 74-
2609. The Kansas water office department of water and environment,
division of water and environmental planning may:
(a) Seek and accept grants and other financial assistance that the
federal government and other public or private sources make available and
utilize the same for any purpose—which that the office is required or authorized to study or make recommendations concerning;-

(b) contract with public agencies or with qualified private persons or agencies to accomplish any purpose—which that the office is required or authorized to study or make recommendations concerning;-

(c) for the purpose of providing public water supply storage in either federally funded or nonfederally funded multipurpose small lakes, acquire water rights under the Kansas water appropriation act; and

(d) authorize the issuance of revenue bonds for the purpose of paying all or part of the cost of acquiring a site, constructing, reconstructing, improving and expanding large reservoir projects or to finance the purchase of storage in existing reservoirs as provided by K.S.A. 82a-1360 to through 82a-1368, inclusive and amendments thereto.

Sec. 165. K.S.A. 74-2622 is hereby amended to read as follows: 74-2622. (a) There is hereby established within and as a part of the Kansas water office department of water and environment, division of water and environmental planning, the Kansas water authority. The authority shall be composed of 24 members of whom 13 shall be appointed as follows: (1) One member shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, such person shall not exercise any power, duty or function as a member or chairperson of the water authority until confirmed by the senate. Such member shall serve at the pleasure of the governor and shall be the chairperson of the authority; (2) except as provided by subsection (b), 10 members shall be appointed by the governor for terms of four years. Of the members appointed under this provision, one shall be a representative of large municipal water users, one shall be representative of small municipal water users, one shall be a board member of a western Kansas groundwater management district, one shall be a board member of a central Kansas groundwater management district, one shall be a member of the Kansas association of conservation districts, one shall be representative of industrial water users, one shall be a member of the state association of watershed districts, one shall have a demonstrated background and interest in water use conservation and environmental issues, and two shall be representative of the general public. The member who is representative of large municipal water users shall be appointed from three nominations submitted by the league of Kansas municipalities. The member who is representative of small municipal water users shall be appointed from three nominations submitted by the Kansas rural water district's association. The member who is representative of a western Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management
district boards No. 1, 3 and 4. The member who is representative of a central Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 2 and 5. The member who is representative of industrial water users shall be appointed from three nominations submitted by the Kansas association of commerce and industry. The member who is representative of the state association of watershed districts shall be appointed from three nominations submitted by the state association of watershed districts. The member who is representative of the Kansas association of conservation districts shall be appointed from three nominations submitted by the state association of conservation districts. If the governor cannot make an appointment from the original nominations, the nominating authority shall be so advised and, within 30 days thereafter, shall submit three new nominations. Members appointed by the governor shall be selected with special reference to training and experience with respect to the functions of the Kansas water authority, and no more than six of such members shall belong to the same political party; (3) one member shall be appointed by the president of the senate for a term of two years; and (4) one member shall be appointed by the speaker of the house of representatives for a term of two years. The state geologist, the state biologist, the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture, the director of the Kansas department of water and environment, division of environment of the department of health and environment and conservation, the chairperson of the state corporation commission, the secretary of commerce, the director of the Kansas water office department of water and environment, division of water and environmental planning, the secretary of wildlife, and parks and tourism, the administrative officer of the state conservation commission, the secretary of agriculture and the director of the agricultural experiment stations of Kansas state university of agriculture and applied science shall be nonvoting members ex officio of the authority. The director of the Kansas water office division of water and environmental planning shall serve as the secretary of the authority.

(b) A member appointed pursuant to subsection (a)(2) shall be appointed for a term expiring on January 15 of the fourth calendar year following appointment and until a successor is appointed and qualified.

(c) In the case of a vacancy in the appointed membership of the Kansas water authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Appointed members of the authority attending regular or special meetings thereof shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and
amendments thereto.

(d) The Kansas water authority shall:

(1) Consult with and be advisory to the governor, the legislature and the director of the Kansas water office division of water and environmental planning.

(2) Review plans for the development, management and use of the water resources of the state by any state or local agency.

(3) Make a study of the laws of this state, other states and the federal government relating to conservation and development of water resources, appropriation of water for beneficial use, flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream and stream pollution for the purpose of determining the necessity or advisability of the enactment of new or amendatory legislation in this state on such subjects.

(4) Make recommendations to other state agencies and political subdivisions of the state for the coordination of their activities relating to flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream, stream pollution and groundwater studies.

(5) Make recommendations to each regular session of the legislature and to the governor at such times as the authority considers advisable concerning necessary or advisable legislation relating to any of the matters or subjects which it is required by this act to study for the purpose of making recommendations to the legislature. All such recommendations to the legislature shall be in drafted bill form together with such explanatory information and data as the authority considers advisable.

(6) Approve, prior to submission to the legislature by the Kansas water office division of water and environmental planning or its director:

(A) Any contract entered into pursuant to the state water plan storage act;
(B) any amendments to the state water plan or the state water planning act;
and (C) any other legislation concerning water resources of the state.

(7) Approve, before they become effective, any policy changes proposed by the Kansas water office division of water and environmental planning concerning the pricing of water for sale pursuant to the state water plan storage act.

(8) Approve, before it becomes effective, any agreement entered into with the federal government by the Kansas water office division of water and environmental planning.

(9) Request any agency of the state, which shall have the duty upon that request, to submit its budget estimate pertaining to the state's water resources and any plans or programs related thereto and, upon the authority's receipt of such budget estimate, review and evaluate it and furnish recommendations relating thereto to the governor and the
legislature.
(10) Approve, prior to adoption by the director of the Kansas water office division of water and environmental planning, rules and regulations authorized by law to be adopted.
(11) Approve, prior to adoption by the director of the Kansas water office division of water and environmental planning, guidelines for conservation plans and practices developed pursuant to subsection (c) of K.S.A. 74-2608(c), and amendments thereto.
(e) The Kansas water authority may appoint citizens' advisory committees to study and advise on any subjects upon which that the authority is required or authorized by this act to study or make recommendations.
(f) The provisions of the Kansas governmental operations accountability law apply to the Kansas water authority, and the authority is subject to audit, review and evaluation under such law.
Sec. 166. K.S.A. 74-99f04 is hereby amended to read as follows: 74-99f04. (a) There is hereby established the Kansas geographic information systems policy board within the office of information technology services.
(b) The board shall consist of 23 members:
(1) The governor shall appoint 11 members as follows: Five representatives of local government, including cities, counties or local government consortia of cities, counties, non-profit and private sector enterprises. Such members may include, but are not limited to, representatives from city and county commissions or planning councils, tribal government, law enforcement, county clerks, county appraisers and emergency planning divisions; two representatives of the board of regents institutions; and two executives representing the private sector. Members from the private sector may include, but are not limited to, representatives from the trucking industry, utilities, telecommunications, publishers, agriculturalists, oil and gas industry, chambers of commerce, aircraft and auto industry and the banking community; and two representatives from relevant statewide businesses or professional organizations, such as statewide associations of groundwater management districts, emergency planning, law enforcement, licensed surveyors and other relevant technical professions or agriculture-related businesses.
(2) The remaining 12 members shall be:
(A) The executive chief information technology officer of the office of information technology services or such officer's designee;
(B) the director of the Kansas water office department of water and environment, division of water and environmental planning, or such director's designee;
(C) the state biologist of the Kansas biological survey or the state biologist's designee;
(D) the state geologist of the Kansas geological survey or the state geologist's designee;
(E) the executive director of the Kansas historical society or such executive director's designee;
(F) the secretary of agriculture or such secretary's designee;
(G) the secretary of health and environment or such secretary's designee;
(H) the director of legislative research of the legislative research department or such director's designee;
(I) the secretary of revenue or such secretary's designee;
(J) the secretary of transportation or such secretary's designee;
(K) the state librarian or such librarian's designee; and
(L) the executive director of the information network of Kansas or such executive director's designee.

(c) Members appointed by the governor under subsection (b)(1) shall be appointed for a four-year term and until such member's successors are appointed and qualified, except as provided in subsection (d). Members not appointed by the governor under subsection (b)(1) shall serve consistent with their terms of office, employment or appointment.

(d) The governor may remove a member from the board for lack of attendance or lack of participation.

(e) The governor shall select a chairperson and vice-chairperson from among the members of the board who shall serve as chairperson and vice-chairperson at the discretion of the governor. The board may elect other officers among its members and may establish any committees deemed necessary to discharge its duties.

(f) Board members shall not receive compensation, subsistence allowance, mileage or associated expenses from the state. Officers or employees of state agencies who serve on the board shall be authorized to serve on the board as part of their duties.

Sec. 167. K.S.A. 2021 Supp. 75-3036 is hereby amended to read as follows: 75-3036. (a) The state general fund is exclusively defined as the fund into which shall be placed all public moneys and revenue coming into the state treasury not specifically authorized by the constitution or by statute to be placed in a separate fund, and not given or paid over to the state treasurer in trust for a particular purpose, which unallocated public moneys and revenue shall constitute the general fund of the state. Moneys received or to be used under constitutional or statutory provisions or under the terms of a gift or payment for a particular and specific purpose are to be kept as separate funds and shall not be placed in the general fund or ever become a part of it.

(b) The following funds shall be used for the purposes set forth in the statutes concerning such funds and for no other governmental purposes. It
is the intent of the legislature that the following funds and the moneys deposited in such funds shall remain intact and inviolate for the purposes set forth in the statutes concerning such funds: Board of accountancy fee fund, K.S.A. 1-204 and 75-1119b, and amendments thereto, and special litigation reserve fund of the board of accountancy; bank commissioner fee fund, K.S.A. 9-1703, 16a-2-302 and 75-1308, and amendments thereto, bank investigation fund, K.S.A. 9-1111b, and amendments thereto, consumer education settlement fund and litigation expense fund of the state bank commissioner; securities act fee fund and investor education and protection fund, K.S.A. 17-12a601, and amendments thereto, of the office of the securities commissioner of Kansas; credit union fee fund, K.S.A. 17-2236, and amendments thereto, of the state department of credit unions; court reporters fee fund, K.S.A. 20-1a02, and amendments thereto, and bar admission fee fund, K.S.A. 20-1a03, and amendments thereto, of the judicial branch; fire marshal fee fund, K.S.A. 31-133a and 31-134, and amendments thereto, and boiler inspection fee fund, K.S.A. 44-926, and amendments thereto, of the state fire marshal; food service inspection reimbursement fund, K.S.A. 36-512, and amendments thereto, of the Kansas department of agriculture; wage claims assignment fee fund, K.S.A. 44-324, and amendments thereto, and workmen's compensation fee fund, K.S.A. 74-715, and amendments thereto, of the department of labor; veterinary examiners fee fund, K.S.A. 47-820, and amendments thereto, of the state board of veterinary examiners; mined-land reclamation fund, K.S.A. 49-420, and amendments thereto, of the department of health and environment; conservation fee fund and abandoned oil and gas well fund, K.S.A. 55-155, 55-176, 55-192, 55-609, 55-711 and 55-901, and amendments thereto, gas pipeline inspection fee fund, K.S.A. 66-1,155, and amendments thereto, and public service regulation fund, K.S.A. 66-1503, and amendments thereto, of the state corporation commission; land survey fee fund, K.S.A. 58-2011, and amendments thereto, of the state historical society; real estate recovery revolving fund, K.S.A. 58-3074, and amendments thereto, of the Kansas real estate commission; appraiser fee fund, K.S.A. 58-4107, and amendments thereto, and appraisal management companies fee fund of the real estate appraisal board; amygdalin (laetrile) enforcement fee fund, K.S.A. 65-6b10, and amendments thereto; mortuary arts fee fund, K.S.A. 65-1718, and amendments thereto, of the state board of mortuary arts; board of barbering fee fund, K.S.A. 65-1817a, and amendments thereto, of the Kansas board of barbering; cosmetology fee fund, K.S.A. 65-1951 and 74-2704, and amendments thereto, of the Kansas state board of cosmetology; healing arts fee fund, K.S.A. 65-2011, 65-2855, 65-2911, 65-5413, 65-5513, 65-6910, 65-7210 and 65-7309, and amendments thereto, and medical records maintenance trust fund, of the state board of healing arts;
other state fees fund, K.S.A. 65-4024b, and amendments thereto, of the
Kansas department for aging and disability services; board of nursing fee
fund, K.S.A. 74-1108, and amendments thereto, of the board of nursing;
dental board fee fund, K.S.A. 74-1405, and amendments thereto; and
special litigation reserve fund, of the Kansas dental board; optometry fee
fund, K.S.A. 74-1503, and amendments thereto, and optometry litigation
fund, of the board of examiners in optometry; state board of pharmacy fee
fund, K.S.A. 74-1609, and amendments thereto, and state board of
pharmacy litigation fund, of the state board of pharmacy; abstracters' fee
fund, K.S.A. 74-3903, and amendments thereto, of the abstracters' board of
examiners; athletic fee fund, K.S.A. 74-50,188, and amendments thereto,
of the department of commerce; hearing instrument board fee fund, K.S.A.
74-5805, and amendments thereto, and hearing instrument litigation fund
of the Kansas board of examiners in fitting and dispensing of hearing
instruments; commission on disability concerns fee fund, K.S.A. 74-6708,
and amendments thereto, of the governor's department; technical
professions fee fund, K.S.A. 74-7009, and amendments thereto, and
special litigation reserve fund of the state board of technical professions;
behavioral sciences regulatory board fee fund, K.S.A. 74-7506, and
amendments thereto, of the behavioral sciences regulatory board;
governmental ethics commission fee fund, K.S.A. 25-4119e, and
amendments thereto, of the governmental ethics commission; emergency
medical services board operating fund, K.S.A. 75-1514, and amendments
thereto, of the emergency medical services board; fire service training
program fund, K.S.A. 75-1514, and amendments thereto, of the university
of Kansas; uniform commercial code fee fund, K.S.A. 75-448, and
amendments thereto, of the secretary of state; prairie spirit rails-to-trails
fee fund of the Kansas department of wildlife, parks and tourism; water
marketing fund, K.S.A. 82a-1315c, and amendments thereto, of the Kansas
department of water and environment, division of water and
environmental planning; insurance department service regulation fund,
K.S.A. 40-112, and amendments thereto, of the insurance department; state
fair special cash fund, K.S.A. 2-220, and amendments thereto, of the state
fair board; scrap metal theft reduction fee fund, K.S.A. 2021 Supp. 50-
6,109a, and amendments thereto; and any other fund in which fees are
deposited for licensing, regulating or certifying a person, profession,
commodity or product.

(c) If moneys received pursuant to statutory provisions for a specific
purpose by a fee agency are proposed to be transferred to the state general
fund or a special revenue fund to be expended for general government
services and purposes in the governor's budget report submitted pursuant
to K.S.A. 75-3721, and amendments thereto, or any introduced house or
senate bill, the person or business entity who paid such moneys within the
preceding 24-month period shall be notified by the fee agency within 30
days of such submission or introduction:
(1) By electronic means, if the fee agency has an electronic address
on record for such person or business entity. If no such electronic address
is available, the fee agency shall send written notice by first class mail; or
(2) any agency that receives fees from a tax, fee, charge or levy paid
to the commissioner of insurance shall post the notification required by
this subsection on such agency's website.
(d) Any such moneys that are wrongfully or by mistake placed in the
general fund shall constitute a proper charge against such general fund. All
legislative appropriations which do not designate a specific fund from
which they are to be paid shall be considered to be proper charges against
the general fund of the state. All revenues received by the state of Kansas
or any department, board, commission, or institution of the state of
Kansas, and required to be paid into the state treasury shall be placed in
and become a part of the state general fund, except as otherwise provided
by law.
(e) The provisions of this section shall not apply to the 10% credited
to the state general fund to reimburse the state general fund for accounting,
auditing, budgeting, legal, payroll, personnel and purchasing services, and
any and all other state governmental services, as provided in K.S.A. 75-
3170a, and amendments thereto.
(f) Beginning on January 8, 2018, the director of the budget shall
prepare a report listing the unencumbered balance of each fund in
subsection (b) on June 30 of the previous fiscal year and January 1 of the
current fiscal year. Such report shall be delivered to the secretary of the
senate and the chief clerk of the house of representatives on or before the
first day of the regular legislative session each year.
(g) As used in this section, “fee agency” shall include includes the
state agencies specified in K.S.A. 75-3717(f), and amendments thereto,
and any other state agency that collects fees for licensing, regulating or
certifying a person, profession, commodity or product.
Sec. 168. K.S.A. 75-3084 is hereby amended to read as follows: 75-
3084. (a) The department of health and environment was established by
K.S.A. 75-5601 et seq., and amendments thereto.
(b) Within the department of health and environment there are three
two divisions: Division of public health, the division of environment and
the division of health care finance.
(c) Within the division of public health there are various bureaus and
programs which carry out and administer the multiple functions of the
department.
(d) Included among those bureaus of the division of public health is
the bureau of family health. Within the bureau of family health there is the
child placing agency and residential programs section. Among other functions, this bureau licenses and regulates foster care and other residential facilities.

(e) The department for children and families was established by K.S.A. 75-5301 et seq., and amendments thereto.

(f) Within the department for children and families there is an economic and employment services section that, among other functions, determines eligibility for services under title XIX of the social security act, known as medicaid and eligibility for services for state funded medical services.

(g) Except as otherwise provided by this order, beginning January 1, 2016 all the powers, duties and functions of the department for children and families, economic and employment services section that, among other functions, determines eligibility for services under title XIX of the social security act, known as medicaid and eligibility for services for state funded medical services are hereby transferred to and imposed upon the department of health and environment and the secretary of the department of health and environment.

(h) Except as otherwise provided by this order, beginning July 1, 2015, all the powers, duties and functions of the department of health and environment, division of public health section for child placing agencies and residential facilities which, among other things, licenses and regulates foster care and other residential facilities are hereby transferred to and imposed upon the Kansas department for children and families and the secretary of the department for children and families.

(i) The department for children and families shall be the successor in every way to the powers, duties and functions of the bureau of family health, child placing agency and residential programs section in which the same were vested prior to the effective date of this order. Every act performed in the exercise of such transferred power, duties and functions by or under the authority of the department of health and environment, division of public health, bureau of family health, child placing agency and residential programs section shall be deemed to have the same force and effect as if performed by the department of health and environment in which such powers, duties, and functions were vested prior to the effective date of this order.

(j) The department of health and environment shall be the successor in every way to the powers, duties and functions of the department for children and families concerning duties and functions of the department for children and families, economic and employment services section that determines eligibility for services under title XIX of the social security act (medicaid) and eligibility for state funded medical services in which the same were vested prior to the effective date of this order. Every act
performed in the exercise of such transferred power, duties and functions
by or under the authority of the department for children and families,
economic and employment services section that, among other functions,
determines eligibility for services under title XIX of the social security act,
known as medicaid and eligibility for services for state funded medical
services, that pertains to determining eligibility for medicaid and state
funded medical services shall be deemed to have the same force and effect
as if performed by the department for children and families in which such
powers, duties, and functions were vested prior to the effective date of
K.S.A. 75-3084 through 75-3089, and amendments thereto.

Sec. 169. K.S.A. 75-37,121 is hereby amended to read as follows: 75-
37,121. (a) There is created the office of administrative hearings within the
department of administration, to be headed by a director appointed by the
secretary of administration. The director shall be in the unclassified service
under the Kansas civil service act.

(b) The office may employ or contract with presiding officers, court
reporters and other support personnel as necessary to conduct proceedings
required by the Kansas administrative procedure act for adjudicative
proceedings of the state agencies, boards and commissions specified in
subsection (h). The office shall conduct adjudicative proceedings of any
state agency which that is specified in subsection (h) when requested by
such agency. Only a person admitted to practice law in this state or a
person directly supervised by a person admitted to practice law in this state
may be employed as a presiding officer. The office may employ regular
part-time personnel. Persons employed by the office shall be under the
classified civil service.

(c) If the office cannot furnish one of its presiding officers within 60
days in response to a requesting agency's request, the director shall
designate in writing a full-time employee of an agency other than the
requesting agency to serve as presiding officer for the proceeding, but only
with the consent of the employing agency. The designee must possess the
same qualifications required of presiding officers employed by the office.

(d) The director may furnish presiding officers on a contract basis to
any governmental entity to conduct any proceeding other than a
proceeding as provided in subsection (h).

(e) The secretary of administration may adopt rules and regulations:
(1) To establish procedures for agencies to request and for the
director to assign presiding officers. An agency may neither select nor
reject any individual presiding officer for any proceeding except in
accordance with the Kansas administrative procedure act;
(2) to establish procedures and adopt forms, consistent with the
Kansas administrative procedure act, the model rules of procedure, and
other provisions of law, to govern presiding officers; and
(3) to facilitate the performance of the responsibilities conferred upon the office by the Kansas administrative procedure act.

(f) The director may implement the provisions of this section and rules and regulations adopted under its authority.

(g) The secretary of administration may adopt rules and regulations to establish fees to charge a state agency for the cost of using a presiding officer.

(h) The following state agencies, boards and commissions shall utilize the office of administrative hearings for conducting adjudicative hearings under the Kansas administrative procedure act in which the presiding officer is not the agency head or one or more members of the agency head:

(1) On and after July 1, 2005: Kansas department for children and families, juvenile justice authority, Kansas department for aging and disability services, department of health and environment, Kansas public employees retirement system, Kansas water office department of water and environment, division of water and environmental planning, Kansas department of agriculture division of animal health and Kansas insurance department.

(2) On and after July 1, 2006: Emergency medical services board, emergency medical services council and Kansas human rights commission.

(3) On and after July 1, 2007: Kansas lottery, Kansas racing and gaming commission, state treasurer, pooled money investment board, Kansas department of wildlife, parks and tourism and state board of tax appeals.

(4) On and after July 1, 2008: Department of human resources, state corporation commission, Kansas department of agriculture water and environment, division of environment and conservation, agricultural labor relations board, department of administration, department of revenue, board of adult care home administrators, Kansas state grain inspection department, board of accountancy and Kansas wheat commission.

(5) On and after July 1, 2009, all other Kansas administrative procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

(i) (1) Effective July 1, 2005, any presiding officer in agencies specified in subsection (h)(1) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to
have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(2) Effective July 1, 2006, any presiding officer in agencies specified in subsection (h)(2) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(3) Effective July 1, 2007, any presiding officer in agencies specified in subsection (h)(3) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(4) Effective July 1, 2008, any full-time presiding officer in agencies specified in subsection (h)(4) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of
this state which that had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(5) Effective July 1, 2009, any full-time presiding officer in agencies specified in subsection (h)(5) which that conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which that had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment occurred.

Sec. 170. K.S.A. 2021 Supp. 75-5133 is hereby amended to read as follows: 75-5133. (a) Except as otherwise more specifically provided by law, all information received by the secretary of revenue, the director of taxation or the director of alcoholic beverage control from returns, reports, license applications or registration documents made or filed under the provisions of any law imposing any sales, use or other excise tax administered by the secretary of revenue, the director of taxation, or the director of alcoholic beverage control, or from any investigation conducted under such provisions, shall be confidential, and it shall be unlawful for any officer or employee of the department of revenue to divulge any such information except in accordance with other provisions of law respecting the enforcement and collection of such tax, in accordance with proper judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

(b) The secretary of revenue or the secretary's designee may:

(1) Publish statistics, so classified as to prevent identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or the attorney general's designee;

(3) provide the post auditor access to all such excise tax reports or returns in accordance with and subject to the provisions of K.S.A. 46-
HB 2686

1106(e), and amendments thereto;

(4) disclose taxpayer information from excise tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) provide information from returns and reports filed under article 42 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, to county appraisers as is necessary to ensure proper valuations of property. Information from such returns and reports may also be exchanged with any other state agency administering and collecting conservation or other taxes and fees imposed on or measured by mineral production;

(6) provide, upon request by a city or county clerk or treasurer or finance officer of any city or county receiving distributions from a local excise tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month, and identifying each business location maintained by the retailer and such retailer's sales or use tax registration or account number;

(7) provide information from returns and applications for registration filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-3601, and amendments thereto, to a city or county treasurer or clerk or finance officer to explain the basis of statistics contained in reports provided by subsection (b)(6);

(8) disclose the following oil and gas production statistics received by the department of revenue in accordance with K.S.A. 79-4216 et seq., and amendments thereto: Volumes of production by well name, well number, operator's name and identification number assigned by the state corporation commission, lease name, leasehold property description, county of production or zone of production, name of purchaser and purchaser's tax identification number assigned by the department of revenue, name of transporter, field code number or lease code, tax period, exempt production volumes by well name or lease, or any combination of this information;

(9) release or publish liquor brand registration information provided by suppliers, farm wineries, microdistilleries and microbreweries in accordance with the liquor control act. The information to be released is limited to: Item number, universal numeric code, type status, product description, alcohol percentage, selling units, unit size, unit of measurement, supplier number, supplier name, distributor number and distributor name;

(10) release or publish liquor license information provided by liquor
licensees, distributors, suppliers, farm wineries, microdistilleries and microbreweries in accordance with the liquor control act. The information to be released is limited to: County name, owner, business name, address, license type, license number, license expiration date and the process agent contact information;

(11) release or publish cigarette and tobacco license information obtained from cigarette and tobacco licensees in accordance with the Kansas cigarette and tobacco products act. The information to be released is limited to: County name, owner, business name, address, license type and license number;

(12) provide environmental surcharge or solvent fee, or both, information from returns and applications for registration filed pursuant to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary of health and environment, or the secretary's designee, for the sole purpose of ensuring that retailers collect the environmental surcharge tax or solvent fee, or both;

(13) provide water protection fee information from returns and applications for registration filed pursuant to K.S.A. 82a-954, and amendments thereto, to the secretary of state board of agriculture of water and environment or the secretary's designee and the secretary-director of the Kansas water office department of water and environment, division of water and environmental planning, or the secretary's director's designee, for the sole purpose of verifying revenues deposited to the state water plan fund;

(14) provide to the secretary of commerce copies of applications for project exemption certificates sought by any taxpayer under the enterprise zone sales tax exemption pursuant to K.S.A. 79-3606(cc), and amendments thereto;

(15) disclose information received pursuant to the Kansas cigarette and tobacco act and subject to the confidentiality provisions of this act to any criminal justice agency, as defined in K.S.A. 22-4701(c), and amendments thereto, or to any law enforcement officer, as defined in K.S.A. 2021 Supp. 21-5111, and amendments thereto, on behalf of a criminal justice agency, when requested in writing in conjunction with a pending investigation;

(16) provide to retailers tax exemption information for the sole purpose of verifying the authenticity of tax exemption numbers issued by the department;

(17) provide information concerning remittance by sellers, as defined in K.S.A. 2021 Supp. 12-5363, and amendments thereto, of prepaid wireless 911 fees from returns to the local collection point administrator, as defined in K.S.A. 2021 Supp. 12-5363, and amendments thereto, for purposes of verifying seller compliance with collection and remittance of
such fees;

(18) release or publish charitable gaming information obtained in charitable gaming licensee and registration applications and renewals in accordance with the Kansas charitable gaming act, K.S.A. 75-5171 et seq., and amendments thereto. The information to be released is limited to: The name, address, phone number, license registration number and email address of the organization, distributor or of premises;

(19) provide to the attorney general confidential information for purposes of determining compliance with or enforcing K.S.A. 50-6a01 et seq., and amendments thereto, the master settlement agreement referred to therein and all agreements regarding disputes under the master settlement agreement. The secretary and the attorney general may share the information specified under this subsection with any of the following:

(A) Federal, state or local agencies for the purposes of enforcement of corresponding laws of other states; and

(B) a court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential; and

(20) disclose taxpayer information that is received from income tax returns to the department of commerce that may be disclosed pursuant to the provisions of K.S.A. 2021 Supp. 74-50,227, and amendments thereto, for the purpose of including such information in the database required by K.S.A. 2021 Supp. 74-50,227, and amendments thereto.

(c) Any person receiving any information under the provisions of subsection (b) shall be subject to the confidentiality provisions of subsection (a) and to the penalty provisions of subsection (d).

(d) Any violation of this section shall be a class A, nonperson misdemeanor, and if the offender is an officer or employee of this state, such officer or employee shall be dismissed from office. Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute any violation of this section if the offender is a city or county clerk or treasurer or finance officer of a city or county.

Sec. 171. K.S.A. 75-5601 is hereby amended to read as follows: 75-5601. (a) There is hereby created a department of health and environment, the head of which shall be the secretary of health and environment, which office is hereby created. The governor shall appoint the secretary of health and environment, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, and the secretary shall serve at the pleasure of the governor. Except as provided by K.S.A. 46-2601, and
amendments thereto, no person appointed as secretary shall exercise any
power, duty or function as secretary until confirmed by the senate. The
department of health and environment shall consist of the division of
public health, and the division of health care finance and the division of
environment. The secretary of health and environment shall receive an
annual salary fixed by the governor.

(b) The provisions of the Kansas governmental operations
accountability law apply to the department of health and environment, and
the department is subject to audit, review and evaluation under such law.

Sec. 172. K.S.A. 75-5608 is hereby amended to read as follows: 75-
5608. (a) There is hereby established under the supervision of the secretary
of health water and environment, an office of laboratory services. The
office of laboratory services shall provide laboratory information and
perform laboratory tests and experiments as directed by the secretary of
water and environment and shall exercise such other powers, duties and
functions as the secretary of health and environment may direct.

(b) The secretary of water and environment may adopt rules and
regulations for the collection and biological or chemical analysis of
samples received by the office of laboratory services. The secretary, by
adoption of rules and regulations, may fix fees for any biological or
chemical analysis services provided by the office of laboratory services
and waive any such fees whenever the secretary finds that waiver is in the
interest of protecting the public health and safety. The secretary shall
waive fees for such services provided to public health departments and
state hospitals. Fees charged and collected shall not exceed the actual cost
of the analysis and testing provided by the office of laboratory services.

(c) Fees collected under this section shall be remitted by the secretary
of water and environment to the state treasurer in accordance with the
provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
each such remittance, the state treasurer shall deposit the entire amount in
the state treasury to the credit of the office of laboratory services operating
fund.

Sec. 173. K.S.A. 75-5608a is hereby amended to read as follows: 75-
5608a. (a) There is hereby created in the state treasury the office of
laboratory services operating fund. Expenditures from the office of
laboratory services operating fund shall be used by the Kansas department
of water and environment only for the purposes of operating the
office of laboratory services. All such expenditures from the office of
laboratory services operating fund shall be made in accordance with
appropriations acts upon warrants of the director of accounts and reports
issued pursuant to vouchers approved by the secretary of water and
environment, or the secretary's designee.

(b) On or before the 10th day of each month, the director of accounts
and reports shall transfer from the state general fund to the office of
laboratory services operating fund interest earnings based on:

(1) The average daily balance of moneys in the office of laboratory
services operating fund, for the preceding month; and

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

Sec. 174. K.S.A. 75-5609a is hereby amended to read as follows: 75-
5609a. (a) The secretary of health of water and environment shall require
any person offered a position of employment in and any employee of the
office of laboratory services of the Kansas department of health water and
environment that will have access to a secured biological laboratory to be
fingerprinted and submit to a state and national criminal history record
check. Such person offered a position of employment or employee shall be
given written notice that a fingerprinting and state and national criminal
history record check is required as a condition of initial and continued
employment. The fingerprints shall be used to identify such person offered
a position of employment or employee and to determine whether such
person offered a position of employment or employee has a record of
criminal history in this state or other jurisdiction. The secretary of health
and environment shall submit the fingerprints to the Kansas bureau of
investigation and the federal bureau of investigation for a state and
national criminal history record check. Local and state law enforcement
officers and agencies shall assist the secretary of health and environment
in the taking and processing of fingerprints of such persons offered
positions of employment or employees.

(b) The secretary of health of water and environment shall use the
information obtained from fingerprinting and criminal history for the
purposes of verifying the identification of any person offered a position of
employment or employee in the official determination of the eligibility of
such person or employee to perform tasks within the office of laboratory
services. If criminal history record information or results of drug screening
is used to disqualify a person offered a position of employment or
terminate an employee, such person offered a position of employment or
employee shall be informed in writing of the purpose of such
disqualification or termination from employment.

(c) As a condition of continued employment, any employee who has
access to a secured biological laboratory in the office of laboratory
services of the Kansas department of health water and environment shall
be subject to state and national criminal history record checks at a
frequency determined by the secretary of water and environment.

Sec. 175. K.S.A. 75-5657 is hereby amended to read as follows: 75-
5657. (a) On and after January 1, 1990, the state of Kansas shall provide
state environmental protection grants to local health departments or other
local entities for the purpose of developing and implementing
environmental protection plans and programs. A local entity or the Kansas
department of health water and environment may enter into contracts to
develop, implement or carry out any elements of the local environmental
protection plan or program.

(b) The governing board of any local health department or other local
entity desiring to receive a state environmental protection grant pursuant to
this act shall indicate its intent to develop an environmental protection plan
to implement the environmental protection strategy of the state water plan.
An environmental protection plan should include, but not be limited to, the
sanitary code, subdivision water and wastewater plan, solid waste
management plan, hazardous waste management plan, public water supply
protection plan and nonpoint source pollution control plan.

(c) A local health department or other local entity may request
certification by the secretary of water and environment that it has an
approved environmental protection plan and is prepared to assume a
program of permitting, inspection, compliance and enforcement of
specified elements of the department's environmental protection plan. The
secretary shall provide guidance on achieving environmental results for
certification of local programs and audit annually each local program
based on achievement of environmental results.

(d) The secretary of health of water and environment may adopt such
rules and regulations as necessary for the administration of this section.

Sec. 176. K.S.A. 75-5672 is hereby amended to read as follows: 75-
5672. (a) As used in this section:

(1) "Department" means the Kansas department of health water and
environment.

(2) "Secretary" means the secretary of the Kansas department
of water and environment.

(3) "Fund" means the natural resources damages trust fund.

(b) There is hereby created in the state treasury the natural resources
damages trust fund. All moneys received pursuant to subsections (d), (e)
and (f) shall be remitted to the state treasurer. Upon receipt of such
remittance, the state treasurer shall deposit the entire amount in the state
treasury and credit it to the natural resources damages trust fund.

(c) All moneys credited to the fund shall be used to pay the cost of:

(1) The design, review, implementation or oversight of the
implementation of natural resources and environmental restoration plans;

(2) contracting for services needed to supplement the department's
staff expertise in natural resource restoration activities;

(3) mitigation of adverse environment impacts;

(4) emergency or long-term remedial activities;

(5) legal costs, including expert witness fees, incurred in the recovery
of fund expenditures;
(6) state cost share for restoration activities undertaken in conjunction
with the federal government or others; and
(7) administrative costs necessary to administer the fund.
(d) There is hereby created the natural resources restoration activities
federal account in the natural resources damages trust fund. All moneys
received from the federal government that are designated for natural
resource restoration activities shall be credited to such account.
(e) There is hereby created the natural resources restoration activities
general account in the natural resources damages trust fund. All moneys
received solely by the state as cost recoveries, settlements, grants and
donations from other sources that are designated for natural resource
restoration activities shall be credited to such account. All moneys credited
to such account shall be used for the purposes as designated in the granting
or collection document.
(f) There is hereby created the emergency response activities account
in the natural resources damages trust fund. All moneys received by the
secretary in the form of gifts, grants, reimbursements, appropriations, cost
recoveries or funds collected from other sources that are designated for
emergency response activities in accordance with this act shall be credited
to such account.
(g) All expenditures from the natural resources damages trust fund
shall be made in accordance with appropriations acts upon warrants of the
director of accounts and reports issued pursuant to vouchers approved by
the secretary or by a person or persons designated by the secretary.
(h) On or before the 10th of each month, the director of accounts and
reports shall transfer from the state general fund to the natural resources
damages trust fund interest earnings based on:
(1) The average daily balance of moneys in the natural resources
damages trust fund for the preceding month; and
(2) the net earnings of the pooled money investment portfolio for the
preceding month.
Sec. 177. K.S.A. 82a-220 is hereby amended to read as follows: 82a-220. (a) As used in this act:
(1) "Conservation project" means any project or activity that the
director of the Kansas—water office department of water and environment, division of water and environmental planning determines will assist in
restoring, protecting, rehabilitating, improving, sustaining or maintaining
the banks of the Arkansas, Kansas or Missouri rivers from the effects of
erosion;
(2) "director" means the director of the Kansas—water office—
department of water and environment, division of water and
environmental planning; and
"state property" means real property currently owned in full or in part by the state in the Arkansas, Kansas or Missouri rivers in Kansas, in and along the bed of the river to the ordinary high water mark on the banks of such rivers.

(b) (1) The director is hereby authorized to negotiate and grant easements on state property for construction and maintenance of conservation projects with cooperating landowners in such projects for the expected life of the project and with such terms and conditions as the director, after consultation with the Kansas department of agriculture, the Kansas department of health water and environment, the Kansas department of wildlife, and parks and tourism and the Kansas department of agriculture water and environment, division of environment and conservation, may deem appropriate.

(2) Notice of the easement shall be given to the county or counties in which the easement is proposed and to any municipality or other governmental entity that, in the opinion of the director, holds a riparian interest in the river and may have an interest in the project or results thereof. Those persons or entities receiving notice shall have a period, not to exceed 30 days, to provide comment on the proposed easement to the director.

(3) In the event such an easement is proposed to be granted on state property owned or managed by any other agency of the state, the director shall give notice of the proposed easement and project to that agency and shall jointly negotiate any easement so granted.

(4) A copy of all easements so entered shall be filed by the director with the office of the secretary of state and the office of the register of deeds for the county or counties in which the easement is located.

(c) The director secretary of water and environment shall adopt rules and regulations necessary to carry out the provisions of this act.

Sec. 178. K.S.A. 82a-301 is hereby amended to read as follows: 82a-301. (a) (1) Except as provided in subsections (c) and (d), without the prior written consent or permit of the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture, it shall be unlawful for any person, partnership, association, corporation or agency or political subdivision of the state government to:

(A) Construct, modify or add to any dam;

(B) construct, modify or add to any water obstruction in a designated stream; or

(C) change or diminish the course, current, or cross section of any designated stream within this state.

(2) Any application for any permit or consent shall be made in writing in such form as specified by the chief engineer.
(3) Revetments for the purpose of stabilizing a caving bank—which that are properly placed shall not be construed as obstructions for the purposes of this section.

(b) As used in K.S.A. 82a-301 et seq., and amendments thereto:

(1) "Dam" means any artificial barrier including appurtenant works with the ability to impound water, waste water or other liquids that has a height of 25 feet or more; or has a height of six feet or greater and a storage volume at the top of the emergency spillway elevation of 50 or more acre feet. The height of a dam or barrier shall be measured from the lowest elevation of the streambed, downstream toe or outside limit of the dam to the elevation of the top of the dam.

(2) "Designated stream" means a natural or man-made channel that conveys drainage or runoff from a watershed having an area of:

(A) One or more square miles in zone one, which includes all geographic points located in or east of Washington, Clay, Dickinson, Marion, Harvey, Sedgwick or Sumner counties;

(B) two or more square miles in zone two, which includes all geographic points located west of zone one and in or east of Smith, Osborne, Russell, Barton, Stafford, Pratt or Barber counties; or

(C) three or more square miles in zone three, which includes all geographic points located west of zone two.

(c) (1) The prior written consent or permit of the chief engineer shall not apply to water obstructions that meet the following requirements:

(A) The change in the cross section of a designated stream is obstructed less than 5% and the water obstruction or change is contained within a land area measuring 25 feet or less along the stream length; or

(B) (i) the water obstruction is not a dam as defined in subsection (b);

(ii) the water obstruction is not located within an incorporated area;

(iii) every part of the water obstruction, and any water impounded by such obstruction, is located more than 300 feet from any property boundary; and

(iv) the watershed area above the water obstruction is five square miles or less.

(2) If the water obstruction does not meet the requirements of subsection (c)(1)(B)(iii), but meets all other requirements of subsection (c)(1)(B), such water obstruction may be exempted from the permitting requirements of subsection (a) if the chief engineer determines such water obstruction has minimal impact upon safety and property based upon a review of the information, to be provided by the owner, including:

(A) An aerial photo or topographic map depicting the location of the proposed project, the location of the stream, the layout of the water obstruction, the property lines and names and addresses of adjoining property owners; and
(B) the principal dimensions of the project including, but not limited to, the height above streambed.

(3) Notwithstanding any other provision of this section, the chief engineer may require a permit for any water obstruction described in this subsection if the chief engineer determines such permit is necessary for the protection of life or property.

(d) The prior written consent or permit of the chief engineer shall not be required for construction or modification of a hazard class A dam that:

(1) Has a height of less than 30 feet and a storage volume at the top of the emergency spillway elevation of less than 125 acre feet, and the dam location and dimensions have been registered with the division of water resources in a written form prescribed by the chief engineer; or

(2) is a wastewater storage structure for a confined feeding facility that has been approved by the secretary of health of water and environment pursuant to K.S.A. 65-171d, and amendments thereto.

(e) Any structure that meets the provisions of subsection (b)(1) shall be considered a stream obstruction and not a dam if the primary purpose of the structure is to serve as a:

(1) Dry detention road fill for state, county or municipal government; or

(2) low head dam that has a maximum height below the lowest stream bank.

Sec. 179. K.S.A. 82a-301a is hereby amended to read as follows: 82a-301a. It is the intent of the legislature by this act to provide for the exclusive regulation of construction, operation and maintenance of all dams or other water obstructions by the state to the extent required for the protection of public safety. All dams or other water obstructions are declared to be under the jurisdiction of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture and the chief engineer thereof. The chief engineer or his or her authorized representative shall supervise the construction, modification, operation and maintenance of dams or other water obstructions for the protection of life and property.

Sec. 180. K.S.A. 82a-303a is hereby amended to read as follows: 82a-303a. The chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture shall adopt and may from time to time amend rules and regulations in order to establish standards for the construction, modification, operation and maintenance of dams and other water obstructions and to administer and enforce the provisions of this act.

Sec. 181. K.S.A. 82a-303b is hereby amended to read as follows: 82a-303b. (a) (1) In order to secure conformity with adopted rules and regulations and to assure compliance with the terms, conditions or
restrictions of any consent or permit granted pursuant to the provisions of K.S.A. 82a-301 through 82a-303, and amendments thereto, the chief engineer or an authorized representative of the chief engineer shall have the power and the duty to inspect any dam or other water obstruction. Upon a finding pursuant to K.S.A. 82a-303c(a), and amendments thereto, by the chief engineer that a dam is unsafe, the chief engineer shall order an annual inspection of the dam until it is either in compliance with all applicable provisions of this act, any rules and regulations promulgated pursuant to this act, permit conditions and orders of the chief engineer; or the dam is removed. The safety inspection shall be conducted by the chief engineer or authorized representative and the cost shall be paid by the dam owner. The class and size of a dam shall be defined by rules and regulations adopted by the chief engineer pursuant to K.S.A. 82a-303a, and amendments thereto. For inspections conducted by the chief engineer or the chief engineer's authorized representative, inspection fees are as follows:

<table>
<thead>
<tr>
<th>Size of Dam</th>
<th>Inspection fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class 1</td>
<td>$1,500</td>
</tr>
<tr>
<td>Class 2</td>
<td>$1,500</td>
</tr>
<tr>
<td>Class 3</td>
<td>$2,500</td>
</tr>
<tr>
<td>Class 4</td>
<td>$4,000</td>
</tr>
</tbody>
</table>

(2) Each hazard class C dam shall be required to have a safety inspection conducted by or under the direct supervision of a licensed professional engineer qualified in design, construction, maintenance and operation of dams once every three years, unless otherwise ordered by the chief engineer.

(3) Each hazard class B dam shall be required to have a safety inspection conducted by or under the direct supervision of a licensed professional engineer qualified in design, construction, maintenance and operation of dams once every five years unless otherwise ordered by the chief engineer.

(4) Within 60 days of the date of inspection, a report of the inspection shall be provided to the chief engineer by the licensed professional engineer who conducted or supervised the inspection. The report shall document the physical condition of the dam, describing any deficiencies observed, an analysis of the capacity of the dam and its spillway works, compliance of the dam with approved plans and permit conditions, changes observed in the condition of the dam since the previous inspection, an assessment of the hazard classification of the dam including a statement that the engineer either agrees or disagrees with the current classification, and any other information relevant to the safety of the dam or specifically requested by the chief engineer.

(5) Upon failure of a dam owner to comply with the applicable
inspection interval, the chief engineer or such chief engineer's authorized
representative shall conduct a mandatory inspection of the dam and the
costs as established by this act for the inspection shall be paid by the
owner, in addition to any other remedies provided for violations of this act.

(6) The failure to file a complete and timely report as required by the
provisions of this act, or the failure to submit the fees assessed for
inspections conducted by the chief engineer or the chief engineer's
authorized representative shall be deemed a violation of this act and
subject to the penalties provided by K.S.A. 82a-305a, and amendments
thereto.

(b) For the purpose of inspecting any dam or other water obstruction,
the chief engineer or an authorized representative of the chief engineer
shall have the right of access to private property. Costs for any work which
that may be required by the chief engineer or the authorized representative
prior to or as a result of the inspection of a dam or other water obstruction
shall be paid by the owner, governmental agency or operator of such dam
or other water obstruction.

(c) All fees collected by the chief engineer pursuant to this section
shall be remitted to the state treasurer as provided in K.S.A. 82a-328, and
amendments thereto.

Sec. 182. K.S.A. 82a-305a is hereby amended to read as follows:
82a-305a. (a) Any person, partnership, association, corporation or agency
or political subdivision of the state government who violates any provision
of this act or of any rule and regulation or order issued pursuant thereto
shall be deemed guilty of a class C misdemeanor. Each day that any such
violation occurs after notice of the original violation is served upon the
violator by the chief engineer by restricted mail shall constitute a separate
offense.

(b) Upon request of the chief engineer, the attorney general shall
bring suit in the name of the state of Kansas in any court of competent
jurisdiction to enjoin (1) the unlawful construction, modification,
operation or maintenance of any dam or other water obstruction, or (2) the
unlawful change or diminution of the course, current or cross section of a
river or stream. Such court may require the removal or modification of any
such dam or other water obstruction by mandatory injunction.

(c) In addition to any other penalty provided by law, any person who
commits a violation of K.S.A. 82a-301 et seq., and amendments thereto, or
any rule and regulation adopted thereunder, may be subject to a civil
penalty of not less than $100 nor more than $1,000 per violation. In the
case of a continuing violation, each day such violation continues may be
deemed a separate violation. Such civil penalty may be assessed in
addition to any other penalty provided by law.

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

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

(f) There is hereby created in the state treasury the water structures
emergency fund. All moneys collected by the chief engineer pursuant to
this section shall be deposited in the state treasury in accordance with
K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
remittance, the state treasurer shall deposit the entire amount in the state
treasury to the credit of the water structures emergency fund. All moneys
credited to the water structures emergency fund may be expended for the
emergency repair and rehabilitation of any water structure when the chief
engineer determines that other funds are not available and such repair or
rehabilitation is necessary to protect the public's health, safety and
welfare. The maximum unencumbered balance for the water structures
emergency fund shall be $300,000. Once the water structure emergency
fund has reached the maximum unencumbered balance, then the state
treasurer shall credit any moneys received in excess of $300,000 to the
water structures fund pursuant to K.S.A. 82a-328.

Sec. 183. K.S.A. 82a-326 is hereby amended to read as follows: 82a-
326. When used in this act:

(a) "Water development project" means any project or plan—
that requires a permit pursuant to K.S.A. 24-126, 24-1213, or 82a-301 et
seq., and amendments thereto, or the multipurpose small lakes program
act;

(b) "environmental review agencies" means the:
(1) Kansas department of wildlife; and parks and tourism;
(2) Kansas forest service;
(3) state biological survey;
(4) Kansas department of health, water and environment;
(5) state historical society;
(6) Kansas department of agriculture, water and environment, division
of environment and conservation; and
(7) state corporation commission.

Sec. 184. K.S.A. 82a-328 is hereby amended to read as follows: 82a-
328. There is hereby created in the state treasury the water structures fund.
The chief engineer of the Kansas department of water and environment, division of water resources, Kansas department of agriculture shall remit all moneys received under K.S.A. 82a-302, 82a-303b and 24-126, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the water structures fund. All expenditures from the water structures fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person designated by the secretary.

Sec. 185. K.S.A. 82a-405 is hereby amended to read as follows: 82a-405. Any landowner owning land in the state of Kansas, not within the corporate limits in any city in this state, who shall lawfully by the construction of a dam across a dry watercourse or any stream or watercourse draining an area not exceeding 10 square miles, form upon such landowner's own land one or more reservoirs, having along the axis of the dam at the lowest point in the natural bed of a stream or watercourse a depth of not less than 10 feet and a storage capacity at spillway level, including the volume of any excavation in the reservoir area below such level, of not less than five acre feet, for the collection and storage of surface water or flood detention storage, and who shall maintain such dam or dams in a condition satisfactory to the chief engineer of the Kansas department of water and environment, division of water resources in the Kansas department of agriculture, shall be entitled to an exemption from taxes levied upon such land in the amount prescribed by K.S.A. 79-201g, and amendments thereto.

Sec. 186. K.S.A. 82a-603 is hereby amended to read as follows: 82a-603. Whenever a petition as provided in the preceding section is filed with the county clerk, the county clerk shall thereupon give notice to the county commissioners of the filing and pendency of such petition and the county commissioners shall forthwith fix a time within 30 days from date of filing of the petition, for a hearing of the same and the county clerk shall at least seven days before date fixed for such hearing, give or send by mail, written notice thereof to each of the petitioners, and shall transmit to the chief engineer of the Kansas department of water and environment, division of water resources, Kansas department of agriculture, one copy of the petition and notice of the date set for its consideration.

Sec. 187. K.S.A. 82a-612 is hereby amended to read as follows: 82a-612. As used in this act, unless the context clearly requires otherwise:

(a) "District" means a rural water district organized pursuant to this act;
"board" means the governing body of a district;

(c) the terms "board of county commissioners" and "county clerk" shall mean, respectively, the board of county commissioners and county clerk of the county in which the greatest portion of the territory of any existing or proposed rural water district is located;

(d) "participating member" means an individual, firm, partnership, association or corporation and that:

(1) Which has subscribed to one or more benefit units of such district;

or

(2) Which is charged a franchise fee for water service which that is paid, either directly or indirectly through another water provider, to such district;

(e) "chief engineer" means the chief engineer of the Kansas department of water and environment, division of water resources, Kansas department of agriculture.

Sec. 188. K.S.A. 82a-701 is hereby amended to read as follows: 82a-701. When As used in this act, unless the context indicates otherwise, the following words shall have the following meanings:

(a) "Person"—shall mean and include means a natural person, a partnership, an organization, a corporation, a municipality and any agency of the state or federal government.

(b) "Chief engineer" means the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture.

(c) "Domestic uses" means the use of water by any person or by a family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, and for the irrigation of lands not exceeding a total of two acres in area for the growing of gardens, orchards and lawns.

(d) "Vested right" means the right of a person under a common law or statutory claim to continue the use of water having actually been applied to any beneficial use, including domestic use, on or before June 28, 1945, to the extent of the maximum quantity and rate of diversion for the beneficial use made thereof, and shall include the right to take and use water for beneficial purposes where a person is engaged in the construction of works for the actual application of water to a beneficial use on June 28, 1945, provided such works shall be completed and water is actually applied for such use within a reasonable time thereafter by such person, such person's heirs, successors or assigns. Such a right "Vested right" does not include, however, those common law claims under which a person has not applied water to any beneficial use within the periods of time set out in this subsection.

(e) "Appropriator" means and includes a person who has an
appropriation right that has been perfected in conformity with article 7 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto.

(f) "Appropriation right"—is means a right, acquired under the provisions of article 7 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, to divert from a definite water supply a specific quantity of water at a specific rate of diversion, provided if such water is available in excess of the requirements of all vested rights that relate to such supply and all appropriation rights of earlier date that relate to such supply, and to apply such water to a specific beneficial use or uses in preference to all appropriations right of later date.

(g) "Water right" means any vested right or appropriation right under which a person may lawfully divert and use water. "Water right" is a real property right appurtenant to and severable from the land on or in connection with which the water is used and such water right passes as an appurtenance with a conveyance of the land by deed, lease, mortgage, will, or other disposal, or by inheritance.

Sec. 189. K.S.A. 82a-731 is hereby amended to read as follows: 82a-731. There is hereby created in the state treasury the water appropriation certification fund. The chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture shall remit all moneys received under K.S.A. 82a-708a, 82a-708b, 82a-727, and amendments thereto, and K.S.A. 82a-741, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the water appropriation certification fund. All expenditures from the water appropriation certification fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person designated by the secretary.

Sec. 190. K.S.A. 82a-732 is hereby amended to read as follows: 82a-732. (a) The owner of a water right or permit to appropriate water for beneficial use, except for domestic use, shall file or cause to be filed an annual water use report for the previous calendar year on a form prescribed by the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture on or before March 1 following the end of the previous calendar year. The report shall completely and accurately set forth such water use information as requested by the chief engineer.

(b) Any owner of a water right or permit to appropriate water for beneficial use, except for domestic use, who fails to timely file a water use report or other documents required under the provisions of subsection (a)
shall be subject to a civil penalty in an amount not to exceed $1,000 per water right. In addition to assessing a civil penalty as provided in this section, in the event the owner of a water right or permit to appropriate water for beneficial use fails to file or cause to be filed an annual water use report by June 1 of the calendar year in which it is due, the chief engineer may issue an order indefinitely suspending all water use under such water right or permit to appropriate water for beneficial use until such time as the annual water use report has been submitted or the chief engineer has determined that water use has been otherwise sufficiently documented with the division. The chief engineer upon a finding that the owner of a water right or permit to appropriate water for beneficial use has failed to file or cause to be filed such a report may impose a civil penalty, suspend the water right indefinitely, or require use of telemetry for the purpose of documentation.

(c) Any person filing a document knowing it to contain any false information as to a material matter shall be guilty of a class C misdemeanor.

(d) All fines collected by the chief engineer pursuant to this section shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

(e) This section shall be a part of and supplemental to the water appropriation act, K.S.A. 82a-701 et seq., and amendments thereto.

Sec. 191. K.S.A. 82a-733 is hereby amended to read as follows: 82a-733. (a) The chief engineer may require an applicant for a permit to appropriate water for beneficial use or the owner of a water right or permit to appropriate water for beneficial use to adopt and implement conservation plans and practices. The chief engineer shall not mandate the adoption and implementation of conservation plans and practices except pursuant to a finding that such plans and practices will assure public benefit and promote public interest. In selecting the applications, water rights or permits for which conservation plans and practices are required to be adopted and implemented, the chief engineer shall give priority to: (1) Water users that share a common source of supply that could be insufficient during times of drought; (2) water users whose use is significantly higher than their peers from the same geographical area with comparable circumstances; and (3) water users who apply for any state administered grant, loan or cost-share moneys for water-related projects. Prior to requiring the adoption and implementation of conservation plans and practices, the chief engineer shall assess the availability of technical assistance and inform the owner of a water right or permit to appropriate water for beneficial use or the applicant for such a permit who is required to adopt and implement a conservation plan and practices of the available sources of technical assistance to prepare the conservation plan.
(b) The chief engineer shall allow the owner of a water right or permit to appropriate water for beneficial use or the applicant for such a permit a minimum of 60 days to prepare a required conservation plan. The time allowed to prepare the required conservation plan may be extended by the chief engineer for good cause shown by the applicant. The chief engineer shall provide the owner of the water right or permit to appropriate water for beneficial use or the applicant for such a permit a reasonable time to implement the conservation plan and, for good cause shown, such as the need to apply extensive land treatment practices, the chief engineer may extend the time for implementation for a period of up to five years.

(c) Plans and practices required pursuant to this section shall be consistent with the guidelines for conservation plans and practices developed and maintained by the Kansas water office department of water and environment, division of water and environmental planning pursuant to subsection (c) of K.S.A. 74-2608(c), and amendments thereto. If requested by the owner of the water right or permit to appropriate water for beneficial use or the applicant for such a permit, the chief engineer, in consultation with the director of the Kansas water office division of water and environmental planning, shall determine whether such plans and practices are consistent with the guidelines adopted by the Kansas water office division of water and environmental planning. The Kansas water office division of water and environmental planning shall provide, or arrange to provide, technical assistance for water users required to adopt and implement conservation plans and practices pursuant to this section.

(d) Before any state agency makes any loan or grant, or provides any cost-share funds, for any water-related projects to any person or entity, the state agency may require the person or entity to submit to, and have approved by, the chief engineer a water conservation plan consistent with the guidelines for conservation plans and practices developed and maintained by the Kansas water office division of water and environmental planning pursuant to subsection (c) of K.S.A. 74-2608(c), and amendments thereto.

(e) As used in this section, "water-related projects" shall include, but is not be limited to, the following: Interconnections between water supply systems; development of new water supply and delivery systems; improvements or repairs to an existing water supply system, sanitary sewer system or water treatment system, which would significantly increase the amount of water used; small lakes development, improvement or repair; and development of other small impoundments for public water supply or irrigation.

(f) The chief engineer may approve the conservation plans and practices required pursuant to the provisions of this section on such terms, conditions and limitations as deemed necessary to carry out the provisions
of this section. The implementation of the conservation plan and practices as approved or any subsequent approved modification shall constitute a condition of the water right or permit to appropriate water for beneficial use.

(g) Any conservation plans and practices required pursuant to this section with regard to any groundwater right or permit to appropriate groundwater from within the boundaries of a groundwater management district shall be subject to approval by both the chief engineer and the board of directors of the groundwater management district unless such plans and practices are incorporated in the groundwater management district's management program which that has been approved by the chief engineer pursuant to K.S.A. 82a-1029, and amendments thereto.

(h) The chief engineer may delegate authority to implement and enforce any of the provisions of this section to a groundwater management district on such terms as may be appropriate and necessary to carry out the provisions of this section within the boundaries of such district.

(i) The chief engineer may delegate to any city that has conservation plans meeting state guidelines the authority to require domestic water users within such city to adopt and implement conservation plans and practices so that such city can require compliance from private domestic well owners within the city limits.

(j) This section shall be a part of and supplemental to the Kansas water appropriation act.

Sec. 192. K.S.A. 2021 Supp. 82a-736 is hereby amended to read as follows: 82a-736. (a) It is hereby recognized that an opportunity exists to improve water management by enabling multi-year flexibility in the use of water authorized to be diverted under a groundwater water right, provided that such flexibility neither impairs existing water rights, nor increases the total amount of water diverted, so that such flexibility has no long-term negative effect on the source of supply. It is therefore declared necessary and advisable to permit the establishment of multi-year flex accounts for groundwater water rights, together with commensurate protections for existing water rights and their source of supply.

(b) As used in this section:

(1) "Alternative base average usage" means an allocation based on net irrigation requirements calculated pursuant to subsection (c)(1)(D)(ii) that may be used in place of the base average usage.

(2) "Base water right" means a water right under which an applicant applies to the chief engineer to establish a multi-year flex account and where all of the following conditions exist:

(A) The authorized source of supply is groundwater; and

(B) the water right is not currently the subject of a multi-year allocation due to a change approval that allows an expansion of the
authorized place of use.

(3) "Multi-year flex account" means a term permit that suspends a base water right during its term, except when the term permit may be no longer exercised because of an order of the chief engineer, and is subject to the terms and conditions as provided in subsection (e).

(4) "Base average usage" means: (A) The average amount of water actually diverted for the authorized beneficial use under the base water right during calendar years 2000 through 2009, excluding:

(i) Any amount diverted in any such year that exceeded the amount authorized by the base water right;

(ii) any amount applied to an unauthorized place of use; and

(iii) diversions in calendar years when water was diverted under a multi-year allocation with an expansion of the authorized place of use due to a change approval;

(B) if water use records are inadequate to accurately determine actual water use or upon demonstration of good cause by the applicant, the chief engineer may calculate the base average usage with less than all 10 calendar years during 2000 and 2009. In no case shall the base average usage be calculated with less than five calendar years during 2000 and 2009; or

(C) if the holder of the base water right shows to the satisfaction of the chief engineer that water conservation reduced water use under the base water right during calendar years 2000 through 2009, then the base average usage shall be calculated with the five calendar years immediately before the calendar year when water conservation began.

(5) "Chief engineer" means the chief engineer of the Kansas department of water and environment, division of water resources of the department of agriculture.

(6) "Flex account acreage" means the maximum number of acres lawfully irrigated during a calendar year, except for any acres irrigated under a multi-year allocation that allowed for an expansion of the authorized place of use due to a change approval and any of the following conditions are met:

(A) The calendar year is 2000 through 2009;

(B) if water conservation reduced water use under the base water right during calendar years 2000 through 2009, the calendar year is a year within the five calendar years immediately prior to the calendar year when water conservation began; or

(C) if an application to appropriate water was approved after December 31, 2004, the calendar year is any during the perfection period.

(7) "Net irrigation requirement" means the net irrigation requirement for 50% chance rainfall of the county that corresponds with the location of the authorized place of use of the base water right as provided in K.A.R. 5-
5-12, on the effective date of this act.

(c) (1) Any holder of a base water right that has not been deposited or placed in a safe deposit account in a chartered water bank may establish a multi-year flex account where the holder may deposit, in advance, the authorized quantity of water from such water right for any five consecutive calendar years, except when the chief engineer determines a shorter period is necessary for compliance with a local enhanced management area or an intensive groundwater use control area and the corrective controls in the area do not prohibit the use of multi-year flex accounts, and subject to all of the following:

(A) The water right must be vested or shall have been issued a certificate of appropriation;

(B) the withdrawal of water pursuant to the water right shall be properly and adequately metered;

(C) the water right is not deemed abandoned and is in compliance with the terms and conditions of its certificate of appropriation, all applicable provisions of law and orders of the chief engineer;

(D) the amount of water deposited in the multi-year flex account shall not exceed the greatest of the following:

(i) 500% of the base average usage;

(ii) 500% of the product of the annual net irrigation requirement multiplied by the flex account acreage, multiplied by 110%, but not greater than five times the maximum annual quantity authorized by the base water right;

(iii) if the authorized place of use is located wholly within the boundaries of a groundwater management district, an amount that shall not increase the long-term average use of the groundwater right as specified by rule or regulation promulgated pursuant to K.S.A. 82a-1028(o), and amendments thereto; or

(iv) pursuant to subparagraph (F), the amount computed in (i), (ii) or (iii) plus any deposited water remaining in a multi-year flex account up to 100% of the base average usage or alternative base average usage;

(E) if the multi-year flex account is approved for less than five calendar years, the amount of water deposited in the multi-year flex account shall be prorated based on the number of calendar years approved and otherwise calculated as required by subsection (c)(1)(D)(i), (ii) or (iii); and

(F) any deposited water remaining in a multi-year flex account up to 100% of the base average usage or alternative base average usage may be added to the deposit amount calculated in subparagraph (D) if the base water right is enrolled in another multi-year flex account during the calendar year in which the existing multi-year flex account expires.

The total amount of water deposited in any multi-year flex account shall
(2) The provisions of K.A.R. 5-5-11 are limited to changes in annual authorized quantity and shall not apply to this subsection.

(d) The chief engineer shall implement a program providing for the issuance of term permits to holders of groundwater water rights who have established flex accounts in accordance with this section. Such term permits shall authorize the use of water in a flex account at any time during the consecutive calendar years for which the application for the term permit authorizing a multi-year flex account is made, without annual limits on such use.

(e) Term permits provided for by this section shall be subject to the following:

(1) A separate term permit shall be required for each point of diversion authorized by the base water right.

(2) The quantity of water authorized for diversion shall be limited to the amount deposited pursuant to subsection (c)(1)(D).

(3) The rate of diversion for each point of diversion authorized under the term permit shall not exceed the rate of diversion for each point of diversion authorized under the base water right.

(4) The authorized place of use shall be the place of use or a subdivision of the place of use for the base water right. Any approval of an application to change the place of use of the base water right shall automatically result in a change to the place of use for the term permit.

(5) The point of diversion authorized by the term permit shall be specified by referencing one point of diversion authorized by the base water right at the time the multi-year flex account term permit application is filed with the chief engineer or at the time any approvals changing such referenced point of diversion of the base water right are approved during the multi-year flex account period. For a base water right with multiple points of diversion, each point of diversion authorized by a term permit shall receive a specific assignment of a maximum authorized quantity of water, assigned proportionately to the authorized annual quantities of the respective points of diversion under the base water right.

(6) The chief engineer may establish, by rules and regulations, criteria for such term permits.

(7) Except as explicitly provided for by this section, such term permits shall be subject to all provisions of the Kansas water appropriation act, and rules and regulations adopted under such act, and nothing in this section shall authorize impairment of any vested right or prior appropriation right by the exercise of such term permit.

(f) An application for a multi-year flex account shall be filed with the chief engineer on or before December 31 of the first year of the multi-year flex account term for which the application is being made.
(g) All costs of administration of this section shall be paid from fees for term permits provided for by this section. Any appropriation or transfer from any fund other than the water appropriation certification fund for the purpose of paying such costs shall be repaid to the fund from where such appropriation or transfer is made. At the time of repayment, the secretary of agriculture and environment shall certify to the director of accounts and reports the amount to be repaid and the fund to be repaid. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified to the specified fund.

(h) The fee for a multi-year flex account term permit shall be the same as specified for other term permits in K.S.A. 82a-708c, and amendments thereto.

(i) The chief engineer shall have full authority pursuant to K.S.A. 82a-706c, and amendments thereto, to require any additional measuring devices and any additional reporting of water use for term permits issued pursuant to this section. Failure to comply with any measuring or reporting requirement may result in a penalty, up to and including the revocation of the term permit and the suspension of the base water right for the duration of the term permit period.

(j) The chief engineer shall submit a written report on the implementation of this section to the house standing committee on agriculture and natural resources and the senate standing committee on natural resources on or before February 1 of each year.

(k) This section shall be a part of and supplemental to the Kansas water appropriation act.

Sec. 193. K.S.A. 82a-737 is hereby amended to read as follows: 82a-737. (a) As used in this section:

(1) "Chief engineer" means the chief engineer of the Kansas department of water and environment, division of water resources of the department of agriculture.

(2) "Secretary" means the secretary of agriculture, the Kansas department of water and environment.

(b) Any person who commits any of the following may incur a civil penalty as provided by this section:

(1) Any violation of the Kansas water appropriation act, K.S.A. 82a-701 et seq., and amendments thereto, or any rule and regulation adopted thereunder;

(2) any violation of an order issued pursuant to K.S.A. 82a-1038, and amendments thereto, relating to an intensive groundwater use control area; or

(3) any violation of a term, condition or limitation imposed by the chief engineer as authorized by law, including, but not limited to: (A) Diversion of water from an unauthorized point of diversion; (B) failure to
limit the use of water to the authorized place of use; (C) failure to submit
or comply with the terms of conservation plans as required pursuant to
K.S.A. 82a-733, and amendments thereto; (D) failure to comply with the
maximum annual quantity or rate of diversion authorized; (E) failure to
properly install, maintain or assure the accuracy of acceptable water
measurement devices; (F) failure to comply with orders related to
minimum desirable stream flow, unlawful diversion, impairment of senior
water rights or waste of water; or (G) failure to limit the use of water to an
authorized type of use.

(c) The amount of the civil penalty provided for by this section shall
be not less than $100 nor more than $1,000 per violation. In the case of a
continuing violation, each day such violation continues may be deemed a
separate violation. Such civil penalty may be assessed in addition to any
other penalty provided by law.

(d) The chief engineer or the chief engineer's duly authorized agent,
upon a finding that a person has committed a violation specified in
subsection (b), may order the modification or suspension of the person's
water right or use of water, in addition to any other penalty provided by
law.

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

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

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

Sec. 194. K.S.A. 82a-738 is hereby amended to read as follows: 82a-738. The chief engineer of the Kansas department of water and
environment, division of water resources of the department of agriculture
and the state geological survey shall study and develop recommendations
regarding:

(a) The use of water banking as it pertains to sand and gravel pits;
(b) calculation of evapotranspiration and its effects on consumptive
use from sand and gravel pits, with special emphasis on salt cedar
(tamarisk); and
(c) the pollution control and flood control impacts of diverting water
runoff into sand and gravel pits. On or before January 20, 2006, the chief
engineer and the state geological survey shall submit a report of the study
and recommendations to the house standing committee on environment
and the senate standing committee on natural resources.

Sec. 195. K.S.A. 82a-739 is hereby amended to read as follows: 82a-
739. The Kansas water office department of water and environment,
division of water and environmental planning shall purchase one water
flow measurement device, and any required data recording device for use
with such water flow measurement device, and shall provide for the
permanent installation of such devices below the dam of the Cedar Bluff
reservoir in accordance with this section. The water flow measurement
device and any required data recording device shall be installed at a
downstream, man-made channel or drop structure. Prior to installing any
such water flow measurement device and any required data recording
device, the Kansas water office division of water and environmental
planning shall obtain a written authorization from all owners of the
property at the location where the water flow measurement device and any
required data recording device are to be installed. All data collected by
such water flow measurement device shall be made available to the
general public electronically through the internet on a real time basis as it
is collected and shall be reported to the senate committee on natural
resources, the senate committee on ways and means subcommittee on the
Kansas water office, the house committee on environment, and the house
agriculture and natural resources budget committee during the 2007-
regular session of the legislature.

Sec. 196. K.S.A. 82a-762 is hereby amended to read as follows: 82a-
762. As used in this act:

(a) "Bank boundary" means the geographic area where a water bank
operates and conducts the functions of a water bank and may encompass
more than one hydrologic unit.

(b) "Bank charter" means a document that sets out the articles of
incorporation and principal functions of a water bank.

(c) "Bankable water right" means a water right that has been
determined pursuant to K.S.A. 82a-764, and amendments thereto, to be
bankable.

(d) "Chief engineer" means the chief engineer of the division.

(e) "Conservation element" means the portion of a deposit that is
taken out of use for the duration of the deposit and is not allowed to be
withdrawn and used by subsequent users.

(f) "Deposit," other than as used in "safe deposit account," refers to
the deposit of a water right, or portion of a water right, in a water bank for
the purpose of having the bank lease water from such water right, or
portion of a water right, to another person or entity.
(g) "Division" means the Kansas department of water and environment, division of water resources of the Kansas department of agriculture.

(h) "Hydrologic unit" means a defined area from which water rights authorizing diversion of water from a source of supply may be deposited and from which water from the same source of supply may be leased, in accordance with the provisions of this act, without causing impairment of existing water rights or a significantly different hydrological effect to other users of water from the same source or hydraulically connected sources of supply.

(i) "Linked water rights" means two or more water rights that authorize common points of diversion or a common place of use, or both.

(j) "Safe deposit account" means a personal account held in a water bank where unused water from a bankable water right is placed for use in future years.

(k) "Term permit" means a permit to appropriate water for a specified period of time.

(l) "Water bank" means a private not-for-profit corporation that: (1) Leases water from water rights that have been deposited in the bank; and (2) provides safe deposit accounts. A "water bank" may be a groundwater bank or a surface water bank, or both.

Sec. 197. K.S.A. 82a-767 is hereby amended to read as follows: 82a-767. (a) Not later than five years after the establishment of a water bank or pursuant to subsection (e), the director of the Kansas water office—department of water and environment, division of water and environmental planning shall convene a team to evaluate the operation of the bank. The team shall consist of:

(1) The director of the Kansas water office—division of water and environmental planning, or the director's designee, who shall serve as chairperson of the team;

(2) the director of the Kansas geological survey, or the director's designee;

(3) two members who represent water right holders and water users who have used the bank's services, which members shall be selected by the governing body of the bank;

(4) members selected by the chief engineer as follows: (A) Two members engaged in teaching or research at institutions of postsecondary education in subjects involving water resources, including but not limited to water resources engineering and hydrology; (B) a member who is an economist with knowledge and experience in water resources; (C) one member having knowledge and experience in water law; and (D) two members having knowledge and experience in water policy issues and residing outside the bank boundary, who shall represent the public interest;
(5) one representative of each groundwater management district located in whole or in part within the bank boundary selected by the board of directors of such district; and

(6) one representative of each water assurance district located in whole or in part within the bank boundary selected by the board of directors of such district.

(b) The staff of the Kansas water office division of water and environmental planning shall provide staff assistance to the evaluation team.

(c) Not more than one year after a team is convened pursuant to this section, the team shall submit a report of its evaluation and recommendations to the governor, the Kansas water office division of water and environmental planning, the Kansas water authority, the secretary of agriculture, the chief engineer and the senate standing committee on natural resources and the house standing committee on environment, or the successors to such committees regarding:

(1) The operations and policies of the bank and whether they are consistent with the provisions of this act, the state water plan and all applicable statutes, rules and regulations, findings and orders of the chief engineer, groundwater management district policies and water assurance district operations plans;

(2) whether the operations of the bank are achieving the goals and objectives of water banking as set out in the state water plan and whether changes could be made to further those goals and objectives;

(3) the bank's impact on the entire area of all hydrologic units, any parts of which are encompassed in the bank's boundary;

(4) any other matters the team determines relevant to the future of water banking in the state;

(5) whether the charter of the bank should lapse, or the bank should become chartered; and

(6) the terms under which the bank's charter should be allowed to lapse, if the team recommends that the charter not be extended.

(d) Unless otherwise provided by law, the chief engineer, in accordance with the recommendations of the team, may extend the charter of the bank or may allow the bank charter to lapse under the terms recommended by the team.

(e) If a bank is chartered, such charter shall be subject to review not less than every five years by a team convened as prescribed in subsection (a). The review team shall submit a report on the matters listed in subsections (c)(1) through (c)(4).

Sec. 198. K.S.A. 82a-771 is hereby amended to read as follows: 82a-771. Each water bank shall pay all costs incurred by the division and by the Kansas water office department of water and environment, division of
water and environmental planning for assistance and services provided pursuant to this act, including, but not limited to, costs for personnel necessary to provide such assistance and services.

Sec. 199. K.S.A. 82a-773 is hereby amended to read as follows: 82a-773. (a) There is hereby created in the state treasury the water office cost fund. The director of the Kansas water office department of water and environment, division of water and environmental planning, shall remit to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys received by the division of water and environmental planning to reimburse costs as required by K.S.A. 82a-771, and amendments thereto. Upon receipt, the state treasurer shall deposit the entire amount in the state treasury and credit it to the water office cost fund.

(b) Moneys in the water office cost fund shall be expended only for the Kansas water office department of water and environmental planning's costs of providing assistance and services as provided by this act.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the water office cost fund interest earnings based on:

(1) The average daily balance of moneys in the water office cost fund for the preceding month; and

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

(d) All expenditures from the water office cost fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office division of water and environmental planning, for the purposes set forth in this section.

Sec. 200. K.S.A. 82a-902 is hereby amended to read as follows: 82a-902. The following words when used in this act, shall have the meaning ascribed in this section, except where the context clearly indicates a different meaning:

(a) "Person" means and includes a natural person, partnership, organization, association, private corporation, public corporation, any taxing district or political subdivision of the state, and any department or agency of the state government.

(b) "Public corporation" means a body that has for its object the government of a political subdivision of this state and includes any county, township, city, district, authority, or other municipal corporation or political subdivision of this state.

(c) "Federal government" means the United States of America or any department or agency thereof.

(d) "Office" means the Kansas water office department of water and
environment, division of water and environmental planning.

Sec. 201. K.S.A. 82a-903 is hereby amended to read as follows: 82a-903. In accordance with the policies and long-range goals and objectives established by the legislature, the office shall formulate on a continuing basis a comprehensive state water plan for the management, conservation and development of the water resources of the state. Such state water plan shall include sections corresponding with water planning areas as determined by the office. The Kansas water office and the Kansas water authority shall seek advice from the general public and from committees consisting of individuals with knowledge of and interest in water issues in the water planning areas. The plan shall set forth the recommendations of the office for the management, conservation and development of the water resources of the state, including the general location, character, and extent of such existing and proposed projects, programs, and facilities as are necessary or desirable in the judgment of the office to accomplish such policies, goals and objectives. The plan shall specify standards for operation and management of such projects, programs, and facilities as are necessary or desirable. The plan shall be formulated and used for the general purpose of accomplishing the coordinated management, conservation and development of the water resources of the state. The Kansas department of water and environment, division of water resources of the Kansas department of agriculture, state geological survey, the Kansas department of water and environment, division of environment and conservation of the department of health and environment, department of wildlife; and parks and tourism, Kansas department of agriculture—division of conservation and all other interested state agencies shall cooperate with the office in formulation of such plan.

Sec. 202. K.S.A. 82a-905 is hereby amended to read as follows: 82a-905. Prior to the submission of the state water plan or any section thereof or any amendment thereto to the Kansas water authority, the legislature and the governor, the office shall hold public hearings at such place or places as may be convenient to the area affected, to consider the state water plan or one or more sections thereof or amendments thereto, and to hear protests or petitions of all interested persons. Notice of such hearing shall be published at least twice prior to such hearing in the Kansas register. The office shall send, by United States mail, a reasonable notice of hearing to (1) such agencies of the state as have an interest in the management, conservation and development of the water resources of the state, (2) the county clerk of each county affected by the proposed plan, (3) the agencies of the federal government having an interest in water resources management, conservation and development, and (4) such persons, public or private, as have requested notification in writing from the office. In addition, the office may send notice of a scheduled hearing to
any person or persons it deems proper. The office shall furnish a summary of the proposed plan to those persons it is required by law to notify of a public hearing and to such other persons as request a summary. The records of hearings shall be public records and open for inspection at the Kansas water office. The office shall give due consideration to the matters presented at such public hearing and shall then present the plan to the Kansas water authority. Upon approval by the authority, the office shall submit the plan to the legislature and the governor. Provisions in this section concerning notice and summary shall be directive and not jurisdictional.

Sec. 203. K.S.A. 82a-906 is hereby amended to read as follows: 82a-906. The Kansas water office, with the approval of the Kansas water authority, annually shall submit to the legislature and to the governor an updated water plan containing recommendations which are necessary to achieve the long-range goals and objectives for the management, conservation and development of the waters of the state as set forth in K.S.A. 82a-927, and amendments thereto.

Sec. 204. K.S.A. 82a-922 is hereby amended to read as follows: 82a-922. All expenditures from appropriations for the office shall be made in accordance with the applicable appropriation act upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office or by a person or persons designated by the director.

Sec. 205. K.S.A. 82a-923 is hereby amended to read as follows: 82a-923. The secretary of water and environment shall adopt, amend, promulgate; and enforce such rules and regulations as are necessary and proper to carry out the provisions of this act. Such rules and regulations shall be filed in the office of the secretary of state as provided by law. The Kansas water office Kansas department of water and environment may prepare and distribute, free or at cost, compilations of its rules and regulations.

Sec. 206. K.S.A. 82a-954 is hereby amended to read as follows: 82a-954. (a) On and after July 1, 1989 July 1, 2022, there is hereby imposed a water protection fee at the rate of:

(1) ThreeFive cents per 1,000 gallons of water sold at retail by a public water supply system and delivered through mains, lines or pipes;

(2) subject to the provisions of subsection (c), three five cents per 1,000 gallons of water appropriated for industrial use pursuant to a permit granted in accordance with the Kansas water appropriation act; and

(3) threefive cents per 1,000 gallons of water appropriated for stockwatering pursuant to a permit granted in accordance with the Kansas water appropriation act.

(b) As used in this section, "industrial use" and "stockwatering" have
the meanings mean the same as provided by rules and regulations of the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture and the determination of gallons used shall be based upon figures supplied to the secretary of revenue by the division of water resources.

(c) The fees imposed by subsections (a)(2) and (3) shall be based on the actual amount used for industrial use or stockwatering during the preceding calendar year as reported to the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture, in accordance with the provisions of K.S.A. 82a-732, and amendments thereto, except that: (1) The amount of surface water used for flow through cooling purposes for electric power generating plants shall be based on an average consumptive factor as determined by the division of water resources; and (2) no such fee shall be imposed on the amount of water used for commercial fish farming. If no water use report is filed for such year, the fee shall be based on the amount authorized for industrial use or stockwatering in such year.

(d) The fee imposed by subsection (a)(1) shall be paid quarterly by the public water supplier and shall be transmitted to the department of revenue not later than 45 days following the end of each quarter. The public water supplier may collect the fee directly from each consumer to which water is sold at retail or may pay the amount owed to the department from moneys in its operating or other fund available for that purpose. The fees imposed by subsections (a)(2) and (3) shall be paid by the owner of the permit. If any retailer or permit owner fails to pay the fee required to be collected and paid under this section, there shall be added, to the unpaid balance of the fee, penalty and interest as prescribed under K.S.A. 79-3615, and amendments thereto, for the late payment of sales tax.

(e) The director of taxation shall administer, enforce and collect the fees imposed by this section. All laws and rules and regulations of the secretary relating to the administration, enforcement and collection of the retailers' sales tax shall apply to such fee insofar as they can be made applicable, and the secretary shall adopt such additional rules and regulations as necessary for the efficient and effective administration, enforcement and collection thereof.

(f) The director of taxation shall remit all moneys collected from fees imposed pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state water plan fund created by K.S.A. 82a-951, and amendments thereto.

(g) An owner of an industrial use permit who has a contract with the
state for withdrawal and use of water pursuant to K.S.A. 82a-1301 et seq., and amendments thereto, shall be exempt from the fee imposed by subsection (a)(2) on any water for which the permit owner is required to pay charges under such contract.

Sec. 207. K.S.A. 82a-1042 is hereby amended to read as follows: 82a-1042. To further implement the provisions of the groundwater management district act, if the secretary of agriculture water and environment or the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture propose rules and regulations that may change an adopted local groundwater management program or impact water use in a groundwater management district, the secretary or chief engineer shall notify the groundwater management district board of directors of such requested management program change or proposed rules and regulations and provide a copy of such requested management program change or proposed rules and regulations to the board. Upon such notice, the board of directors shall prepare a response of intended board actions. The board of directors shall follow the provisions of K.S.A. 82a-1029, and amendments thereto, for revising active groundwater management programs.

Sec. 208. K.S.A. 82a-1101 is hereby amended to read as follows: 82a-1101. The state water resources board Kansas department of water and environment, division of water and environmental planning, established pursuant to K.S.A. 1977 Supp. 74-2605 et seq. section 3, and amendments thereto, is hereby designated as the state agency for bank stabilization projects. From and after the effective date of this act, All bank stabilization projects which involve more than one political subdivision of the state, shall receive approval of the state board division of water and environmental planning and be included in the state water plan before work shall commence thereon, but this provision shall not affect any project which has been approved or on which work that was commenced prior thereto to such effective date. The designated state agency shall cooperate with federal agencies on any projects initiated and shall aid in initiation of projects it shall approve.

Sec. 209. K.S.A. 82a-1103 is hereby amended to read as follows: 82a-1103. The state water resources board Kansas department of water and environment, division of water and environmental planning shall be responsible for administrative costs incurred in connection with applications for approval of bank stabilization projects; and shall have authority to plan, contract, acquire land and easements, apportion costs and provide assurances that project operation and maintenance funds will be available, but not obligate the state of Kansas, in any case, beyond available appropriations made therefor by the legislature.
Sec. 210. K.S.A. 82a-1203 is hereby amended to read as follows:

210. As used in this act, unless the context otherwise requires:

(a) "Construction of water wells" means all acts necessary to obtaining groundwater by any method for any use including, without limitation, the location of and excavation for the well.

(b) "Person" means any individual, association, firm, partnership, corporation or governmental entity.

(c) "Sand point" or "well point" means any driven well which is 25 feet or less in depth and is constructed by manually driving into the ground a drive point fitted to the lower end of tightly connected sections of pipe that are 2 inches or less in diameter.

(d) "Domestic uses" means the use of water by any person, family unit or household for household purposes, the watering of livestock, poultry, farm and domestic animals used in operating a farm or the irrigation of lands not exceeding a total of two acres in area for the growing of gardens, orchards or lawns.

(e) "Secretary" means the secretary of health the Kansas department of water and environment.

(f) "Water well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed, when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

(g) "Water well contractor" or "contractor" means any person who constructs, reconstructs or treats a water well. The term shall be "Water well contractor" or "contractor" does not include:

(1) An individual while in the act of constructing a water well on land which is owned by such individual and is used by such individual for domestic purposes at such individual's place of abode, but only when the well is constructed in compliance with prescribed minimum well standards as provided in this act; or

(2) an individual who performs labor or services for a licensed water well contractor at such contractor's direction and under such contractor's supervision.

Sec. 211. K.S.A. 82a-1214 is hereby amended to read as follows:

211. Any person who shall willfully violate any lawful rule or regulation of the secretary relating to water well contracting, or who shall engage in the business of constructing, reconstructing or treating water wells without first having obtained a license as in this act required, or who shall knowingly violate any provisions of this act, shall be guilty of a class B misdemeanor and subject to the penalties therefor as provided by law. In addition, the secretary of health and environment is hereby authorized to apply to the district court for enforcement of this act or rules and regulations adopted under this act in accordance with the provisions of the
Kansas judicial review act.

Sec. 212. K.S.A. 82a-1216 is hereby amended to read as follows:
82a-1216. (a) Any person who violates any provision of the Kansas
groundwater exploration and protection act, any rules and regulations
adopted thereunder or any order issued by the secretary thereunder shall
incur in addition to other penalties provided by law, a civil penalty not to
exceed $5,000 for each violation. In the case of a continuing violation
every day such violation continues shall be deemed a separate violation.

(b) The secretary of the department of health and environment or the
director of the Kansas department of water and environment, division of
environment and conservation, if designated by the secretary, upon a
finding that a person has violated any provision of the Kansas groundwater
exploration and protection act, or any order issued or rule and regulation
adopted thereunder, may: (1) Issue a written order requiring that necessary
remedial or preventive action be taken within a reasonable time period; (2)
assess a civil penalty for each violation within the limits provided in this
section which such penalty shall constitute an actual and substantial
economic deterrent to the violation for which assessed; or (3) both issue
such order and assess such penalty. The order shall specify the provisions
of the act or rules and regulations alleged to be violated and the facts
constituting each violation. Such order shall include the right to a hearing.
Any such order shall become final unless, within 15 days after service of
the order, the person named therein shall request in writing a hearing by
the secretary. If a hearing is requested, the secretary shall notify the alleged
violator or violators of the date, place and time of the hearing.

(c) No civil penalty shall be imposed under this section except after
notification by issuance and service of the written order and hearing, if a
hearing is requested, in accordance with the provisions of the Kansas
administrative procedure act.

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

(e) Any penalty recovered pursuant to the provisions of this section
shall be remitted to the state treasurer in accordance with the provisions of
K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
remittance, the state treasurer shall deposit the entire amount in the state
treasury to the credit of the state general fund.

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

Sec. 213. K.S.A. 82a-1301 is hereby amended to read as follows:
82a-1301. As used in this act, unless the context otherwise requires:
(a) "Director" means the director of the Kansas water office—department of water and environment, division of water and environmental planning.

(b) "Chief engineer" means the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture.

(c) "Authority" means the Kansas water authority.

(d) "Person" means and includes a natural person, partnership, organization, association, private corporation, public corporation, any taxing district or political subdivision of the state; and any department or agency of the state government.

(e) "Public corporation" means a body that has for its object the government of a political subdivision of this state and includes any county, township, city, district, authority; or other municipal corporation or political subdivision of this state.

(f) "Federal government" means the United States of America or any department or agency thereof.

(g) "Point of diversion for a reservoir" means the point where the longitudinal axis of the dam of a reservoir crosses the center of the streambed.

(h) "Point of rediversion" means the point where released water is taken for beneficial use from the watercourse by which it is transported.

(i) "Point of withdrawal from the reservoir" means the point at which water is taken from the reservoir by pump, siphon, canal or any other device or released through a dam by gates, conduits or any other means.

(j) "Capital cost" means all costs, including the principal and interest thereon, incurred by the state in the construction or acquisition of conservation storage water supply capacity in the reservoir system from which water may be contracted for sale.

(k) "Surplus waters" means waters within the conservation storage water supply capacity committed to the state, but not required to meet contractual requirements made pursuant to K.S.A. 82a-1305, and amendments thereto.

Sec. 214. K.S.A. 82a-1303 is hereby amended to read as follows:

82a-1303. (a) Notwithstanding any other provisions in the statutes of this state, the director, in the manner provided in K.S.A. 82a-1304, and amendments thereto, shall be authorized, subject to approval of the authority, to acquire on behalf of the state a water reservation right to divert and store the waters of all streams flowing into the conservation storage water supply capacity or into the conservation storage water quality capacity of any reservoirs in which the state controls storage space whether under contracts with the federal government or otherwise. A
water reservation right for waters flowing into the conservation storage
water supply capacity shall be in an amount sufficient to insure a yield of
water from the reservoir for beneficial use through a drought having a 2%
chance of occurrence in any one year with the reservoir in operation. A
water reservation right for waters flowing into the conservation storage
water quality capacity shall be in an annual amount equal to the volume of
the conservation storage water quality capacity, as agreed upon by the
director of the Kansas water office and the chief engineer. The rights of the
state under this section and those which are acquired under K.S.A.
82a-1304, and amendments thereto, shall be subject to all vested rights,
appropriation rights, applications filed for permits to appropriate water and
other vested property interests acquired prior to the state's acquisition, but
not to those acquired thereafter. The chief engineer shall provide as a
condition to a water reservation right acquired under K.S.A. 82a-1304, and
amendments thereto, for waters flowing into the conservation storage
water quality capacity in any reservoir that the state may divert and store
inflows under such right only at times when the inflows exceed certain
threshold levels, to be agreed upon jointly by the chief engineer and the
director of the Kansas water office.

(b) Whenever the authority shall determine that it is in the public
interest to acquire, reserve or purchase water located in another state for
this state's conservation storage water supply capacity, it shall authorize
the director to enter into contract negotiations to acquire, reserve or
purchase such water. Any such contract shall be subject to final approval
of the authority.

Sec. 215. K.S.A. 82a-1311a is hereby amended to read as follows:
82a-1311a. (a) The date of receipt of each application submitted pursuant
to K.S.A. 82a-1310a, and amendments thereto, shall be stamped thereon
and authenticated as directed by the director. Applicants shall notify the
director in writing that they wish to commence negotiations for a contract
to withdraw and use water. Within 10 days after the completion of
negotiations for a contract to withdraw and use water, the director shall
transmit to the chairperson of the authority a copy of the proposed
contract.

(b) Upon request of the chairperson of the authority, the director shall
transmit all available information necessary to determine whether or not to
approve a contract to purchase water from the state's conservation water
supply capacity or to use surplus waters for minimum streamflow
requirements, unless an emergency exists.

(c) In order to determine whether a proposed contract for the sale of
water from the state's conservation water supply capacity is in the interest
of the people of the state of Kansas and whether the benefits to the state
for approving the contract outweigh the benefits to the state for not
approving the contract, the authority shall consider all matters pertaining
to such questions, including:
(1) The present and future water supply needs of the applicant;
(2) any current beneficial uses being made of the noncontracted water
proposed to be diverted;
(3) any reasonably foreseeable future beneficial uses of the water;
(4) the economic, environmental, public health and welfare and other
benefits or adverse impact of approving the contract;
(5) alternative sources of water available to the applicant;
(6) the preliminary plan of design, construction and operation of any
works or facilities used in conjunction with carrying the water to its point
of use;
(7) whether the proposed purchase is consistent with the state water
plan approved by the legislature;
(8) the date of receipt of the application to contract for withdrawal
and use of water;
(9) minimum streamflow requirements; and
(10) whether the applicant has adopted and implemented a water
conservation plan.
(d) The authority may require an applicant for a contract for the sale
of water from the state's conservation water supply capacity to adopt and
implement conservation plans and practices. Such plans and practices shall
be consistent with the guidelines for conservation plans and practices
developed and maintained by the Kansas water office department of water
and environment, division of water and environmental planning pursuant
to subsection (e) of K.S.A. 74-2608(c), and amendments thereto. Prior to
approval of an application, the director of the Kansas water office, in
consultation with the chief engineer, shall determine whether such plans
and practices are consistent with the guidelines adopted by the Kansas-
water office division of water and environmental planning.
(e) The authority may approve or reject the proposed contract and
may recommend purchase of water from an alternative source. The
authority may approve a contract for a smaller amount of water than
requested and may approve a contract upon such terms, conditions and
limitations as it deems necessary for the protection of the public interest of
the state as a whole.

Sec. 216. K.S.A. 82a-1315b is hereby amended to read as follows:
82a-1315b. (a) The director, subject to approval of the authority, shall
acquire or develop conservation storage water supply capacity in
impoundments deemed necessary to implement the state water plan.
(b) That portion of all moneys received by the state treasurer pursuant
to K.S.A. 82a-1315a, and amendments thereto, which is not
attributable to: (1) The annual repayment on water storage costs in federal
reservoirs as computed under subsection (a)(1) of K.S.A. 82a-1308a(a)(1), and amendments thereto; (2) the operation, maintenance and repair costs associated with the state's conservation water supply capacity; and (3) the costs in administering and enforcing the provisions of this act, shall be deposited in the state treasury to the credit of the state conservation storage water supply fund, which is hereby established. The director shall provide the treasurer with an accounting of the total remittances and shall deposit money only to the credit of the state conservation storage water supply fund after the full amount of the costs attributable to the water marketing fund from the preceding calendar year have been repaid. For purposes of calculating the rate in K.S.A. 82a-1308a, and amendments thereto, effective beginning calendar year 1986, all moneys received pursuant to this act since 1975 shall be credited for repayment of the components in the following order: paragraphs (1), (4), (3), (2), then (5) of subsection (a) of K.S.A. 82a-1308a(a), and amendments thereto.

(c) The state conservation storage water supply fund shall serve in part as a savings fund to further the purpose of this act and the fund shall be credited amounts for interest earned thereon in accordance with subsection (e). The director may accept or receive moneys from any source, governmental or private, for the purposes for which expenditures may be made from this fund. The director shall remit all such moneys to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state conservation storage water supply fund.

(d) All expenditures from the state conservation storage water supply fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office or by a person or persons designated by the director and shall be used solely for the purpose of acquisition, development or maintenance of conservation storage water supply in impoundments deemed necessary to implement the state water plan, including expenditures related to the issuance of revenue bonds for such purposes and nonwater supply benefits associated with such purposes.

(e) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the conservation storage water supply fund interest earnings based on:

1. The average daily balance of moneys in the conservation storage water supply fund for the preceding month; and
2. The net earnings rate of the pooled money investment portfolio for the preceding month.

Sec. 217. K.S.A. 82a-1315c is hereby amended to read as follows:
82a-1315c. (a) There is hereby created in the state treasury the water marketing fund. The director of the Kansas water office may accept or receive moneys from any source, governmental or private, for the purposes for which expenditures may be made from the water marketing fund. The director shall remit all moneys so received to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the water marketing fund.

(b) Moneys credited to the water marketing fund shall be used for the following purposes:

1. Payment to the federal government of annual capital costs associated with water supply storage space in reservoirs under the state water plan storage act;
2. Repayment to the state general fund for moneys advanced to make annual capital cost payments for water supply storage space in reservoirs under the state water plan storage act;
3. Payment to the federal government of annual operation, maintenance and repair costs associated with the water supply storage space under the state water plan storage act;
4. Payment of administration and enforcement costs of the state associated with the state water plan storage act;
5. An annual set-aside to a reserve account which is hereby created as part of this fund of an amount specified by the director of the Kansas water office but not more than $0.01 per 1,000 gallons of water sold, such reserve to be used to meet any shortfall in revenue or unusual expenses relating to operation, maintenance and repair costs; and
6. Deposit of receipts as required under K.S.A. 82a-1315b, and amendments thereto.

(c) All expenditures from the water marketing fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office or by a person designated by the director.

Sec. 218. K.S.A. 82a-1332 is hereby amended to read as follows:
82a-1332. The Kansas water office department of water and environment, division of water and environmental planning, with advice from basin advisory committees, eligible water right holders and the chief engineer and with approval of the Kansas water authority, may negotiate and enter into contracts for assurance storage from federal reservoirs to be used for water assurance.

Sec. 219. K.S.A. 82a-1333 is hereby amended to read as follows:
82a-1333. Before a water assurance district is organized, and upon the request of the Kansas water office department of water and environment,
division of water and environmental planning, the chief engineer shall
determine the eligible water rights of the proposed district. In determining
whether a water right may benefit, the chief engineer shall consider the
following factors:
(a) The annual quantity and rate of diversion authorized by the water
right and the frequency and the distribution of such use with time;
(b) the consumptive use, location and source of the water right; and
(c) such other factors as may be necessary to fully determine and
understand the degree of such benefits.
Sec. 220. K.S.A. 82a-1335 is hereby amended to read as follows:
82a-1335. (a) Before any water assurance district is organized, a petition
shall be filed in the office of the secretary of state, signed by the eligible
water right holders of water rights totaling more than 20% of the combined
quantities of all eligible water rights within the proposed district as shown
by a verified enumeration of the eligible water right holders and the total
combined quantities of all eligible water rights taken by the chief engineer.
A verified copy of the enumeration shall be attached to and filed with the
petition in the office of the secretary of state.
(b) Every petition filed pursuant to subsection (a) shall state:
(1) The name of the proposed district, which name shall end with the
words "water assurance district number __________." It shall be the
duty of the secretary of state to assign a number to each such district in the
order in which petitions for their organization are received by the
secretary's office;
(2) a list of the water rights, by file number as recorded in the office
of the chief engineer, to be included within the proposed district;
(3) a statement of the purposes for which the district is to be
organized;
(4) a statement of the number of persons that will constitute the board
of directors of the district, which shall be an uneven number of not less
than three nor more than nine, together with the names and addresses of
the persons who will constitute the original steering committee;
(5) any other matter deemed essential; and
(6) a prayer for the organization of the district as a nonprofit
corporation.
The petition shall be in substantially the following form:
BEFORE THE SECRETARY OF STATE OF THE STATE OF KANSAS
In the Matter of __________ Water Assurance District Number ___,
__________ and ________ counties, Kansas.
PETITION
Come now the undersigned persons, or authorized representatives, and
state that they are eligible water right holders within the proposed
boundaries of the aforementioned water assurance district, hereinafter more...
fully described, and that each signer states that the signer's respective post
office address is set forth beside the signer's name. That the purposes for
which this district is organized are (state purposes). That a steering
committee for the organization of the district is hereby fixed and
constituted with five members; that the names of persons who will serve
on the original steering committee, of which the first named shall be acting
chairperson, and their respective addresses are as follows:

(List names and addresses.)

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

Wherefore, the undersigned, individually and collectively, pray that a
water assurance district be organized in the manner provided by law, for
the purposes set forth herein, and that the secretary of state and the chief
gineer of the Kansas department of water and environment, division of
water resources of the Kansas department of agriculture proceed diligently
in the performance of their duties so that the organization of this proposed
district may be completed and approved at the earliest possible time.

Submitted to the secretary of state this ______ day of __________,
____.

Sec. 221. K.S.A. 82a-1345 is hereby amended to read as follows:
82a-1345. (a) The water assurance district shall impose a charge against
each member of the water assurance district. The total of such charges
shall be sufficient to enable the district to pay the state the full annual
amortized cost to the state of acquiring the assurance storage from the
federal government by purchase or trade, the cost of operation and
maintenance of the assurance storage, the cost of state administration and
enforcement of the assurance program. The water assurance district also
may impose a charge against each member of the district in an amount
sufficient to cover district operating costs. The water assurance district
shall impose any charges necessary for the payment of the principal of and
interest on revenue bonds issued by the Kansas water office department of
water and environment, division of water and environmental planning
pursuant to the provisions of Chapter 394 of the Laws of 1986. The water
assurance district shall determine the amount of the charge for each
member and shall remit moneys collected to the Kansas water office
division of water and environmental planning for deposit in the fund
created pursuant to K.S.A. 82a-1364. Charges to be paid by members of a
water assurance district may vary and shall be based on the principle of
having each member pay for the pro rata quantity authorized to each
member from the assurance program. In determining the charge, the
governing body of the district shall adopt rules which establish
guidelines for prospective members.

(b) The director of the Kansas water office division of water and
environmental planning shall request releases of assurance water by the federal government under the agreements with the federal government that govern operations of reservoirs containing assurance storage.

(c) No member below a reservoir shall divert water from releases of assurance water unless the member has a conservation plan which has been approved in the manner provided by K.S.A. 82a-1348, and amendments thereto, and which is in effect at the time of the desired diversion.

(d) An entity which becomes a holder of a water right in a river basin after an assurance program is in place for that basin shall become a member if the chief engineer determines that sufficient additional water may be yielded from assurance reservoirs to benefit the potential new member.

(e) The director secretary of the Kansas water office water and environment and the chief engineer each shall adopt any rules and regulations necessary to carry out the purposes and procedures of this act. The director secretary and the chief engineer shall consider the advice of any existing assurance districts in the preparation of any rules and regulations adopted pursuant to this subsection.

(f) Any holder of a water right below a reservoir aggrieved by a decision of the chief engineer under this act by being either included or excluded as a member in the assurance program may appeal to the district court under K.S.A. 82a-724, and amendments thereto.

(g) Payments required under a contract between a water assurance district and the Kansas water office division of water and environmental planning shall be for storage capacity contracted in federal reservoirs. Nothing in this act shall be deemed to authorize any suit against the state or any agency of the state or person employed by the state on an implied contract or for negligence or any other tort. The director of the Kansas water office division of water and environmental planning may sue to enforce any claim arising out of a contract. Payment of the assessment shall be a condition imposed on every member and the chief engineer is authorized to declare the suspension of any use of assurance water where a payment is not made.

(h) Rights of members to receive assurance water may not be transferred separately from their water rights.

Sec. 222. K.S.A. 82a-1347 is hereby amended to read as follows: 82a-1347. If any eligible water right holder in a water assurance district organized under the provisions of this act requests an opportunity to renegotiate any existing contracts for the purchase of water supply under the terms of K.S.A. 82a-1301 et seq., and amendments thereto, the Kansas water authority and the Kansas water office department of water and environment, division of water and environmental planning shall conduct
such negotiations on a timely basis and on the provisions for which
negotiations are requested.

Sec. 223. K.S.A. 82a-1348 is hereby amended to read as follows:
82a-1348. Each member of a water assurance district shall adopt
conservation plans and practices for such member. Such plans and
practices shall be consistent with the guidelines for conservation plans and
practices developed and maintained by the Kansas—water office—
department of water and environment, division of water and
environmental planning pursuant to K.S.A. 74-2608, and amendments
thereto. Prior to entering into a contract with an assurance district, the
director of the Kansas water office—division of water and environmen-
tal planning, in consultation with the chief engineer, shall determine whether
such plans and practices are consistent with the guidelines for conservation
plans and practices adopted by the Kansas water office—division of water
and environmental planning.

Sec. 224. K.S.A. 82a-1349 is hereby amended to read as follows:
82a-1349. (a) There is hereby created in the state treasury the water supply
storage assurance fund. The director of the Kansas—water office—
department of water and environment, division of water and
environmental planning, may accept or receive moneys from water
assurance districts for the purposes for which expenditures may be made
from the water supply storage assurance district fund. The director shall
remit all moneys so received to the state treasurer at least monthly. Upon
receipt of any such remittance the state treasurer shall deposit the entire
amount in the state treasury and credit such amount to the water supply
storage assurance fund. Moneys deposited to the credit of the water supply
storage assurance fund—which that are received from a water assurance
district shall be credited to a separate subaccount.

(b) Moneys in such subaccounts may be expended for the following
purposes:
(1) Payment to the federal government of annual capital costs of
water supply storage in federal reservoirs under the water assurance
program act;
(2) payment and reimbursement to the water marketing fund for water
supply storage space previously paid for with revenue from the water
marketing fund, if such storage space has been transferred to the water
assurance program;
(3) payment and reimbursement to the state general fund for water
supply storage space previously paid for with revenue from the state
general fund, if such storage space has been transferred to the water
assurance program;
(4) payment and reimbursement to the state water plan fund for water
supply storage space previously paid for with revenue from the state water
plan fund, if such storage space has been transferred to the water assurance program;
(5) payment to the federal government of annual operation, maintenance and repair costs associated with the water supply storage space dedicated for the use of water assurance districts; and
(6) payment and reimbursement to the water marketing fund and the state general fund for costs incurred by the state for the administration and enforcement of applicable state laws governing the operations and management of the water assurance program as provided in contracts with water assurance districts.
(c) All expenditures from the water supply storage assurance fund shall be made in accordance with appropriation acts upon warrants issued pursuant to vouchers approved by the director of the Kansas water office division of water and environmental planning, or by a person designated by the director.
Sec. 225. K.S.A. 82a-1360 is hereby amended to read as follows:
82a-1360. As used in K.S.A. 82a-1360 through 82a-1368, inclusive and amendments thereto, unless the context otherwise requires:
(a) "Director" means the director of the Kansas water office department of water and environment, division of water and environmental planning.
(b) "Revenue bonds" means bonds issued pursuant to this act and payable as to both principal and interest from (1) the revenue derived from water supply contracts with water users who will derive benefits from the construction of a large reservoir project or from the purchase of space in existing reservoirs; (2) the revenue from participants in water assurance programs; (3) in the discretion of the director, the proceeds of any grant-in-aid which that may be received from any source; or (4) any one or more of the foregoing.
(c) "Large reservoir project" means a structure that has been planned, authorized and constructed by the federal government or the state of Kansas which that contains waters for conservation storage water supply.
Sec. 226. K.S.A. 82a-1361 is hereby amended to read as follows:
82a-1361. (a) The Kansas water office department of water and environment, division of water and environmental planning is hereby authorized to issue and sell revenue bonds for the purpose of paying all or part of the cost of acquiring a site or sites, constructing, reconstructing, improving and expanding large reservoir projects or to finance the purchase of storage in existing reservoirs. The revenue bonds may be issued from time to time and sold in amounts which that the director deems necessary for such purposes.
(b) Prior to the issuance of the revenue bonds, the director shall adopt a resolution or resolutions in the name and on behalf of the Kansas water
office, which division of water and environmental planning. Such resolution or resolutions, unless otherwise provided therein, shall take effect immediately and:

(1) Determine an interest rate or rates to be paid on the principal of the revenue bonds not in excess of the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto;

(2) determine that the revenue bonds will be term or serial bonds or any combination thereof maturing not later than 40 years from the date of issuance;

(3) make provision for charges in water supply contracts with water users who will derive benefits from the construction of a large reservoir project or from the purchase of space in existing reservoirs and fix charges to participants in water assurance programs in an amount necessary to assure the prompt payment of the principal of and interest on the revenue bonds as they become due, to maintain any required reserves and to provide for any deficits resulting from failure to receive sums payable to the Kansas water office division of water and environmental planning by such water users or participants in water assurance programs or resulting from any other cause, and shall sell the revenue bonds in the manner provided by K.S.A. 10-106, and amendments thereto, at a price of not less than 90% of the par value thereof; and

(4) register the revenue bonds with the state treasurer.

(c) Prior to the issuance of the revenue bonds, the director may:

(1) Pledge to the payment of the principal and interest on the revenue bonds the gross revenues derived from water supply contracts with water users from revenue from participants in water assurance programs or from any one or more or all of such sources;

(2) pledge to the payment of the principal of and interest on the revenue bonds the proceeds of any grant-in-aid, gift, donation, bequest or other such fund, or the income from any of such sources obtained by the Kansas water office division of water and environmental planning, directly or in trust;

(3) pledge to the payment of the principal of and interest on any revenue bonds issued to acquire conservation water supply storage capacity in federal reservoirs, if moneys otherwise authorized to be pledged are insufficient, moneys appropriated from the following, in descending order of priority: The state water plan fund created by K.S.A. 82a-951 and amendments thereto, the state economic development initiatives fund created by K.S.A. 79-4804 and amendments thereto or the state general fund;

(4) create and maintain: (A) Revenue bond funds adequate to promptly pay both the principal of and interest on the revenue bonds when they become due; and (B) a reasonable reserve fund; and
(5) covenant or contract with respect to any and all matters consistent
with the authority granted herein necessary and convenient in the
determination of the director to sell the revenue bonds and obtain the most
favorable interest rate thereon, including, but not limited to, maturities,
priority of liens, number of issuances, special funds for security,
redemption privileges, investments of the proceeds of the revenue bonds
and any other funds pledged to the payment thereof or held as security
therefor, security agreements, trust indentures, paying agencies,
registration provisions and conversion privileges.

Sec. 227. K.S.A. 82a-1362 is hereby amended to read as follows:
82a-1362. (a) Revenue bonds issued hereunder, including refunding
revenue bonds authorized hereunder, shall be special obligations of the
Kansas water office department of water and environment, division of
water and environmental planning in accordance with their terms and shall
not constitute an indebtedness of the state of Kansas or the Kansas water
office division of water and environmental planning, nor shall they
constitute indebtedness within the meaning of any constitutional or
statutory provision limiting the incurring of indebtedness.
(b) All contracts, agreements and covenants contained in the
resolution authorizing the issuance of revenue bonds shall be binding in all
respects upon the Kansas water office division of water and environmental
planning, its officials, agents, employees and successors. Such agreements,
contracts and covenants shall be enforceable by appropriate legal action
brought pursuant to the terms of the resolution authorizing the issuance of
revenue bonds.

Sec. 228. K.S.A. 82a-1363 is hereby amended to read as follows:
82a-1363. The Kansas water office department of water and environment,
division of water and environmental planning, may issue revenue bonds
for the purpose of refunding revenue bonds issued hereunder pursuant to
the terms and authority of K.S.A. 10-116a, and amendments thereto.

Sec. 229. K.S.A. 82a-1364 is hereby amended to read as follows:
82a-1364. The proceeds derived from the sale of all revenue bonds issued
under this act shall be deposited to the credit of the Kansas water office
department of water and environment, division of water and
environmental planning in either an account administered pursuant to
K.S.A. 75-4251 et seq., and amendments thereto, or in an account arranged
pursuant to K.S.A. 75-3799, and amendments thereto, and used solely for
the purposes for which the revenue bonds are authorized. The director is
authorized to make all contracts and execute all instruments which that in
the director's discretion may be deemed necessary or advisable for the
purpose of acquiring a site or sites, constructing, reconstructing, improving
and expanding large reservoir projects or to finance the purchase of space
in existing reservoirs and to provide for the manner of disbursement of the
funds for such purposes. Other than contracts with federal, state or local
governmental units, contracts authorized by this act shall be made pursuant
to K.S.A. 75-3739 or 75-3799, and amendments thereto. Nothing
contained in this act shall be construed as placing in the state treasury any
money collected under this act or requiring such action, and the legislature
hereby declares that funds deposited under this section shall not be subject
to the provisions of section 24 of article 2 of the Kansas constitution.

Sec. 230. K.S.A. 82a-1367 is hereby amended to read as follows:
82a-1367. (a) This act constitutes full and complete authority for the
purposes set out in this act, and no procedure or proceedings other than
those required by this act shall be necessary for the performance of the
provisions thereof. The powers conferred by this act shall be in addition
and supplemental to and not in substitution for, and the limitations
imposed by this act shall not affect, the powers conferred on the Kansas
water office department of water and environment, division of water and
environmental planning by any other law.

(b) The provisions of this act are severable, and if any provision,
section, subsection, sentence, clause or phrase of this act, including, but
not limited to, the provisions relating to any of the sources of revenues for
payment of bonds authorized pursuant to this act are for any reason held to
be unconstitutional or otherwise invalid by any court of competent
jurisdiction, such decision shall not affect the validity of the remaining
portions of this act. The legislature hereby declares that it would have
passed this act and each provision, section, subsection, sentence, clause or
phrase thereof irrespective of the fact that any one or more of the same are
declared invalid.

Sec. 231. K.S.A. 82a-1368 is hereby amended to read as follows:
82a-1368. Prior to the issuance of any revenue bonds under authority of
this act and after the adoption of a resolution authorizing any revenue
bonds under this act, the director shall cause to be published once in the
Kansas register a notice to all persons interested that the Kansas water
office department of water and environment, division of water and
environmental planning has determined to issue revenue bonds under
authority of this act. The notice shall state the amount or maximum
amount of revenue bonds to be issued pursuant to such resolution, together
with a brief statement of the purposes for which the proceeds are to be
used, and further, that unless an action to contest the legality of the
proposed revenue bonds shall be filed in a court of law within 30 days
from the date of such publication, the right to contest the legality of any
revenue bonds issued in compliance with the proceedings taken by the
Kansas water office division of water and environmental planning prior to
the date of such publication and the right to contest the validity of the
provisions of such proceedings shall cease to exist and no court shall
thereafter have authority to inquire into such matters. After the expiration
of the 30 days, no one shall have any right to commence an action
contesting the validity of such revenue bonds or the provisions of such
proceedings and all revenue bonds shall be conclusively presumed to be
legal, and no court shall thereafter have authority to inquire into such
matters.

Sec. 232. K.S.A. 82a-1370 is hereby amended to read as follows:
82a-1370. (a) To provide financing to acquire conservation water supply
storage in federal reservoirs, the pooled money investment board is
authorized and directed to loan to the director of the Kansas water office
department of water and environment, division of water and
environmental planning, upon request therefor, sufficient funds for such
purpose. The pooled money investment board is authorized and directed to
use any moneys in the operating accounts, investment accounts or other
investments, of the state of Kansas to provide funds for such loan. On the
loan date of such loan, the pooled money investment board shall transfer
the loan amount to the director of the Kansas water office division of
water and environmental planning by depositing the same in the state
treasury to the credit of the water supply storage acquisition financing
fund.

(b) Such loan shall bear interest from the date of the loan at an annual
rate of interest which is not less than the average yield before taxes
received on 91-day United States treasury bills as determined by the
federal reserve banks as fiscal agents of the United States at its most recent
public offering of such bills in effect on January 1 of such year. The
principal and interest thereon shall be payable in accordance with
subsection (c). Such loan shall not be deemed to be an indebtedness or
debt of the state of Kansas within the meaning of section 6 of article 11 of
the constitution of the state of Kansas.

(c) The principal and interest on any loan made under this section,
shall be payable in accordance with appropriations acts from the following
sources, in descending order of priority:

(1) Amounts received under contracts entered into pursuant to the
state water plan storage act or the water assurance program act, if the
water supply storage capacity purchased with the loan proceeds is to be
used to service such contracts;

(2) state water plan fund created by K.S.A. 82a-951, and amendments
thereto;

(3) the state economic development initiatives fund created by K.S.A.
79-4804, and amendments thereto; and

(4) the state general fund.

(d) There is hereby created in the state treasury the water supply
storage acquisition financing fund. On or before the 10th day of each
month, the director of accounts and reports shall transfer from the state general fund to the water supply storage acquisition financing fund interest earnings based on:

(1) The average daily balance of moneys in the water supply storage acquisition financing fund for the preceding month; and
(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(e) All expenditures from the water supply storage acquisition financing fund shall be made for the purpose of financing the acquisition of water supply storage in federal reservoirs and for the purpose of paying the principal and interest on the loan received under this section in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office division of water and environmental planning, or by a person designated by the director.

Sec. 233. K.S.A. 82a-1402 is hereby amended to read as follows:

82a-1402. As used in this act, unless the context otherwise requires:

(a) "Authority" means the Kansas water authority;
(b) "Director" means the director of the Kansas water office department of water and environment, division of water and environmental planning.
(c) "Naturally" means arising from a phenomenon of nature.
(d) "Operational program" means weather modification activity conducted to increase rainfall or suppress hail damage whether such activity is conducted not-for-profit, for profit or purely for research.
(e) "Person" means and includes a natural person, a partnership, an organization, a corporation, a municipality and any department or agency of the state.
(f) "Research and development operation" or "research and development project" means an operation which that is conducted solely to advance scientific and technical knowledge.
(g) "Weather modification activity" means any operation or experimental process which that has as its objective inducing change, by artificial means, in the composition, behavior, or dynamics of clouds and the atmosphere.

Sec. 234. K.S.A. 82a-1501 is hereby amended to read as follows:

82a-1501. As used in the water transfer act:

(a) (1) "Water transfer" means the diversion and transportation of water in a quantity of 2,000 acre feet or more per year for beneficial use at a point of use outside a 35-mile radius from the point of diversion of such water. In determining the amount of water transferred in the case of a water transfer supplying water to multiple public water supply systems or other water users, the amount of water transferred shall be considered to be
the aggregate amount of water which that will be supplied by the transfer to all public water supply systems and other water users whose points of use are located outside a 35-mile radius from the point of diversion of such water.

(2) "Water transfer" does not include a release of water from a reservoir to the water's natural watercourse for use within the natural watercourse or watershed, made under the authority of the state water plan storage act (K.S.A. 82a-1301 et seq., and amendments thereto), or the water assurance program act (K.S.A. 82a-1330 et seq., and amendments thereto).

(b) "Point of diversion" means:
(1) The point where the longitudinal axis of the dam crosses the center line of the stream in the case of a reservoir;
(2) the location of the headgate or intake in the case of a direct diversion from a river, stream or other watercourse;
(3) the location of a well in the case of groundwater diversion; or
(4) the geographical center of the points of diversion in the case of multiple diversion points.

(c) "Point of use" means the geographical center of each water user's proposed or authorized place of use where any water authorized by the proposed transfer will be used.

(d) "Chief engineer" means the chief engineer of the Kansas department of water and environment, division of water resources of the Kansas department of agriculture.

(e) "Secretary" means the secretary of the Kansas department of health water and environment, or the director of the Kansas department of water and environment, division of environment of the department of health and environment and conservation, if designated by the secretary.

(f) "Director" means the director of the Kansas water office—department of water and environment, division of water and environmental planning.

(g) "Panel" means the water transfer hearing panel.

(h) "Party" means: (1) The applicant; or (2) any person who successfully intervenes pursuant to K.S.A. 82a-1503, and amendments thereto, and actively participates in the hearing. "Party" does not mean a person who makes a limited appearance for the purpose of presenting a statement for or against the water transfer.

(i) "Commenting agencies" means groundwater management districts and state natural resource and environmental agencies, including but not limited to the Kansas department of health water and environment, the Kansas water office—division of water and environmental planning, the Kansas water authority, the Kansas department of wildlife and parks and tourism and the division of water resources of the Kansas department of
agriculture.

(j) "Public water supply system" means any water supply system, whether publicly or privately owned, for which a permit is required pursuant to K.S.A. 65-163, and amendments thereto.

Sec. 235. K.S.A. 82a-1502 is hereby amended to read as follows:

82a-1502. (a) No person shall make a water transfer in this state unless and until the transfer is approved pursuant to the provisions of this act. No water transfer shall be approved which would reduce the amount of water required to meet the present or any reasonably foreseeable future beneficial use of water by present or future users in the area from which the water is to be taken for transfer unless: (1) The panel determines that the benefits to the state for approving the transfer outweigh the benefits to the state for not approving the transfer; (2) the chief engineer recommends to the panel and the panel concurs that an emergency exists which affects the public health, safety or welfare; or (3) the governor has declared that an emergency exists which affects the public health, safety or welfare. Whenever an emergency exists, a water transfer may be approved by the panel on a temporary basis for a period of time not to exceed one year under rules and regulations adopted by the chief engineer. The emergency approval shall be subject to the terms, conditions and limitations specified by the panel.

(b) No water transfer shall be approved under the provisions of this act: (1) If such transfer would impair water reservation rights, vested rights, appropriation rights or prior applications for permits to appropriate water; and (2) unless the presiding officer determines that the applicant has adopted and implemented conservation plans and practices that: (A) Are consistent with the guidelines developed and maintained by the Kansas water office department of water and environment, division of water and environmental planning pursuant to K.S.A. 74-2608, and amendments thereto; (B) have been in effect for not less than 12 consecutive months immediately prior to the filing of the application on which the hearing is being held; and (C) if the transfer is for use by a public water supply system, include the implementation of a rate structure which encourages the efficient use of water that is determined by the presiding officer to be effective and if designed, implemented and maintained properly, will result in wise use and responsible conservation and management of water used by the system.

(c) To determine whether the benefits to the state for approving the transfer outweigh the benefits to the state for not approving the transfer, the presiding officer shall consider all matters pertaining thereto, including specifically:

(1) Any current beneficial use being made of the water proposed to be diverted, including minimum desirable streamflow requirements;
(2) any reasonably foreseeable future beneficial use of the water;
(3) the economic, environmental, public health and welfare and other impacts of approving or denying the transfer of the water;
(4) alternative sources of water available to the applicant and present or future users for any beneficial use;
(5) whether the applicant has taken all appropriate measures to preserve the quality and remediate any contamination of water currently available for use by the applicant;
(6) the proposed plan of design, construction and operation of any works or facilities used in conjunction with carrying the water from the point of diversion, which plan shall be in sufficient detail to enable all parties to understand the impacts of the proposed water transfer;
(7) the effectiveness of conservation plans and practices adopted and implemented by the applicant and any other entities to be supplied water by the applicant;
(8) the conservation plans and practices adopted and implemented by any persons protesting or potentially affected by the proposed transfer, which plans and practices shall be consistent with the guidelines for conservation plans and practices developed and maintained by the Kansas water office division of water and environmental planning pursuant to K.S.A. 74-2608, and amendments thereto; and
(9) any applicable management program, standards, policies and rules and regulations of a groundwater management district.

Sec. 236. K.S.A. 2021 Supp. 82a-1602 is hereby amended to read as follows: 82a-1602. In order to provide public water supply storage and water related recreational facilities in the state, there is hereby established a multipurpose small lakes program. The program shall be administered by the division. Except as otherwise provided by this act, the division, with the approval of the secretary, shall adopt all rules and regulations necessary to implement the provisions of this act.

Sec. 237. K.S.A. 2021 Supp. 82a-1603 is hereby amended to read as follows: 82a-1603. When used in this act:
(a) "Chief engineer" means the chief engineer of the Kansas department of water and environment, division of water resources of the department of agriculture.
(b) "Class I funded project" means a proposed new project or renovation of an existing project located within the boundaries of an organized watershed district that is receiving or is eligible to receive financial participation from the division for the flood control storage portion of the project.
(c) "Class II funded project" means a proposed new project or renovation of an existing project that is receiving or is eligible to receive financial participation from the federal government.
(d) "Class III funded project" means a proposed new project or renovation of an existing project located outside the boundaries of an organized watershed district that is not receiving or is not eligible to receive financial participation from the division or the federal government except as provided in K.S.A. 82a-1606, and amendments thereto.

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

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

(g) "Future use public water supply storage" means storage space that the Kansas water office department of water and environment, division of water and environmental planning, determines will be needed within the next 20 years for use by public water supply users in an area but for which there is no current sponsor.

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

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

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

(k) "Public water supply" means a water supply for municipal, industrial or domestic use.

(l) "Public water supply storage" means storage of water for municipal, industrial or domestic use.

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

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

(o) "Secretary" means the secretary of the Kansas department of 
agriculture water and environment.

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

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

Sec. 238. K.S.A. 82a-1604 is hereby amended to read as follows:

82a-1604. (a) The state may participate with a sponsor in the development, 
construction or renovation of a class I multipurpose small lake project if 
the sponsor has a general plan—which that has been submitted to and 
approved by the chief engineer in the manner provided by K.S.A. 24-1213 
and 24-1214, and amendments thereto. If the Kansas—water office— 
department of water and environment, division of water and 
environmental planning determines that additional public water supply 
storage shall be needed in that area of the state within 20 years from the 
time such project is to be completed and a water user is not available to 
finance public water supply storage, the state may include future use 
public water supply storage in the project. The Kansas—water office— 
division of water and environmental planning shall apply for a water 
appropriation right sufficient to insure a dependable yield from the public 
water supply storage. The Kansas—water office— 
division of water and environmental planning shall be exempt from all applicable fees imposed 
pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such 
applications. The Kansas—water office— secretary of water and environment 
shall have authority to adopt rules and regulations relative to the inclusion 
of public water supply storage in proposed projects under this act and the 
disposition of state-owned water rights and associated public water supply 
storage space in such projects.

(b) The sponsor of such class I project shall be responsible for 
acquiring land rights and for the costs of operation and maintenance of 
such project. The state may provide up to 50% of the engineering and 
construction costs and up to 50% of the costs of land rights associated with 
recreation features. Subject to the provisions of subsections (a) and (c), the 
state may pay up to 100% of the engineering and construction costs of 
flood control and public water supply storage. All other costs of such 
project, including land, construction, operation and maintenance shall be 
paid by the sponsor.

(c) The state shall not participate in the costs of public water supply 
storage in a renovation project unless the Kansas—water office—division of 
water and environmental planning determines that renovation is the most
cost effective alternative for such storage. The state shall be authorized to
pay only up to 50% of the engineering and construction costs of public
water supply storage in such a renovation project.

(d) The Kansas water office division of water and environmental
planning may recover the state's costs incurred in providing public water
supply storage in such class I project, and interest on such costs, by selling
such storage and the associated water rights. Interest on such costs shall be
computed at a rate per annum equal to the average of the monthly net
earnings rate for the pooled money investment portfolio for the preceding
calendar year for each year of storage.

Sec. 239. K.S.A. 82a-1605 is hereby amended to read as follows:
82a-1605. (a) The state may participate with a sponsor in the development,
construction or renovation of a class II multipurpose small lake project if
the sponsor has a general plan which has been submitted to and
approved by the chief engineer in the manner provided by K.S.A. 24-1213
and 24-1214, and amendments thereto. If the Kansas water office—
department of water and environment, division of water and
environmental planning determines that additional public water supply
storage shall be needed in that area of the state within 20 years from the
time such project is to be completed and a water user is not available to
finance public water supply storage, the state may include future use
public water supply storage in the project. The Kansas water office—
division of water and environmental planning shall apply for a water
appropriation right sufficient to insure a dependable yield from public
water supply storage. The Kansas water office division of water and
environmental planning shall be exempt from all applicable fees imposed
pursuant to K.S.A. 82a-701 et seq., and amendments thereto, for such
applications. The Kansas water office secretary of water and environment
shall have authority to adopt rules and regulations relative to the inclusion
of public water supply storage in proposed projects under this act and the
disposition of state-owned water rights and associated public water supply
storage space in such projects.

(b) In a class II project, the state may assume initial financial
obligations for public water supply storage in watersheds by entering into
long-term contracts with the federal government. In order to provide
security to the federal government, the state may grant assignments of
water rights, either appropriation rights or water reservation rights;
assignments of rights under existing or prospective water purchase
contracts; assignments, mortgages or other transfers of interests in real
property held by the state and devoted to the specific small lake project for
which security is sought; or may provide other security that is permissible
under state law and acceptable by the federal government. Instead of
contracting to repay costs under long-term contracts, the state may pay all
of the required costs of the public water supply storage in a lump sum.

(c) The sponsor of such class II project shall be responsible for acquiring land rights and for the costs of operation and maintenance of such project. The state or federal government may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (d), the state may pay up to 100% of the engineering and construction costs of flood control and public water supply storage. All other costs of such project, including land, construction, operation and maintenance shall be paid by the sponsor.

(d) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas water office division of water and environmental planning determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(e) The Kansas water office division of water and environmental planning may recover the state's costs incurred in providing public water supply storage in such class II project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.

Sec. 240. K.S.A. 82a-1606 is hereby amended to read as follows:

82a-1606. (a) The state may participate with a sponsor in the development, construction or renovation of a class III multipurpose small lake project if the sponsor has a general plan which has been submitted to and approved by the chief engineer in the manner provided by K.S.A. 24-1213 and 24-1214, and amendments thereto. If public water supply storage is included in the project, the sponsor of such class III project shall pay for 100% of the costs associated with the public water supply storage portion of such project unless the Kansas water office department of water and environment, division of water and environmental planning determines that additional public water supply storage shall be needed in that area of the state within 20 years from the time such project is to be completed and a sponsor is not available to finance 100% of the costs associated with the public water supply storage, the state may participate in the future use public water supply storage costs of the project. If the state participates in the public water supply storage costs, the Kansas water office division of water and environmental planning shall apply for a water appropriation right sufficient to insure a dependable yield from public water supply storage. The Kansas water office division of water and environmental planning shall be exempt from all applicable fees imposed pursuant to
K.S.A. 82a-701 et seq., and amendments thereto, for such applications. The Secretary of Water and Environment shall have authority to adopt rules and regulations relative to the inclusion of public water supply storage in proposed projects under this act and the disposition of state-owned water rights and associated public water supply storage space in such projects.

(b) The sponsor of such class III project shall be responsible for acquiring land rights and for the costs of operation and maintenance of the project. The state may provide up to 50% of the engineering and construction costs and up to 50% of the costs of land rights associated with recreation features. Subject to the provisions of subsection (c), the state may pay up to 100% of the engineering and construction costs of flood control storage and public water supply storage. All other costs of such project, including land, construction, operation and maintenance, shall be paid by the sponsor.

(c) The state shall not participate in the costs of public water supply storage in a renovation project unless the Kansas Water Office determines that renovation is the most cost effective alternative for such storage. The state shall be authorized to pay only up to 50% of the engineering and construction costs of public water supply storage in such a renovation project.

(d) The Kansas Water Office may recover the state's costs incurred in providing public water supply storage in such class III project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum equal to the average of the monthly net earnings rate for the pooled money investment portfolio for the preceding calendar year for each year of storage.

Sec. 241. K.S.A. 82a-1608 is hereby amended to read as follows:

(a) If state financial participation is approved for a multipurpose small lake project, the Kansas Department of Agriculture division of conservation shall require a local nonpoint source management plan for the watersheds draining into the proposed lake. Such plan shall be submitted to and approved by the Kansas Department of Agriculture division of conservation before any state funds may be used for the proposed project.

(b) If public water supply storage is included in such a project, the sponsor shall have a water conservation plan which has been submitted to and approved by the chief engineer.

(c) Any funding provided by the state shall include money necessary to pay for cost-sharing expenses incurred for nonpoint source management pursuant to the plan required by subsection (a).

Sec. 242. K.S.A. 82a-1609 is hereby amended to read as follows:
82a-1609. (a) Before the Kansas department of agriculture division of conservation requests any appropriation for any multipurpose small lake project, the chief engineer shall review the cost-benefit analysis of alternatives to the project and shall:

(1) Submit the general plan to the appropriate state environmental review agencies pursuant to K.S.A. 82a-325, 82a-326 and 82a-327, and amendments thereto, for review and comment as provided by those sections; and

(2) publish notice of the review in the Kansas register, make the general plan available to the public and receive public comments on the proposed project for a period of 30 days following publication of the notice.

(b) If, in the review, a reasonable, less expensive alternative to the proposed project is identified and the Kansas department of agriculture division of conservation nevertheless requests an appropriation for the proposed project, the division shall submit its reasons for proceeding with participation in the project, together with substantiating documentation, with the budget estimate and program statement for such project.

(c) This section shall be a part of and supplemental to the multipurpose small lakes program act.

Sec. 243. K.S.A. 2021 Supp. 82a-1702 is hereby amended to read as follows: 82a-1702. (a) The state shall provide financial assistance to certain public corporations for part of the costs or reimbursement of part of the costs of installation of water development projects that derive general benefits to the state as a whole or to a section thereof beyond the boundaries of such public corporation.

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

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

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

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

(D) such public corporation will need such financial assistance for actual expenditures within the fiscal year next following; and
(E) the legislature has appropriated funds for the payment of such sum.

(2) The payment authorized hereunder shall be limited to an amount equal to the total costs the public corporation shall become actually and legally obligated to spend for lands, easements and rights-of-way for such water resource development works, multiplied by the ratio that the flood control benefits conferred beyond the boundaries of the public corporation bear to the total flood control benefits of the project. Such findings shall each be made at and in such manner as is provided by procedural rules and regulations that shall be adopted by the Kansas department of agriculture division of conservation with the approval of the secretary of water and environment.

(c) Any public corporation receiving financial assistance under this section shall apply those sums toward the satisfaction of the legal obligations for the specific lands, easements and rights-of-way for which it receives them or toward the reimbursement of those accounts from which those legal obligations were satisfied, in whole or in part, and it shall return to the state any sums that are not in fact so applied. In ascertaining costs of lands, easements and rights-of-way under this section, the Kansas department of agriculture division of environment and conservation shall not consider any costs that relate to land treatment measures or any costs for which federal aid for construction costs is granted pursuant to the watershed protection and flood prevention acts or pursuant to any other federal acts.

Sec. 244. K.S.A. 82a-1703 is hereby amended to read as follows:
82a-1703. The governing body of each public corporation eligible for state financial assistance under the provisions of this act shall make application for state payment each year to the Kansas department of agriculture division of environment and conservation in such form and manner as the Kansas department of agriculture division of environment and conservation may prescribe by its rules and regulations. Each year the Kansas department of agriculture division of environment and conservation shall determine what persons are eligible to receive financial assistance from the state, and the amounts thereof, pursuant to this act. In the event the Kansas department of agriculture division of environment and conservation shall determine that any such application, including the amounts thereof, is proper and in compliance with this act and is supported by a resolution as provided in K.S.A. 82a-1704, and amendments thereto, the Kansas department of agriculture division of environment and conservation may submit a request therefor as a part of its annual budget requests and estimates. Each such request shall be separately stated and identified. The budget item for each project shall contain the name of the project, the name of the public corporation to
which that the item relates, the county or counties in which where such public corporation is located, the identification of the agreement or resolution supporting the request, and the amount of state payment requested therefor.

Sec. 245. K.S.A. 82a-1704 is hereby amended to read as follows: 82a-1704. In order that any public corporation eligible for state payments under the provisions of this act may receive payment from the state, the governing body of the public corporation shall adopt and transmit to the Kansas department of agriculture water and environment, division of environment and conservation an appropriate resolution requesting the Kansas department of agriculture division of environment and conservation to approve payment to the requesting body of a sum or sums to be named within the limits of and for the purposes defined in this act. The resolution shall show the total cost allocated to the requesting body for providing the lands, easements, and rights-of-way for the works of improvement of the requesting body and shall pledge that all money received from the state under authority of this act will be applied solely to the purposes specified in this act.

Sec. 246. K.S.A. 82a-1803 is hereby amended to read as follows: 82a-1803. (a) There is hereby established in the state treasury the Arkansas river water conservation projects fund, to be administered by the director of the Kansas water office department of water and environment, division of water and environmental planning. The water conservation projects fund is hereby redesignated as the Arkansas river water conservation projects fund.

(b) Revenue from the following sources shall be credited to the Arkansas river water conservation projects fund:

(1) Amounts provided for by K.S.A. 82a-1801, and amendments thereto; and

(2) moneys received from any source by the state in the form of gifts, grants, reimbursements or appropriations for use for the purposes of the fund.

(c) Moneys credited to the Arkansas river water conservation projects fund shall be expended only for conservation projects, utilization efficiency, administrative requirements and delivery projects, and similar types of projects, in those areas of the state lying in the upper Arkansas river basin and directly impacted by the provisions of the Arkansas river compact between this state and the state of Colorado.

(d) The types of projects that may be funded under subsection (a)(1) of K.S.A. 82a-1801(a)(1), and amendments thereto, include:

(1) Efficiency improvements to canals or laterals owned by a ditch company or projects to improve the operational efficiency or management of such canals or laterals;
(2) water use efficiency devices, tailwater systems or irrigation system efficiency upgrades;
(3) water measurement flumes, meters, gauges, data collection platforms or related monitoring equipment;
(4) artificial recharge or purchase of water rights for stream recovery or aquifer restoration;
(5) maintenance of the Arkansas river channel; or
(6) monitoring and enforcement of Colorado’s compliance with the Arkansas river compact.

Moneys credited to the fund may be expended to reimburse costs of projects described by this subsection that were required by the division of water resources and commenced on or after July 1, 1994.

Sec. 247. K.S.A. 82a-1804 is hereby amended to read as follows:

82a-1804. (a) There is hereby established in the state treasury the Republican river water conservation projects — Nebraska moneys fund to be administered by the director of the Kansas water office department of water and environment, division of water and environmental planning.

(b) Revenue from the following sources shall be credited to the Republican river water conservation projects — Nebraska moneys fund:

(1) Amounts provided for by K.S.A. 82a-1801, and amendments thereto; and
(2) moneys received from any source by the state in the form of gifts, grants, reimbursements or appropriations for use for the purposes of the fund.

(c) Moneys credited to the Republican river water conservation projects — Nebraska moneys fund shall be expended only for conservation projects, utilization efficiency, administrative requirements and delivery projects, and similar types of projects set forth in subsection (g), in those areas of the state lying in the lower Republican river basin between the Kansas/Nebraska border and Milford dam in all or parts of Clay, Cloud, Dickinson, Geary, Jewell, Mitchell, Republic, Riley, Smith and Washington counties.

(d) There is hereby established in the state treasury the Republican river water conservation projects — Colorado moneys fund to be administered by the director of the Kansas water office department of water and environmental planning.

(e) Revenue from the following sources shall be credited to the Republican river water conservation projects — Colorado moneys fund:

(1) Amounts provided for by K.S.A. 82a-1801, and amendments thereto; and
(2) moneys received from any source by the state in the form of gifts, grants, reimbursements or appropriations for use for purposes of the fund.

(f) Moneys credited to the Republican river water conservation
projects — Colorado moneys fund shall be expended only for conservation projects, utilization efficiency, administrative requirements and delivery projects, and similar types of projects set forth in subsection (g), in those areas of the state lying in the upper Republican river basin in northwest Kansas in all or parts of Cheyenne, Decatur, Norton, Phillips, Rawlins, Sheridan, Sherman and Thomas counties.

(g) The types of projects that may be funded under paragraphs (2) and (3) of subsection (a) of K.S.A. 82a-1801(a)(2) and (3), and amendments thereto, include:

1. Efficiency improvements to canals or laterals managed and paid for by an irrigation district or projects to improve the operational efficiency or management of such canals or laterals;
2. Water use efficiency upgrades;
3. Implementation of water conservation of irrigation and other types of water uses;
4. Implementation of water management plans or actions by water rights holders;
5. Water measurement flumes, meters, gauges, data collection platforms or related monitoring equipment and upgrades;
6. Artificial recharge, funding a water transition assistance program; the purchase of water rights for stream recovery or aquifer restoration and cost share for state or federal conservation programs that save water;
7. Maintenance of the channel and the tributaries of the Republican river;
8. Reservoir maintenance or the purchase, lease, construction or other acquisition of existing or new storage space in reservoirs;
9. Purchase, lease or other acquisition of a water right; and
10. Expenses incurred to construct and operate off-stream storage.

Sec. 248. K.S.A. 82a-1805 is hereby amended to read as follows:

82a-1805. (a) (1) Any person or entity may apply to the director of the Kansas water office department of water and environment, division of water and environmental planning for expenditure of moneys in the Arkansas river water conservation projects fund for the purposes set forth in paragraph (1) of subsection (a) of K.S.A. 82a-1801(a)(1), and amendments thereto.

(2) Any person or entity may apply to the director of the Kansas water office division of water and environmental planning for expenditure of moneys in the Republican river water conservation projects — Nebraska moneys fund and the Republican river water conservation projects — Colorado moneys fund for the purposes set forth in paragraphs (2) and (3) of subsection (a) of K.S.A. 82a-1801(a)(2) and (3), and amendments thereto.

(b) The director of the Kansas water office division of water and
environmental planning and the chief engineer of the Kansas department of agriculture water and environment, division of water resources shall review and approve each proposed project for which moneys in either fund will be expended. In reviewing and approving proposed projects the director and the chief engineer shall give priority to: (1) Projects needed to achieve or maintain compliance with the Arkansas river compact or the Republican river compact; (2) projects that achieve greatest water conservation efficiency for the general good; and (3) projects that have been required by the division of water resources. Upon such review and approval, the director of the Kansas water office division of water and environmental planning shall request the legislature to appropriate, as a line item, moneys from either fund to pay all or a portion of the costs for a specific project, except that any project which that an aggregate of less than $10,000 will be expended from either fund shall not require a line item appropriation.

(c) Interest attributable to moneys in the Arkansas river water conservation projects fund, Republican river water conservation projects — Nebraska moneys fund and the Republican river water conservation projects — Colorado moneys fund shall be credited to the state general fund as provided by K.S.A. 75-4210a, and amendments thereto.

(d) All expenditures from the Arkansas river water conservation projects fund, Republican river water conservation projects — Nebraska moneys fund and the Republican river water conservation projects — Colorado moneys fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the Kansas water office division of water and environmental planning, or a designee of the director of the Kansas water office.

Sec. 249. K.S.A. 82a-1901 is hereby amended to read as follows:

82a-1901. (a) Orders of the chief engineer of the Kansas department of agriculture pursuant to K.S.A. 82a-708b and 82a-711, and amendments thereto, and K.S.A. 82a-737 and 82a-770, and amendments thereto, and failure of the chief engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, shall be subject, upon timely request within 15 days of service of the order pursuant to K.S.A. 77-531, and amendments thereto, or the chief engineer's failure to act timely pursuant to K.S.A. 82a-714, and amendments thereto, to an administrative hearing by a hearing officer designated according to subsection (b) and otherwise in accordance with the provisions of the Kansas administrative procedure act.

(b) If the chief engineer is requested to provide a hearing pursuant to subsection (a), such hearing shall provide an opportunity for a hearing to be conducted before the chief engineer or before a hearing officer.
appointed by the chief engineer. Such hearing officer shall not be a current
employee of the Kansas department of agriculture of water and
environment, shall be licensed as an attorney in this state and shall be
knowledgeable in the areas of water policies and administrative procedure.
Such hearing officer, as directed by the chief engineer, shall either issue an
initial order or provide recommendations to the chief engineer for
issuance of an initial order or issue an initial order a final order.

(c) Orders of the chief engineer of the division of water resources of
the department of agriculture issued pursuant to K.S.A. 42-703, 42-722,
42-722a, 82a-708b, 82a-711 and 82a-718, and amendments thereto, and
K.S.A. 82a-737, 82a-770, 82a-1038 and 82a-1041, and amendments–
thereto, regardless of whether the order is deemed an initial order pursuant
to K.S.A. 77-526, and amendments thereto, and failure of the chief
engineer to act pursuant to K.S.A. 82a-714, and amendments thereto, and
any order issued pursuant to subsection (b), shall be subject, upon timely
request within 30 days of service of the order pursuant to K.S.A. 77-531,
and amendments thereto, or the chief engineer's failure to act timely–
pursuant to K.S.A. 82a-714, and amendments thereto, to review by the
secretary of agriculture pursuant to K.S.A. 77-527, and amendments–
thereto, and otherwise in accordance with the provisions of the Kansas
administrative procedure act. The chief engineer may designate a hearing
officer to preside over all or part of any proceedings initiated pursuant to
K.S.A. 82a-1037 or 82a-1041, and amendments thereto, subject to the
qualifications contained in subsection (b) or as otherwise set forth in rules
and regulations.

(d) For purposes of the Kansas administrative procedure act and
Kansas judicial review act, the chief engineer shall be considered the
agency head and any orders issued by the chief engineer shall be
considered final orders.

(e) Any final order of the department of agriculture chief engineer
issued pursuant to this section shall not be subject to reconsideration
pursuant to K.S.A. 77-529, and amendments thereto.

(f) This act shall not affect any administrative proceeding pending
before the chief engineer of the division of water resources of the
department of agriculture, the secretary of agriculture or any
administrative hearing officer on July 1, 2017 2023, and such matter shall
proceed as though no change in the law had been made with regard to such
proceeding.

Sec. 250. K.S.A. 82a-1904 is hereby amended to read as follows:
82a-1904. The chief engineer of the Kansas department of water and
environment, division of water resources of the Kansas department of
agriculture, for good cause shown, may grant an exemption from or waiver
of a rule and regulation adopted by the chief engineer if the chief engineer
determines that the exemption or waiver will not prejudicially or
unreasonably affect the public interest and will not impair any existing
water right. The exemption or waiver shall be in writing and shall include
the reason for the exemption or waiver.

Sec. 251. K.S.A. 82a-1905 is hereby amended to read as follows:
82a-1905. Before any proposed rules and regulations of the chief engineer
of the Kansas department of water and environment, division of water
resources of the department of agriculture are submitted to the secretary of
administration or the attorney general pursuant to K.S.A. 77-420, and
amendments thereto:
   (a) The chief engineer shall submit such rules and regulations to the
secretary of agriculture water and environment; and
   (b) the secretary of agriculture water and environment shall review
and make recommendations to the chief engineer regarding such proposed
rules and regulations.

Sec. 252. K.S.A. 82a-1906 is hereby amended to read as follows:
82a-1906. (a) The Kansas department of water and environment, division
of water resources of the Kansas department of agriculture shall post all
complete applications and all orders issued by the division pursuant to
K.S.A. 82a-706b, 82a-708a and, 82a-708b, and amendments thereto, and
K.S.A. 82a-745, and amendments thereto, on its the division’s official
website.
   (b) The division, in conjunction with the groundwater management
district within which such water right is situated, shall notify all
water right owners with a point of diversion within half a mile, or further if
deemed necessary by a rule and regulation of the chief engineer, of a water
right pending request or application pursuant to K.S.A. 82a-706b, 82a-
708a and, 82a-708b, and amendments thereto, and K.S.A. 82a-745, and
amendments thereto, except for change applications requesting a point of
diversion move 300 feet or less from the currently authorized location.

Sec. 253. K.S.A. 82a-2001 is hereby amended to read as follows:
82a-2001. As used in this act:
   (a) (1) "Classified stream segments” shall include all stream segments
that are waters of the state as defined in subsection (a) of K.S.A. 65-
161(a), and amendments thereto, and waters described in subsection (d) of
K.S.A. 65-171d(d), and amendments thereto, that:
   (A) Are indicated on the federal environmental protection agency's
reach file 1 (RF1) (1982) and have the most recent 10-year median flow of
equal to or in excess of one cubic foot per second based on data collected
and evaluated by the United States geological survey or in the absence of
stream segment flow data, calculations of flow conducted by extrapolation
methods provided by the United States geological survey;
   (B) have the most recent 10-year median flow of equal to or in excess
of one cubic foot per second based on data collected and evaluated by the
United States geological survey or in the absence of stream segment flow
data, calculations of flow conducted by extrapolation methods provided by
the United States geological survey;
(C) are actually inhabited by threatened or endangered aquatic
species listed in rules and regulations promulgated by the Kansas
department of wildlife, parks and tourism or the United States fish and
wildlife service;
(D) (i) scientific studies conducted by the department show that
during periods of flow less than one cubic foot per second stream
segments provide important refuges for aquatic life and permit biological
recolonization of intermittently flowing segments; and
(ii) a cost-benefit analysis conducted by the department and taking
into account the economic and social impact of classifying the stream
segment indicates that the benefits of classifying the stream segment
overwhelm the costs of classifying the stream segment, as consistent with
the federal clean water act and federal regulations; or
(E) are at the point of discharge on the stream segment and
downstream from such point where the department has issued a national
pollutant discharge elimination system permit other than a permit for a
confined feeding facility, as defined in K.S.A. 65-171d, and amendments
thereto.
(2) Classified stream segments other than those described in
subsection (a)(1)(E) shall not include ephemeral streams; grass, vegetative
or other waterways; culverts; or ditches.
(3) Any definition of classified stream or "classified stream segment"
in rules and regulations or law that is inconsistent with this definition is
hereby declared null and void.
(b) "Department" means the Kansas department of health, water and
environment.
(c) "Designated uses of classified stream segments" shall be defined
as follows:
(1) "Agricultural water supply use" means the use of a classified
stream segment for agricultural purposes, including the following:
(A) "Irrigation" means the withdrawal of water from a classified
stream segment for application onto land; or
(B) "livestock watering" means the provision of water from a
classified stream segment to livestock for consumption.
(2) "Aquatic life support use" means the use of a classified stream
segment for the maintenance of the ecological integrity of streams, lakes
and wetlands, including the sustained growth and propagation of native
aquatic life; naturalized, important, recreational aquatic life; and
indigenous or migratory semiaquatic or terrestrial wildlife directly or
indirectly dependent on surface water for survival. Categories of aquatic
life support use include:
(A) "Special aquatic life use waters" means classified stream
segments that contain combinations of habitat types and indigenous biota
not found commonly in the state, or classified stream segments that
contain representative populations of threatened or endangered species,
that are listed in rules and regulations promulgated by the Kansas
department of wildlife, parks and tourism or the United States fish and
wildlife service.
(B) "Expected aquatic life use waters" means classified stream
segments containing habitat types and indigenous biota commonly found
or expected in the state.
(C) "Restricted aquatic life use waters" means classified stream
segments containing indigenous biota limited in abundance or diversity by
the physical quality or availability of habitat, due to natural deficiencies or
artificial modifications, compared to more suitable habitats in adjacent
waters.
(3) "Domestic water supply" means the use of a classified stream
segment, after appropriate treatment, for the production of potable water.
(4) "Food procurement use" means the use of a classified stream
segment for the obtaining of edible forms of aquatic or semiaquatic life for
human consumption.
(5) "Groundwater recharge use" means the use of a classified stream
segment for the replenishing of fresh or usable groundwater resources.
This use may involve the infiltration and percolation of surface water
through sediments and soils or the direct injection of surface water into
underground aquifers.
(6) "Industrial water supply use" means the use of a classified stream
segment for nonpotable purposes by industry, including withdrawals for
cooling or process water.
(7) (A) "Recreational use" means:
(i) Primary contact recreational use is use of a classified stream
segment for recreation during the period from April 1 through October 31
of each year, provided such classified stream segment is capable of
supporting the recreational activities of swimming, skin diving, water-
skiing, wind surfing, kayaking or mussel harvesting where the body is
intended to be immersed in surface water to the extent that some
inadvertent ingestion of water is probable. Primary contact recreational
use includes:
(a) Primary contact recreational use-Class A: Use of a classified
stream segment for recreation during the period from April 1 through
October 31 of each year, and the classified stream segment is a designated
public swimming area. Water quality criterion for bacterial indicator
organisms applied to Class A waters shall be set at an illness rate of eight
or more per 1,000 swimmers. The classified stream segment shall only be
considered impaired for primary contact recreational use-Class A if the
calculated geometric mean of at least five samples collected in separate
24-hour periods within a 30-day period exceeds the corresponding water
quality criterion. The water quality criterion for primary contact
recreational use-Class A waters during the period November 1 through
March 31 of each year shall be equal to the criterion applied to secondary
contact recreational use-Class A waters.
(b) Primary contact recreational use-Class B: Use of a classified
stream segment for recreation, where moderate full body contact
recreation is expected, during the period from April 1 through October 31
of each year, and the classified stream segment is by law or written
permission of the landowner open to and accessible by the public. Water
quality criterion for bacterial indicator organisms applied to Class B waters
shall be set at an illness rate of 10 or more per 1,000 swimmers. The
classified stream segment shall only be considered impaired for primary
contact recreational use-Class B if the calculated geometric mean of at
least five samples collected in separate 24-hour periods within a 30-day
period exceeds the corresponding water quality criterion. The water quality
criterion for primary contact recreational use-Class B waters during the
period November 1 through March 31 of each year shall be equal to the
criterion applied to secondary contact recreational use-Class A waters.
(c) Primary contact recreational use-Class C: Use of a classified
stream segment for recreation, where full body contact recreation is
infrequent during the period from April 1 through October 31 of each year,
and is not open to and accessible by the public under Kansas law and is
capable of supporting the recreational activities of swimming, skin diving,
water-skiing, wind surfing, boating, mussel harvesting, wading or fishing.
Water quality criterion for bacterial indicator organisms applied to Class C
waters shall be set at an illness rate of 12 or more per 1,000 swimmers.
The classified stream segment shall only be considered impaired for
primary contact recreational use-Class C if the calculated geometric mean
of at least five samples collected in separate 24-hour periods within a 30-day
period exceeds the corresponding water quality criterion. The water
quality criterion for primary contact recreational use-Class C waters during
the period November 1 through March 31 of each year shall be equal to
the criterion applied to secondary contact recreational use-Class B waters.
(ii) Secondary contact recreational use is use of a classified stream
segment for recreation, provided such classified stream segment is capable
of supporting the recreational activities of wading, fishing, canoeing,
motor boating, rafting or other types of boating where the body is not
intended to be immersed and where ingestion of surface water is not
probable. *Secondary contact recreational use includes:*

(a) Secondary contact recreational use-Class A: Use of a classified stream segment for recreation capable of supporting the recreational activities of wading or fishing and the classified stream segment is by law or written permission of the landowner open to and accessible by the public. Water quality criterion for bacterial indicator organisms applied to secondary contact recreational use-Class A waters shall be nine times the criterion applied to primary contact recreational use-Class B waters. The classified stream segment shall only be considered impaired for secondary contact recreational use-Class A if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion.

(b) Secondary contact recreational use-Class B: Use of a classified stream segment for recreation capable of supporting the recreational activities of wading or fishing and the classified stream segment is not open to and accessible by the public under Kansas law. Water quality criterion for bacterial indicator organisms applied to secondary contact recreational use-Class B waters shall be nine times the criterion applied to primary contact recreational-Class C use waters. The classified stream segment shall only be considered impaired for secondary contact recreational use-Class B if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion.

(B) If opposite sides of a classified stream segment would have different designated recreational uses due to differences in public access, the designated use of the entire classified stream segment may be the higher attainable use, notwithstanding that such designation does not grant the public access to both sides of such segment.

(C) Recreational use designations shall not apply to stream segments where the natural, ephemeral, intermittent or low flow conditions or water levels prevent recreational activities.

(d) "Ephemeral stream" means streams that flow only in response to precipitation and whose channel is at all times above the water table.

(e) "Secretary" means the secretary of *health* the Kansas department of *water* and environment.

Sec. 254. K.S.A. 82a-2007 is hereby amended to read as follows: 82a-2007. Subject to appropriations, there shall be an additional employee at the Kansas department of agriculture *water* and environment, division of environment and conservation to work on total maximum daily load compliance and to coordinate with the department and other appropriate federal and state agencies to further implement voluntary incentive based conservation programs to protect water quality.

Sec. 255. K.S.A. 82a-2101 is hereby amended to read as follows:
HB 2686

82a-2101. (a) On and after January 1, 2002, there is hereby imposed a clean drinking water fee at the rate of $.03 per 1,000 gallons of water sold at retail by a public water supply system and delivered through mains, lines or pipes. Such fee shall be paid, administered, enforced and collected in the manner provided for the fee imposed by subsection (a)(1) of K.S.A. 82a-954(a)(1), and amendments thereto. The price to the consumer of water sold at retail by any such system shall not include the amount of such fee.

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

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

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

(1) $\frac{5}{106}$ of such amount shall be credited to the state highway fund and the remainder to the state general fund; and

(2) on and after July 1, 2007, $\frac{7}{106}$ of such amount shall be credited to the state highway fund and the remaining amount shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto, for use as follows: (A) (1) Not less than 15% shall be used to provide on-site technical assistance for public water supply systems, as defined in K.S.A. 65-162a, and amendments thereto, to aid such systems in conforming to responsible management practices and complying with regulations of the United States environmental protection agency and rules and regulations of the Kansas department of health, water and environment; and (B) (2) the remainder shall be used to renovate and protect lakes which are used directly as a source of water for such public water supply systems, so long as where appropriate, watershed restoration and protection practices are planned or in place.

(d) The Kansas department of agriculture, division of conservation—
secretary of water and environment shall promulgate rules and regulations
in coordination with the Kansas water office establishing the project
application evaluation criteria for the use of such moneys under subsection
(e)(2)(B) (c).
Sec. 256. K.S.A. 82a-2301 is hereby amended to read as follows:
82a-2301. As used in K.S.A. 82a-2301 through 82a-2324, and
amendments thereto, unless the context otherwise requires:
(a) "Access water" means water stored in water supply access storage
of a reservoir under a water reservation right and provided as supplemental
water to eligible water right holders.
(b) "Chief engineer" means the chief engineer of the Kansas
department of agriculture water and environment, division of water
resources.
(c) "District" means the lower smoky hill water supply access district.
d(d) "Eligible water right holder" means a person holding a water right
or permit, pursuant to K.S.A. 82a-701 et seq., and amendments thereto, to
appropriate surface water from the program area for municipal, industrial,
irrigation or recreation purposes as determined by the Kansas water office
department of water and environment, division of water and
environmental planning. Eligible water right holders for irrigation
purposes shall be limited to the lower smoky hill river special irrigation
district.
(e) "Landowner" means a person who is the record owner of any real
estate within the boundaries of the district or who has an interest therein as
contract purchaser of 40 or more contiguous acres in the district not within
the corporate limits of any municipality. Owners of oil leases, gas leases,
mineral rights, easements, or mortgages shall not be considered
landowners by reason of such ownership.
(f) "Member" means an eligible water right holder who participates in
and is subject to the rules and regulations of a water supply access district.
(g) "Person" means any natural person, private corporation,
municipality or other public corporation.
(h) "Program" means the lower smoky hill water supply access
program.
(i) "Program area" means the area of the smoky hill river below the
kanopolis reservoir dam to the confluence of the smoky hill and saline
rivers.
(j) "Special irrigation district" means the lower smoky hill water
supply special irrigation district.
(k) "Water supply access storage" means water held by the Kansas
water office department of water and environment, division of water and
environmental planning, in kanopolis reservoir under contract with the
United States army corps of engineers and so designated by the Kansas-
water office division of water and environmental planning as water supply access storage for the purposes of the lower smoky hill water supply access program.

Sec. 257. K.S.A. 82a-2302 is hereby amended to read as follows: 82a-2302. There is hereby established the lower smoky hill water supply access program within the Kansas water office department of water and environment, division of water and environmental planning. The Kansas water office division of water and environmental planning, with approval of the Kansas water authority, may negotiate and enter into contracts for water supply access storage to be used for the purposes of this act. The Kansas water office division of water and environmental planning may designate all or any portion of such water so held in the kanopolis reservoir to water supply access storage to meet the needs of the district.

Sec. 258. K.S.A. 82a-2303 is hereby amended to read as follows: 82a-2303. There is hereby established in the state treasury the lower smoky hill water supply access fund which and such fund shall be administered by the Kansas water office department of water and environment, division of water and environmental planning. All expenditures from the lower smoky hill water supply access fund shall be for the purposes of this act. All expenditures from the lower smoky hill water supply access fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of the Kansas water office division of water and environmental planning or the director's designee. All moneys received for the purposes of this act shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the lower smoky hill water supply access fund. The director of the Kansas water office division of water and environmental planning may accept or receive moneys from the district into the lower smoky hill water supply access fund.

Sec. 259. K.S.A. 82a-2304 is hereby amended to read as follows: 82a-2304. (a) There is hereby authorized the lower smoky hill water supply access district.

(b) Upon receipt of an application for membership within the district, the director of the Kansas water office department of water and environment, division of water and environmental planning may determine the need to create an incorporating governing body for the district, and upon such determination, shall certify to the secretary of state and the members of the district that such district is eligible for formation and should be incorporated. The notice of certification should fix a date, time and place for an organizational meeting of such district.

(c) The members of the district shall meet on the date and time set by such director to form the incorporating governing body of such district.
(d) The incorporating governing body, if created, shall consist of five directors. Eligible water rights holders, or their representatives, who apply for membership, shall be the incorporating entities and shall determine the articles of incorporation. Such articles of incorporation shall provide the board of directors of the lower smoky hill water supply access district so formed, shall have an odd number of directors and shall include a provision that no less than one representative of the lower smoky hill special irrigation district serve as a member of the lower smoky hill water supply access district board, if such special irrigation district is formed under the provisions of this act. Upon incorporation of the district, such incorporating governing body shall dissolve and shall be replaced by the governing body as determined by the articles of incorporation and bylaws of the district.

(e) The directors of the incorporating governing body shall elect an incorporating chairperson. The chairperson, on behalf of the incorporating governing body, shall attest to all documents necessary for incorporation of the district by the secretary of state and for the business of the district. The secretary of state shall issue a certificate of incorporation for the district, which shall be filed of record in the office of the register of deeds of each county in which all or a portion of the district lies.

(f) Upon recordation of such certificate of incorporation, the district shall be authorized to function in accordance with the provision of this act and its certificate of incorporation. No action attacking the legal incorporation of any district organized under this section shall be maintained unless filed within 30 days after the issuance of such certificate of incorporation for such district by the secretary of state, nor shall the alleged illegality of the incorporation of any such district be interposed as a defense to any action brought after such time.

Sec. 260. K.S.A. 82a-2305 is hereby amended to read as follows:

82a-2305. (a) A prospective member may join the district if the prospective member:

(1) Applies to the Kansas water office department of water and environment, division of water and environmental planning for water supply access storage, for the purposes of this act; and

(2) has or applies for a water right eligible for membership under this act.

(b) Prospective members may be approved for membership by the director of the Kansas water office division of water and environmental planning, after consultation with the chief engineer, if the director finds that:

(1) The proposed membership is in the public interest or has a public benefit sufficient for membership;

(2) there is adequate water supply access storage to meet the
additional demand; and

(3) such other issues as may be determined by such director have
been resolved.

Sec. 261. K.S.A. 82a-2310 is hereby amended to read as follows:

82a-2310. (a) The district shall impose charges against each member for
the purposes of the district.

(1) The total of such charges shall be sufficient to enable the district
to pay the Kansas water office department of water and environment,
division of water and environmental planning the full annual amortized
cost incurred by the Kansas water office division of water and
environmental planning for the operation, administration and enforcement
of the program, including, but not limited to, the costs of acquiring the
water supply access storage from the federal government by purchase or
trade and the cost of operation and maintenance of such water supply
access storage.

(2) The district may also impose charges against each member of the
district in an amount sufficient to cover district operating costs.

(3) The district shall impose any charges necessary for the payment
of the principal of and interest on revenue bonds issued by the Kansas
water office division of water and environmental planning pursuant to
K.S.A. 82a-1360 et seq., and amendments thereto.

(4) The district shall determine the amount of the charges for each
member and shall remit all moneys collected to the Kansas water office
division of water and environmental planning for deposit in the lower
smoky hill water supply access fund created pursuant to this act. Charges
to be paid by such members may vary and shall be based on the principle
of having each member pay for the pro rata quantity authorized to each
member by the district. In determining the charge, the board of directors of
the district shall adopt guidelines for such members.

(b) The director of the Kansas water office division of water and
environmental planning shall request releases of water supply access water
by the federal government from the kanopolis reservoir under such
agreements with the federal government that govern operations of such
reservoir. The chairperson of the governing body of the district or designee
shall communicate with the Kansas water office division of water and
environmental planning regarding any member’s need for such releases by
the district.

(c) The director secretary of water and environment and the chief
engineer each shall adopt any rules and regulations necessary to carry out
the purposes and procedures of this act. The director secretary and the
chief engineer shall consider the advice of the Kansas water authority and
stakeholders in the program area, in the preparation of any rules and
regulations adopted pursuant to this subsection.
(d) Any holder of an eligible water right aggrieved by a decision of the Kansas water office division of water and environmental planning under this act by being excluded as a member in the program may appeal to the district court under K.S.A. 82a-724, and amendments thereto.

(e) Payments required under a contract between the district and the Kansas water office division of water and environmental planning shall be for storage capacity contracted in a federal reservoir.

(f) Nothing in this act shall be deemed to authorize any suit against the state or any agency of the state or person employed by the state on or under a claim for implied contract, negligence or any other tort. The director of the Kansas water office division of water and environmental planning may sue to enforce any claim arising out of a contract. Payment of the charges shall be a condition imposed on every member and the director is authorized to declare the suspension of any use of water supply access water where a payment is not made.

(g) Rights of members to receive access water may not be transferred without the approval of the Kansas water office division of water and environmental planning.

Sec. 262. K.S.A. 82a-2311 is hereby amended to read as follows:

82a-2311. If any member of the district requests an opportunity to renegotiate any existing contracts for the purchase of water supply, as described in K.S.A. 82a-1301 et seq., and amendments thereto, the Kansas water authority and the Kansas water office department of water and environment, division of water and environmental planning shall conduct such negotiations on a timely basis and on the provisions for which negotiations are requested.

Sec. 263. K.S.A. 82a-2312 is hereby amended to read as follows:

82a-2312. (a) The chief engineer shall protect releases of water from the kanopolis reservoir for water supply access storage as may be necessary to effectuate the purposes of the releases made pursuant to this act and for the benefit of the district members for whom such releases are made.

(b) The Kansas water office department of water and environment, division of water and environmental planning shall communicate to the chief engineer the date and quantity of such release, the district member or members for whom such release is made and such other information as the chief engineer may request to insure protection of the release.

Sec. 264. K.S.A. 82a-2313 is hereby amended to read as follows:

82a-2313. Each member of the district shall adopt conservation plans and practices for such member. Such plans and practices shall be consistent with the guidelines for conservation plans and practices developed and maintained by the Kansas water office department of water and environment, division of water and environmental planning, as provided in K.S.A. 74-2608, and amendments thereto. Prior to entering into a contract,
the district and the director of the Kansas water office division of water and environmental planning, in consultation with the chief engineer, shall determine whether such plans and practices are consistent with the guidelines for conservation plans and practices adopted by the Kansas water office division of water and environmental planning.

Sec. 265. K.S.A. 82a-2314 is hereby amended to read as follows:
82a-2314. (a) The Kansas water office department of water and environment, division of water and environmental planning is hereby authorized to issue and sell revenue bonds for the purpose of paying all or part of the cost of acquiring a site or sites, constructing, reconstructing, improving and expanding projects within the program area or to finance the purchase of storage in the reservoir using procedures established for issuing such bonds as described in K.S.A. 82a-1360 et seq., and amendments thereto.

(b) The district may negotiate to make annual payments over a period of not to exceed 20 years for any access storage water purchased under this act.

Sec. 266. K.S.A. 82a-2317 is hereby amended to read as follows:
82a-2317. (a) The lower smoky hill special irrigation district shall be formed upon petition by eligible irrigation water right holders to the director of the Kansas water office department of water and environment, division of water and environmental planning, demonstrating a need for and requesting purchase of 500 acre feet or more for water supply access storage for the proposed special irrigation district. The petition shall provide contact information for each person signing, information on the land proposed for membership in the district, information necessary for verification of the water rights held on the eligible land and the amount of water requested from kanopolis reservoir water supply access storage by each person so signing. The Kansas water office division of water and environmental planning may request additional information from each person signing such petition.

(b) The director of the Kansas water office division of water and environmental planning, in consultation with the chief engineer, shall verify the ownership of subject land within the proposed special irrigation district for the lands noted in the petition, the water rights held for subject land by each person so signing and other matters the Kansas water office division of water and environmental planning may deem necessary. Upon verification of the eligibility of those signing such petition the director of the Kansas water office division of water and environmental planning shall set a date, time and place for the first meeting of such district for the purposes of electing a governing board for the special irrigation district.

Sec. 267. K.S.A. 82a-2324 is hereby amended to read as follows:
82a-2324. The Kansas water office secretary of water and environment
HB 2686

shall adopt rules and regulations to implement the lower smoky hill water
supply access program.

Sec. 268. K.S.A. 82a-2402 is hereby amended to read as follows:
82a-2402. As used in this act, unless context otherwise requires:
(a) "Board" means the board of directors of a reservoir improvement
district;
(b) "district" means a reservoir district for which organization is
proposed or has been organized under the provisions of this act, and
amendments thereto;
(c) "eligible water right holder" means any person:
(1) Holding a water right or permit, pursuant to K.S.A. 82a-701 et
seq., and amendments thereto, to appropriate water from a reservoir;
(2) with a contract to withdraw and use water pursuant to K.S.A. 82a-
1301 et seq., and amendments thereto; or
(3) with a water appropriation right in a water assurance district
pursuant to K.S.A. 82a-1330 et seq., and amendments thereto;
(d) "general plan" means a preliminary engineering report describing
the characteristics of the reservoir, the nature and methods of dealing with
the bed and water problems in the reservoir or the reservoir watershed and
the projects proposed to be undertaken by the district. It shall include
maps, descriptions and any other data as may be necessary for the location,
identification and establishment of the character of the work to be
undertaken and any other data and information as the director of the
Kansas water office department of water and environment, division of
water and environmental planning may require;
(e) "person" means any person, firm, partnership, association or
corporation;
(f) "specific project" means any project outlined and proposed by the
board of directors and may constitute all or part of the general plan;
(g) "steering committee" means the group of eligible water right
holders, not less than the number to be chosen for the board of directors,
who shall serve as the governing body of the proposed reservoir
improvement district until the first board of directors is elected;
(h) "water right" means the same as defined in K.S.A. 82a-701, and amendments thereto; and
(i) "watershed" means all the area within the state draining toward a
selected point on a reservoir.

Sec. 269. K.S.A. 82a-2403 is hereby amended to read as follows:
82a-2403. Before any reservoir improvement district is organized, a
petition shall be filed in the office of the secretary of state, signed by the
eligible water right holders who have water rights totaling more than 20% of the combined quantities of all eligible water rights within the proposed
district as shown by a verified enumeration of the eligible water right
holders and the total combined quantities of all eligible rights taken by the
director of the Kansas department of water and environment, division of water and environmental planning. A verified copy of the
enumeration shall be attached to and filed with the petition in the office of
the secretary of state.

Sec. 270. K.S.A. 82a-2404 is hereby amended to read as follows:

82a-2404. (a) Every petition filed pursuant to K.S.A. 82a-2403, and
amendments thereto, shall state:

(1) The name of the proposed district which. Such name shall include
the name of the reservoir and end with the words "reservoir improvement
district";

(2) a list of the water rights, by file number as recorded in the Kansas
water office department of water and environment, division of water and
environmental planning, to be included within the proposed district;

(3) a statement of the purposes for which the district is to be
organized;

(4) a statement of the number of persons that will constitute the board
of directors of the district, which shall be an odd number of not less than
three nor more than five, together with the names and addresses of the
persons who will constitute the original steering committee;

(5) any other matter deemed essential; and

(6) a request for the organization of the district as a nonprofit
corporation.

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

BEFORE THE SECRETARY OF STATE OF THE STATE OF KANSAS
In the Matter of __________ Reservoir Improvement District

PETITION

Come now the undersigned persons and state that they own water rights
or are an eligible water right holder in the____________ reservoir, for which a reservoir improvement district is proposed, and that
each signer states that the signer's respective post office address is set forth
beside the signer's name. That the purposes for which this district is
organized are (state purposes). That a steering committee for the
organization of the district is hereby fixed and constituted with five
members; that the names of persons who will serve on the original steering
committee, of which the first named shall be acting chairperson, and their
respective addresses are as follows:

(List names and addresses.)

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

Wherefore, the undersigned, individually and collectively, request that
a reservoir improvement district be organized in the manner provided by
law, for the purposes set forth herein, and that the secretary of state and the
director of the Kansas water office department of water and environment, division of water and environmental planning proceed diligently in the performance of their duties so that the organization of this proposed district may be completed and approved at the earliest possible time.

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

Sec. 271. K.S.A. 82a-2406 is hereby amended to read as follows:
82a-2406. (a) If the secretary of state finds the petition, as required by K.S.A. 82a-2403, and amendments thereto, to be sufficient as to form and the number and qualifications of the petitioners, the secretary of state shall prepare a certified copy of the petition and transmit the same to the director of the Kansas water office department of water and environment, division of water and environmental planning within five days from the date of such finding. Upon receipt of such certified copy, the director of the Kansas water office division of water and environmental planning shall institute an investigation of the proposed district, its and such district's water usage and purposes. Within 90 days after receipt of the copy, the director of the Kansas water office division of water and environmental planning shall transmit a written report of the findings on the petition and the director's written approval or disapproval of the petition to the secretary of state and the acting chairperson of the steering committee named in the petition.

(b) (1) The director of the Kansas water office division of water and environmental planning shall approve such petition if the director finds that construction of works of improvement on the reservoir for which the district is proposed would benefit the sustainability, conservation and maintenance of such reservoir.

(2) If the director of the Kansas water office division of water and environmental planning approves such petition, the director shall transmit a certified copy of the report containing all findings to the secretary of state and to the chairperson of the steering committee named in the petition.

Sec. 272. K.S.A. 82a-2407 is hereby amended to read as follows:
82a-2407. (a) Within 10 days after receipt of a certified copy of the report from the director of the Kansas water office department of water and environment, division of water and environmental planning approving the petition or the petition as amended, the chairperson of the steering committee of the proposed district shall call a meeting of the committee by mailing a written notice fixing the time and place of such meeting to each eligible water right holder in the proposed district. The committee shall meet at the time and place fixed in the notice for the purpose of adopting a resolution giving notice of an election at which all eligible water right holders shall be entitled to vote on the question of whether the district
should be formed in accordance with the petition as approved by the
director. A copy of such resolution shall be mailed to all eligible water
right holders of the proposed district not less than 21 days prior to such
vote. The resolution shall state when and where the election shall be held
and the proposition to be voted on. It shall contain a copy of the petition as
approved by the director and shall be signed by the chairperson and
attested by the secretary of the steering committee. The steering committee
shall conduct the election, canvass the vote and certify the results to the
secretary of state and to the director of the Kansas water office, division of
water and environmental planning.

(b) If eligible water right holders representing more than 50% of the
combined quantities of the eligible water rights of the proposed district
vote in favor of the organization and creation of the district, the secretary
of state shall issue a certificate of incorporation for the district to the
steering committee, such certificate shall be filed in the office of the register
of deeds of each county in which all or a portion of the district lies. Upon the recordation of the certificate of incorporation, the
district shall be authorized to function in accordance with the provision of
this act and its certificate of incorporation.

(c) If eligible water right holders representing more than 50% of the
combined quantities of the water rights within the proposed district vote
against the organization and creation of the district, the secretary of state
shall endorse that fact on the face of the petition and the proceedings shall
be closed.

(d) No action attacking the legal incorporation of any reservoir
improvement district organized under this section shall be maintained
unless filed within 90 days after the issuance of the certificate of
incorporation for such district by the secretary of state, nor shall the
alleged illegality of the incorporation of any such district be interposed as
a defense to any action brought after such time.

Sec. 273. K.S.A. 82a-2408 is hereby amended to read as follows:
82a-2408. If the organization of the proposed reservoir improvement
district is defeated at the election or if the petition is disapproved by the
director of the Kansas water office, department of water and environment,
division of water and environmental planning, the steering committee
named in the petition shall determine the amount of money necessary to
pay all of the costs and expenses incurred in the preparation and filing of
the petition, and in the conduct of the election and the steering committee
shall assume the obligation for the payment of such costs and expenses by
assessing the eligible water right holders a fee in proportion to each such
holder's water right to the total of such water right. No cost shall be
assessed by any state agency.

Sec. 274. K.S.A. 82a-2411 is hereby amended to read as follows:
HB 2686

82a-2411. (a) In not less than 12 months; nor more than 13 months after
the recording of the certificates of incorporation, and annually thereafter, a
meeting shall be held for the election of directors whose terms expire and
also to render a report on the financial condition and activities of the
district, including the estimated construction date of all proposed projects
to be initiated within the next five years and the board’s determination as to
whether each of these projects is still cost effective and in the current
public interest. Notice of the annual meeting shall be given at least 10 days
prior to the date thereof to all members in the district.

(b) The number of directors of a district or the date of the annual
meeting, or both, may be changed at an annual meeting if notice of the
proposed changes is included in the notice for the annual meeting at which
such changes are to be considered.

(c) Copies of the minutes of the annual meeting and report on the
financial condition and activities of the district shall be furnished to the
eligible water right holders of the district and the Kansas water office
department of water and environment, division of water and
environmental planning.

Sec. 275. K.S.A. 82a-2412 is hereby amended to read as follows:
82a-2412. Regular meetings of the board of directors shall be held no not
less than once each quarter on a day and place as is selected by the board
of directors. Notice of such meeting shall be mailed to each director at
least five days before the date of the meeting. Special meetings may be
held at any time upon waiver of notice of such meeting by all directors or
may be called by any two directors at any time. Notice in writing, signed
by the persons calling any special meeting, shall be mailed to each director
at least two days prior to the time fixed for such special meeting. A
majority of directors shall constitute a quorum for the transaction of
business and in the absence of any of the duly elected officers of the
district a quorum at any meeting may select a director to act as such officer
pro tem. Each meeting of the board, whether regular or special, shall be
open to the public. Copies of the minutes of regular and special meetings
shall be furnished to the eligible water right holders of the district and the
Kansas water office department of water and environment, division of
water and environmental planning.

Sec. 276. K.S.A. 82a-2414 is hereby amended to read as follows:
82a-2414. (a) Upon the incorporation of the reservoir improvement
district, the board shall cause work to be commenced on the preparation of
a general plan of the district. In addition, there shall be prepared an
estimate of costs as to installation, maintenance and operation of the
proposed improvements. Upon completion of the general plan and
estimates of costs, the board shall carefully examine and consider such
plan. If they approve the general plan and estimate of cost, they shall
transmit a complete copy of the general plan to the director of the Kansas water office, department of water and environment, division of water and environmental planning and additional copies shall be made available upon request by the director of the Kansas water office, division of water and environmental planning. Copies of such plans, estimates and information in the Kansas water office, division of water and environmental planning shall be open to inspection by the public at all reasonable times.

(b) The director of the Kansas water office, division of water and environmental planning, shall examine and study such general plans as to:

(1) Feasibility;
(2) coordination of the plan with any other plan for the reservoir for which the district is formed;
(3) the safety of the works and improvements proposed; and
(4) conformity with the intents and purposes of this act.

c) The director of the Kansas water office, division of water and environmental planning, shall transmit a written report of the results of such study and investigation to the board of directors, which shall include any changes or modifications which have been deemed necessary and which shall include a specific approval or disapproval of the general plan.

Sec. 277. K.S.A. 82a-2415 is hereby amended to read as follows: 82a-2415. (a) When the general plan is approved by the director of the Kansas water office, department of water and environment, division of water and environmental planning, the board shall propose by resolution, that the cost to the district of all improvements contemplated in the plan be paid by imposing a charge against each eligible water right holder of the district in proportion to each such holder's water right. The total of such charges shall be sufficient to enable the district to pay the cost of administering the general plan. The reservoir improvement district also may impose a charge against each eligible water right holder of the district in an amount sufficient to cover district operating costs. Charges paid by eligible water right holders of a reservoir improvement district may vary and shall be based on the principle of having each eligible water right holder pay for the pro rata quantity of water used from the reservoir. In determining the charge, the governing body of the district shall adopt rules which establish guidelines for prospective eligible water right holders.

(b) The board shall fix a time and place conveniently near the reservoir for a public hearing upon the general plan and the resolution proposing a method of financing costs of the works contemplated in the plan. A notice of such hearing shall be given in one publication at least 20 days prior to the date fixed for the hearing, setting forth the time and place of hearing upon the plan and resolution, that a copy of the plan and resolution is available for public inspection in the office of the secretary of
the district. Any eligible water right holder of the district desiring to be
heard in the matter must file, in duplicate, with the secretary of the board
at the secretary's office, at least five days before the date of the hearing, a
written statement of such holder's intent to appear at the hearing and the
substance of the views they wish to express. Upon receipt of any such
statements, the secretary of the board shall immediately transmit one copy
of the statements to the director of the Kansas water office division of
water and environmental planning. The director of the Kansas water office
division of water and environmental planning or the director of the Kansas
water office's director's duly appointed representative may attend the
hearing. At the hearing any eligible water right holder of the district who
has filed a written statement shall be heard and may present information in
support of the eligible water right holder's position in the matter. After
hearing all such statements, the board, by resolution, shall adopt as official
or reject the general plan. The board shall also adopt as official or reject
the proposed method of financing the costs of the works contemplated in
the general plan or determine that the general plan or the proposed method
of financing or both should be modified. The board shall notify the
director of the Kansas water office division of water and environmental
planning of the board's action to accept or reject the general plan and
proposed method of financing. If it is determined that the general plan
should be modified, any proposed changes approved by the board shall be
incorporated in a modified general plan which shall be submitted to
the director of the Kansas water office division of water and
environmental planning for further consideration.

c) The director of the Kansas water office division of water and
environmental planning shall review the modified plan and shall transmit a
supplemental written report of the results of the director's study and
investigation to the board, including the director of the Kansas water-
office's division of water and environmental planning's written approval or
disapproval of the modified general plan. If the modified general plan is
approved by the director of the Kansas water office division of water and
environmental planning, the board, by resolution, shall adopt the modified
plan as the official general plan of the district and notify the director of the
Kansas water office division of water and environmental planning of the
board's action. If it is determined that the proposed method of financing
should be modified, the board shall give consideration to the modified
method of financing and, following adoption of the general plan or an
approved modification thereof, the board, by further resolution setting
forth such modified method of financing, shall adopt it as the official
method of the district for financing costs of the works contemplated in the
official general plan. If a board is unable to carry out a general plan
because insufficient funds have been provided, they may reconsider the
general plan or the method of financing, or both, and by following the
procedure set forth in subsections (a) and (b), resubmit a general plan or
method of financing, or both.

Sec. 278. K.S.A. 82a-2416 is hereby amended to read as follows:
82a-2416. (a) Following the adoption of the general plan and adoption of
the method of financing, the board of directors may determine the order in
which that specific projects contemplated by the general plan shall be
undertaken. The board shall then cause accurate surveys of all work
deemed necessary to be done and accurate estimates and calculations to be
made by a competent engineer who shall prepare detailed construction
plans and specifications showing the location, amount, and character of
work to be done and the estimated cost of right of way, construction,
maintenance and operation, which plans, specifications and estimates of
costs shall be filed in the office of the secretary of the board and shall at all
reasonable times be open to public inspection. The board shall carefully
examine and consider the same and if they approve such plans,
specifications and estimates of costs, they shall transmit a complete copy
thereof to the director of the Kansas water office department of water and
environment, division of water and environmental planning, who shall
examine and study the plans and specifications as to conformance to the
general plan and other applicable state laws on water use and control and
transmit a written report of the results of the director's study and
investigation to the board. which Such report shall include any changes or
modifications, which that the director deems necessary, and which shall
include a specific approval or disapproval of the plans and specifications.

(b) (1) Ten years following approval of the general plan and every
five years thereafter, the board shall review the general plan to determine if
projects proposed to be undertaken by the district in its original plan are
still feasible. A report of the review shall be given at a public meeting
called for that purpose. This review is not required of reservoir
improvement districts that have completed all the projects in the general
plans.

(2) Any revisions or amendments to the general plan shall be
submitted to the director of the Kansas water office division of water and
environmental planning, in the manner provided by K.S.A. 82a-2414, and
amendments thereto.

Sec. 279. K.S.A. 82a-2419 is hereby amended to read as follows:
82a-2419. (a) Upon receipt from the secretary of state of the certificate of
dissolution of the reservoir improvement district under the provisions of
this act, the secretary of the board of directors of the reservoir
improvement district shall notify the directors of the reservoir
improvement district of such certification.

(b) The directors shall immediately pay all obligations of said such
district, including all costs incurred by the district, the director of the Kansas water office, department of water and environment, division of water and environmental planning and the secretary of state in regard to the dissolution proceedings.

(c) Upon receipt of such notification from the state treasurer, the secretary of the district shall have the certificate of dissolution published once in a newspaper of general circulation, located in a county where the reservoir or a part thereof is located and proof of such publication shall be filed with the secretary of state's office. The effective date of the dissolution, unless otherwise provided, shall be the date on which that the proof of publication is filed in the office of the secretary of state, but in no event shall the date of dissolution be a date prior to the date of publication of the certificate of dissolution.

2324, 82a-2402, 82a-2403, 82a-2404, 82a-2406, 82a-2407, 82a-2408, 82a-
2411, 82a-2412, 82a-2414, 82a-2415, 82a-2416 and 82a-2419 and K.S.A.
2021 Supp. 2-1903, 2-1904, 2-1915, 2-1933, 2-3318, 2-3702, 2-3708, 2-
3709, 12-541, 12-636, 12-761, 12-766, 12-2713, 48-1603, 48-1606, 48-
1608, 49-511, 49-512, 49-513, 49-517, 49-603, 49-618, 49-623, 55-153,
55-1,117, 55-1,117a, 55-1,119, 65-171v, 65-180, 75-3036, 75-5133, 82a-
736, 82a-1602, 82a-1603 and 82a-1702 are hereby repealed.

Sec. 281. This act shall take effect and be in force from and after July 1, 2023, and its publication in the statute book.