

SENATE BILL No. 38

AN ACT concerning agriculture; relating to environmental remediation; the Kansas department of agriculture division of conservation; implementing the provisions of 2011 executive reorganization order No. 40; establishing the Kansas pesticide waste disposal program and the Kansas pesticide waste disposal fund; permitting annual transfers from the Kansas agricultural remediation fund to the Kansas pesticide waste disposal fund; amending K.S.A. 2-1916, 2-3702, 49-605, 49-611, 49-613, 49-618, 49-620, 49-623, 82a-1602, 82a-1603, 82a-1607 and 82a-1702 and K.S.A. 2020 Supp. 2-1903, 2-1904, 2-1907, 2-1907c, 2-1908, 2-1915, 2-1930, 2-1931, 2-1933, 2-3708, 49-603, 49-606 and 49-621 and repealing the existing sections.

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

New Section 1. (a) There is hereby established a Kansas pesticide waste disposal program to be administered by the secretary of agriculture for the collection and disposal of pesticide waste in the state.

(b) The program shall be funded in accordance with section 2, and amendments thereto.

New Sec. 2. (a) There is hereby created in the state treasury the Kansas pesticide waste disposal fund. All moneys credited to the Kansas pesticide waste disposal fund shall be used by the secretary of agriculture for the Kansas pesticide waste disposal program established by section 1, and amendments thereto. All expenditures from the Kansas pesticide waste disposal 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.

(b) The Kansas agricultural remediation board may approve an annual transfer of moneys from the Kansas agricultural remediation fund to the Kansas pesticide waste disposal fund in an amount that shall not exceed \$50,000 per calendar year. Upon such approval, the director of accounts and reports shall transfer such approved moneys from the Kansas agricultural remediation fund to the Kansas pesticide waste disposal fund.

(c) On or before January 1 of each year, the secretary of agriculture shall submit to the Kansas agricultural remediation board a report concerning the annual expenditures made from the Kansas pesticide waste disposal program.

(d) On or before the 10<sup>th</sup> day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas pesticide waste disposal fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas pesticide waste disposal fund for the preceding month; and

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

Sec. 3. K.S.A. 2020 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" ~~or "state conservation 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 ~~soil~~ *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" or ~~"division of conservation"~~ means the ~~agency~~ *division of conservation* established *within the Kansas department of agriculture* in K.S.A. 74-5,126, 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. 4. K.S.A. 2020 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 director of the cooperative extension service and the director of the state agricultural experiment station~~ *dean of the Kansas state university college of agriculture* located at Manhattan, Kansas, ~~or such persons' designees shall serve, ex officio, as shall appoint two designees to serve on the commission as members of the commission. One designee shall represent an agricultural experiment station and one shall represent the cooperative extension service.~~

(2) ~~The commission~~ *secretary* shall request the secretary of agriculture of the United States of America to appoint one person, and the secretary of the Kansas department of agriculture to ~~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 ~~state~~ commission shall be elected by the conservation district supervisors at a time and place to be designated by the ~~state conservation~~ 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 ~~will shall~~ elect members in ~~even-number even-numbered~~ years and Areas I, III and V shall elect members in ~~odd-number odd-numbered~~ years for ~~two-year two-year~~ terms. The elected commission members from Areas I, III and V shall take office on January 1; of the ~~even-number 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-number 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 adopt a seal which seal shall be judicially noticed, and may perform such acts, hold such public hearings and adopt~~ review all rules and regulations *proposed by the division that are* necessary for the execution of ~~its the division's~~ functions under this act.

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

(d) The commission shall designate its 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 ~~state conservation~~ 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 ~~state conservation~~ commission together with the ~~Kansas department of agriculture division of conservation~~ 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 ~~Kansas department of agriculture division of conservation~~ in consultation with the ~~state conservation~~ 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 under which 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, ~~which shall~~ to be administered by the department of agriculture. 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 ~~Kansas department of agriculture~~ ~~division of conservation~~ holds the conservation easement.

(i) (1) Except as provided in ~~subsection (i)~~ *paragraph (2)*, the Kansas department of agriculture 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 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 Kansas department of agriculture~~ ~~division of conservation~~ shall not accept, purchase or otherwise acquire any conservation easement other than for the purposes of this section.

Sec. 5. K.S.A. 2020 Supp. 2-1907 is hereby amended to read as follows: 2-1907. The governing body of the district shall consist of five supervisors who are qualified electors residing within the district. The supervisors who are first elected shall serve for terms of one, two and three years according to the following plan: The two persons receiving the highest number of votes in the election shall hold office for three years; the two persons receiving the next highest number of votes shall hold such office for a term of two years; and the remaining supervisor shall hold office for a term of one year. In the event of a tie vote, such terms shall be decided by lot. Nothing in this section shall be construed as affecting the length of the term of supervisors holding office on January 1, 1995. Successors to such persons shall be elected for terms of three years. An annual meeting of all qualified electors of the district shall be held in the month of January or February. Notice of the time and place of such meeting shall be given by such supervisors by publishing a notice in the official county paper once each week for two consecutive weeks prior to the week in which such meeting is to be held. At such meeting the supervisors shall make full and due report of their activities and financial affairs since the last annual meeting and shall conduct an election by secret ballot of all of the qualified electors of the district there present for the election of supervisors whose terms have expired. Whenever a vacancy occurs in the membership of the governing body the remaining supervisors of the district shall appoint a qualified elector of the district to fill the office for the unexpired term. The supervisors shall designate a chairperson and may from time to time change such designation. A supervisor shall hold office until a successor has been elected or appointed and has qualified. A majority of the supervisors shall constitute a quorum and the concurrence of a majority of the supervisors in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for services, but may be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of duties. The supervisors may employ a secretary, technical experts; and such other officers, agents; and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the county attorney of the county in which a major portion of the district lies, or the attorney general for such legal services as they may require. The supervisors may delegate to their chairperson, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the ~~Kansas department of agriculture~~ ~~division of conservation~~, upon request, copies of such rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act. The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts and receipts and disbursements. Any supervisor may be removed by the ~~state conservation~~ *secretary in consultation with the commission* upon

notice and hearing in accordance with the provisions of the Kansas administrative procedure act; for neglect of duty or malfeasance in office, but for no other reason. The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy ~~which that~~ may affect the property, water supply; or other interests of such municipality or county.

Sec. 6. K.S.A. 2020 Supp. 2-1907c is hereby amended to read as follows: 2-1907c. On or before September 1 of each year, each conservation district shall submit to the ~~Kansas department of agriculture~~ division ~~of conservation~~ a certification of the amount of money to be furnished by the county commissioners for conservation district activities for the ensuing calendar year. Such amount shall be the same as authorized for such purposes in each approved county budget. For the purpose of providing state financial assistance to conservation districts, the ~~Kansas department of agriculture~~ division ~~of conservation~~ in the regular budget request, as a line item for the forthcoming fiscal year, shall submit a special request for an amount equal to the sum of the allocations of each county to each conservation district, but in no event to exceed the sum of \$25,000 per district. This \$25,000 limitation shall be applicable for fiscal year 2008, and thereafter, subject to appropriations therefor. The ~~Kansas department of agriculture~~ division ~~of conservation~~, as soon as practicable after July 1 of the following year, shall disburse such moneys as may be appropriated by the state for this purpose to each conservation district to match funds allocated by the commissioners of each county. Distribution shall be prorated in proportion to county allocations in the event that appropriations are insufficient for complete matching of funds. Municipal accounting procedures shall be used in the distribution of and in the expenditure of all funds.

Sec. 7. K.S.A. 2020 Supp. 2-1908 is hereby amended to read as follows: 2-1908. A conservation district organized under the provisions of K.S.A. 2-1901 et seq., and amendments thereto, shall constitute a governmental subdivision of this state; and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act:

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

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

impaired drainage;

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

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

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

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

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

(h) to take over, by purchase, lease, *gift* or ~~otherwise~~ *donation*, and to administer, any soil-conservation, erosion-control, ~~or~~ *soil and grassland health*, erosion-prevention, flood prevention, *water quality* or water management project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies *subject to the authority of the authorizing state or federal agency*; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention, flood prevention or water management project within its boundaries; to act for the district or as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, maintenance, or administration of any soil-conservation, erosion-control, ~~or~~ *soil and grassland health*, erosion-prevention, flood

prevention, *water quality* or water management project within its boundaries; to accept donations, gifts; and contributions in money, services, materials; or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and from persons, firms, corporations or associations, and to use or expend such moneys, services, materials; or other contributions in carrying on its operations;

(i) to sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act, to carry into effect its purposes and powers;

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

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

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

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

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

Sec. 8. K.S.A. 2020 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, ~~tailwater recovery irrigation systems~~ *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 ~~and eradication of sericea lespedeza as provided in subsection (n) of K.S.A. 2-1908, and amendments thereto,~~ *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 ~~Kansas department of agriculture~~ *division of conservation* 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 ~~subsection (g) of~~ 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 Kansas department of agriculture division of conservation~~ shall administer this cost-share program with funds appropriated by the legislature for such purpose. The chief engineer shall certify to the ~~Kansas department of agriculture division of conservation~~ 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 Kansas department of agriculture division of conservation~~ shall develop the Kansas water quality buffer initiative for the purpose of restoring riparian areas using best management practices. ~~The executive director of the Kansas department of agriculture division of conservation~~ 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 executive director of the Kansas department of agriculture division of conservation~~ or the ~~executive director's~~ designee. ~~Money~~ *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 ~~subsection (3) 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 Kansas department of agriculture division of conservation, with the approval of the state conservation commission 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 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 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 Kansas department of agriculture division of~~

~~conservation~~ may enter into agreements with other state and federal agencies to implement the Kansas water quality buffer initiative.

Sec. 9. K.S.A. 2-1916 is hereby amended to read as follows: 2-1916. At any time after five-~~(5)~~ years after the organization of a district under the provisions of this act, ~~ten percent~~ (10%) of the occupiers of land lying within the boundaries of such district may file a petition with the ~~state soil conservation committee~~ *division* praying that the operations of the district be terminated and the existence of the district discontinued. The ~~committee~~ *division* may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within ~~sixty~~ (60) days after such a petition has been received by the ~~committee~~ *it division, the division* shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the \_\_\_\_\_ (name of the soil conservation district to be here inserted)" and "against terminating the existence of the \_\_\_\_\_ (name of the soil conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an × mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted. The ~~committee~~ *division* shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the ~~committee~~ *division* shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the ~~committee~~ *division* shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination, the ~~committee~~ *division* shall give due regard and weight to the attitudes of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion control operations within such district; and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in K.S.A. 2-1902: ~~Provided, however, and amendments thereto, except that the committee~~ *division* shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such district.

Upon receipt from the ~~state soil conservation committee~~ *division* of certification that the ~~committee~~ *division* has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall ~~forthwith~~ *immediately* proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to

be covered into the state treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of such district; and shall transmit with such application the certificate of the ~~state soil conservation committee~~ *division* setting forth the determination of the ~~committee~~ *division* that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in ~~his or her~~ *the secretary of state's* office.

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

Sec. 10. K.S.A. 2020 Supp. 2-1930 is hereby amended to read as follows: 2-1930. (a) As used in this section:

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

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

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

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

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

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

from the chief engineer and the groundwater management districts regarding market conditions.

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

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

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

- (1) The applicant's bid price;
- (2) the timing and extent of the impact of the application on aquifer restoration or stream recovery;
- (3) the impact on local water management strategies designated by the board of each groundwater management district or by the chief engineer for each target area; and
- (4) where rights with similar hydrologic impacts are considered, priority should be given to the senior right as determined under the Kansas water appropriation act.

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

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

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

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

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

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

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

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

consumptive water use occurs and can be adequately monitored and enforced.

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

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

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

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

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

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

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

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

(o) The division shall hold a meeting in each target area designated after July 1, 2012, prior to entering into any water right transition assistance program contract for the permanent retirement of

part or all of landowner water rights in such target area. Such meetings shall inform the public of the possible economic and hydrologic impacts of the program. The division shall provide notice of such meetings through publication in local newspapers of record and in the Kansas register.

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

Sec. 11. K.S.A. 2020 Supp. 2-1931 is hereby amended to read as follows: 2-1931. (a) 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 right transition assistance program act or any rule and regulation adopted thereunder; and

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

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

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

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

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

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

(e) *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.*

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

Sec. 12. K.S.A. 2020 Supp. 2-1933 is hereby amended to read as follows: 2-1933. (a) As used in this section, "division" means the ~~Kansas department of agriculture~~ division of conservation *established within the Kansas department of agriculture in K.S.A. 74-5,126, 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 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 implementation of CREP.

(e) 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.

(f) 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.

(g) 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.

(h) (1) 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 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 shall submit a CREP report to the senate committee on *agriculture and* natural resources and the house committee on agriculture ~~and natural resources~~ at the beginning of each annual regular session of the legislature ~~which shall contain~~ *containing* a description of program activities for each CREP administered in the state and ~~shall include~~ *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.

(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 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 ~~and natural resources~~ every five years, beginning in 2017. The report shall include economic impacts to businesses located within each specific CREP region.

Sec. 13. K.S.A. 2-3702 is hereby amended to read as follows: 2-3702. As used in K.S.A. 2-3701 ~~through 2-3714~~ *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 department of health 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 section 2, and amendments thereto.

(i) "*Kansas pesticide waste disposal program*" means the program established by section 1, 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)~~(k) "*Pesticide*" means the same as provided in K.S.A. 2-2202, and amendments thereto.

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

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

~~(p)~~(p) "Remediation reimbursement program" means the program provided for by K.S.A.—~~2-3709~~ 2-3708 through 2-3713, and amendments thereto.

~~(q)~~(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. 14. K.S.A. 2020 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 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 section 2, 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 ~~a 5-year~~ *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, in which case the total amount reimbursed for any such site shall not exceed \$400,000 within a ~~five-year~~ *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 ~~subsection (a)(4) of~~ 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. 15. K.S.A. 2020 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 ~~Kansas department of agriculture~~ division of conservation 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 ~~which~~ *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~~" or "~~Kansas department of agriculture division of conservation~~" means the *agency division of conservation* established by *within the Kansas department of agriculture* in K.S.A. 74-5,126, and amendments thereto.

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

Sec. 16. K.S.A. 49-605 is hereby amended to read as follows: 49-605. (a) No person shall engage in surface mining or operation of an underground mine or mines, as defined by this act, without first obtaining a license from the director.

(b) Licenses shall be issued upon application submitted on a form provided by the director and shall be accompanied by a fee of \$300. Each applicant shall be required to furnish on the form information necessary to identify the applicant. Licenses shall expire one year from the date of issuance and shall be renewed by the director upon application submitted within 30 days prior to the expiration date and accompanied by the renewal fee established by the director under K.S.A. 49-623, *and amendments thereto*.

(c) A license to mine is only valid when approved by the ~~commission~~ *director* and acknowledged by a certificate ~~which~~ *that* has

been signed by the director and lists the operator and the assigned license number.

Sec. 17. K.S.A. 2020 Supp. 49-606 is hereby amended to read as follows: 49-606. (a) The *secretary, at the request of the director, with the approval of the commission*, may deny issuance or renewal of a license for repeated or willful violation of the provisions of this act or for failure to comply with any provision of a reclamation plan.

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

Sec. 18. K.S.A. 49-611 is hereby amended to read as follows: 49-611. (a) An operator authorized under this act to operate a mine, after completion of mining operations and within the time specified in K.S.A. 49-613, *and amendments thereto*, shall:

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

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

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

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

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

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

Sec. 19. K.S.A. 49-613 is hereby amended to read as follows: 49-613. (a) An operator shall reclaim affected lands within a period not to exceed three years after the filing of the report required under ~~subsection (b) of K.S.A. 49-612(b)~~, *and amendments thereto*, indicating the mining of any part of a site has been completed.

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

(c) An operator, upon completion of any reclamation work required by K.S.A. 49-611, *and amendments thereto*, shall apply to the director in writing for approval of the work. The director, within a reasonable time ~~as determined by the commission~~, shall inspect the completed reclamation work. Upon determination by the director that the operator has satisfactorily completed all required reclamation work on the land included in the application, the ~~commission~~ *director* shall release the bond or security on the reclaimed land, shall remove the

land from registration; and shall terminate or amend, as necessary, the operator's authorization to conduct surface mining on the site.

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

Sec. 20. K.S.A. 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 on which 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 violation shall be referred to the commission. The operator shall be notified in writing of the referral~~ *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. 21. K.S.A. 49-620 is hereby amended to read as follows: 49-620. ~~The attorney general, upon request of the commission, Once an order issued pursuant to this act becomes a final order, the secretary, upon request of the director,~~ shall institute proceedings for forfeiture of the bond posted by an operator to guarantee reclamation of a site where the operator is in violation of any of the provisions of this act or any rule and regulation adopted by the director pursuant to this act. Forfeiture of the operator's bond shall fully satisfy all obligations of the operator to reclaim affected land covered by the bond. The director shall have the power to reclaim, as required by K.S.A. 49-611, *and amendments thereto*, any surface mined land with respect to which a bond has been forfeited, using the proceeds of the forfeiture to pay for the necessary reclamation work.

Sec. 22. K.S.A. 2020 Supp. 49-621 is hereby amended to read as follows: 49-621. (a) ~~The director~~ *secretary*, upon finding that the operator has failed to comply with any provision of this act, any provision of a reclamation plan or any condition of a license or site registration with which the operator is required to comply pursuant to this act, may impose upon the operator a civil penalty not exceeding \$1,000 for each day of noncompliance.

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

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

(d) Any action of ~~the director~~ *secretary* pursuant to this section is

subject to review in accordance with the Kansas judicial review act.

Sec. 23. K.S.A. 49-623 is hereby amended to read as follows: 49-623. (a) ~~The director~~ *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 commission~~ *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 ~~director~~ *secretary* such license renewal, registration application, registration and registration renewal fees as the ~~commission~~ *director* determines necessary for that purpose. The director shall adopt such fees by ~~rule rules and regulation~~ *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.

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

Sec. 24. K.S.A. 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 ~~Kansas department of agriculture~~ *division of conservation*. Except as otherwise provided by this act, the ~~Kansas department of agriculture~~ *division of conservation*, with the approval of the ~~state conservation commission~~ *secretary*, shall adopt all rules and regulations necessary to implement the provisions of this act.

Sec. 25. K.S.A. 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 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 ~~which~~ *that* is receiving or is eligible to receive financial participation from the ~~Kansas department of agriculture~~ *division of conservation* 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 ~~which~~ *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 ~~which~~ *that* is not receiving or is not eligible to receive financial participation from the ~~Kansas department of agriculture~~ *division of conservation* or the federal government except as provided in K.S.A. 82a-1606, and amendments thereto.

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

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

~~(g)~~(g) "Future use public water supply storage" means storage space ~~which~~ *that* the Kansas water office 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)~~(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)~~(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 ~~shall include~~ *includes* any road, highway, bridge, street, easement or other right-of-way thereon.

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

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

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

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

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

(p) "Sponsor" means: (1) Any political subdivision of the state ~~which~~ *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)~~(q) "Water user" means any city, rural water district, wholesale water district or any other political subdivision of the state ~~which~~ *that* is in the business of furnishing municipal or industrial water to the public.

Sec. 26. K.S.A. 82a-1607 is hereby amended to read as follows: 82a-1607. Sponsors shall apply to the ~~state conservation commission~~ *division* for participation in the multipurpose small lakes program. The review and approval process of the ~~Kansas department of agriculture~~ *division of conservation* shall be established by rules and regulations ~~which~~ *that* shall be consistent with the state water plan. Following review, the ~~Kansas department of agriculture~~ *division of conservation*, with the approval of the ~~state conservation commission~~ *secretary*, shall request appropriations for specific projects from the legislature. Any funds appropriated to carry out the provisions of this act shall be administered by the ~~Kansas department of agriculture~~ *division of conservation*.

Sec. 27. K.S.A. 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, ~~which~~ *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 ~~state~~ *Kansas department of agriculture division of conservation-commission* shall find that:

(~~1~~)(A) Such public corporation has made application for approval of such financial assistance with the Kansas department of agriculture division of 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;

(~~2~~)(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;

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

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

(~~5~~)(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 ~~which~~ *that* shall be adopted by the Kansas department of agriculture division of conservation with the approval of the ~~state conservation commission~~ *secretary*.

(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 conservation shall not consider any costs ~~which~~ *that* relate to land treatment measures ~~nor~~ *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. 28. K.S.A. 2-1916, 2-3702, 49-605, 49-611, 49-613, 49-618, 49-620, 49-623, 82a-1602, 82a-1603, 82a-1607 and 82a-1702 and K.S.A. 2020 Supp. 2-1903, 2-1904, 2-1907, 2-1907c, 2-1908, 2-1915, 2-1930, 2-1931, 2-1933, 2-3708, 49-603, 49-606 and 49-621 are hereby repealed.



Sec. 29. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

SENATE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE

as amended \_\_\_\_\_

HOUSE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*