

HOUSE BILL No. 2560

By Committee on Agriculture

1-26

1 AN ACT concerning agriculture; relating to the Kansas department of
2 agriculture; extending certain penalties, fees and program expiration
3 dates; amending K.S.A. 82a-708a, 82a-708b, 82a-708c, 82a-714 and
4 82a-727 and K.S.A. 2021 Supp. 2-1205, 2-1930, 2-2440, 2-2440b, 2-
5 2443a, 2-2445a, 2-3304 and 2-3306 and repealing the existing sections.
6

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

8 Section 1. K.S.A. 2021 Supp. 2-1205 is hereby amended to read as
9 follows: 2-1205. (a) An inspection fee shall be collected upon all
10 commercial fertilizers sold, offered or exposed for sale, or distributed in
11 Kansas, which shall be at a rate per ton fixed by rules and regulations
12 adopted by the secretary of agriculture, except that such rate shall not
13 exceed \$1.67 per ton. The secretary of agriculture may adopt rules and
14 regulations establishing the inspection fee rate under this section. Each
15 person registering any commercial fertilizer shall pay the inspection fee on
16 such commercial fertilizer sold, offered or exposed for sale, or distributed
17 in Kansas. Each such ~~person~~ *registrant* shall keep adequate records
18 showing the tonnage of each commercial fertilizer shipped to or sold,
19 offered or exposed for sale, or distributed in Kansas. The secretary, and
20 duly authorized representatives of the secretary, shall have authority to
21 examine such records and other pertinent records necessary to verify the
22 statement of tonnage.

23 (b) Each person registering any commercial fertilizer shall file an
24 affidavit semiannually, with the secretary, within 30 days after each
25 January 1 and each July 1, showing the tonnage of commercial fertilizer
26 sold or distributed in Kansas for the preceding six-month period. Each
27 such ~~person~~ *registrant* shall pay to the secretary the inspection fee due for
28 such six-month period, except that the registrant shall not be required to
29 pay the inspection fee or report the tonnage of commercial fertilizers or
30 fertilizer materials sold and shipped directly to fertilizer manufacturers or
31 mixers. The fertilizer manufacturers or mixers shall keep adequate records
32 of the commercial fertilizers sold or distributed in this state, and report to
33 the secretary the tonnage and pay the inspection fee due. If the affidavit is
34 not filed and the inspection fee is not paid within the 30-day period, or if
35 the report of tonnage is false, the secretary may revoke the registrations
36 filed by such person. If the affidavit is not filed and the inspection fee is

1 not paid within the 30-day period, or any extension thereof granted by the
2 secretary, a penalty of \$10 per day shall be assessed against the registrant,
3 except that on and after July 1, ~~2023~~ 2028, a penalty of \$5 per day shall be
4 assessed against the registrant, and the inspection fee and penalty shall
5 constitute a debt and become the basis for a judgment against such person.
6 The secretary may grant a reasonable extension of time.

7 (c) (1) The secretary shall remit all moneys received by or for the
8 secretary under article 12 of chapter 2 of *the* Kansas Statutes Annotated,
9 and amendments thereto, to the state treasurer in accordance with the
10 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
11 each such remittance, the state treasurer shall deposit the entire amount in
12 the state treasury and shall credit such remittance as follows:

13 ~~(a)~~(A) An amount equal to \$1.40 per ton shall be credited to the state
14 water plan fund created by K.S.A. 82a-951, and amendments thereto;

15 ~~(b)~~(B) an amount equal to \$.04 per ton shall be credited to the
16 fertilizer research fund; and

17 ~~(c)~~(C) the remainder shall be credited to the fertilizer fee fund.

18 (2) All expenditures from the fertilizer fee fund shall be made in
19 accordance with appropriation acts upon warrants of the director of
20 accounts and reports issued pursuant to vouchers approved by the
21 secretary of agriculture or by a person or persons designated by the
22 secretary.

23 (3) The secretary of agriculture shall reduce the inspection fee by
24 adopting rules and regulations under this section whenever the secretary
25 determines that the inspection fee is yielding more than is necessary for
26 the purpose of administering the provisions of this act.

27 (4) The secretary may increase the inspection fee by adopting rules
28 and regulations under this section when the secretary finds that such
29 increase is necessary to produce sufficient revenues for the purpose of
30 administering the provisions of this act, except that the inspection fee shall
31 not be increased in excess of the maximum fee prescribed by this section.

32 Sec. 2. K.S.A. 2021 Supp. 2-1930 is hereby amended to read as
33 follows: 2-1930. (a) As used in this section:

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

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

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

40 (b) There is hereby established the water right transition assistance
41 program. The program shall be administered by the division. The Kansas
42 department of agriculture division of water resources and recognized local
43 governing agencies, including groundwater management districts, shall

1 cooperate in program implementation. The program shall be administered
2 for the purpose of reducing historic consumptive water use in the target or
3 high priority areas of the state by issuing water right transition grants
4 based on competitive bids for privately held water rights.

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

9 (2) The maximum amount paid by the division shall not exceed a
10 base rate per acre-foot of historic consumptive water use made available
11 under the water right to be dismissed or permanently reduced. The
12 division, in consultation with the commission, shall establish an annual
13 base rate after considering recommendations from the chief engineer and
14 the groundwater management districts regarding market conditions.

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

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

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

27 (1) The applicant's bid price;

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

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

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

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

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

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

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

9 (2) Each target area shall be in a groundwater aquifer, aquifer sub-
10 unit, surface water basin, subbasin or stream reach that the chief engineer
11 has closed to further appropriations except for domestic use, temporary
12 permits, term permits for five years or less and small-use exemptions for
13 15 acre-feet or less, if the use, permit or exemption does not conflict with
14 this program.

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

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

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

30 (j) Only vested or certified water rights that are in good standing shall
31 be eligible for water right retirement grants.

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

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

42 (B) calculating the available pumping capacity of a water right by
43 multiplying a flow rate test for each point of diversion applied to be retired

1 under the water right by a theoretical pumping duration of 100 days
2 multiplied by an efficiency factor of 0.85 for center pivot sprinkler
3 irrigation systems, 0.75 for flood or gravity irrigation systems and 0.95 for
4 subsurface drop irrigation systems, but not to exceed the authorized
5 quantity of the water right or the net irrigation requirements for the 50%
6 chance rainfall for the appropriate county as shown in K.A.R. 5-5-12.
7 Flow rate tests must have been conducted not less than one year prior to
8 the application date and certified as acceptable by the local groundwater
9 management district or the chief engineer; ~~or~~.

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

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

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

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

40 (o) The division shall hold a meeting in each target area designated
41 after July 1, 2012, prior to entering into any water right transition
42 assistance program contract for the permanent retirement of part or all of
43 landowner water rights in such target area. Such meetings shall inform the

1 public of the possible economic and hydrologic impacts of the program.
2 The division shall provide notice of such meetings through publication in
3 local newspapers of record and in the Kansas register.

4 (p) The provisions of this section shall expire on July 1, ~~2022~~ 2030.

5 Sec. 3. K.S.A. 2021 Supp. 2-2440 is hereby amended to read as
6 follows: 2-2440. (a) Subject to the provisions of subsection (d), it is
7 unlawful for any pesticide business ~~which~~ that has not been issued a
8 pesticide business license to:

9 (1) Advertise, offer for sale, sell or perform any service for the
10 control of a pest on the property of another or apply a pesticide to the
11 property of another within this state; or

12 (2) perform any service for the control of a pest or apply any
13 pesticide on or at the premises of another person under any commission,
14 division of receipts or subcontracting arrangement with a licensed
15 pesticide business.

16 Nothing in this subsection shall be construed to require the licensing of
17 any person applying restricted use pesticides to the property of another as
18 a certified private applicator or under the supervision of a certified private
19 applicator.

20 (b) Application for a pesticide business license or renewal shall be
21 made on a form obtained from the secretary and shall be accompanied by
22 an application fee per category in which the licensee applies, and an
23 additional fee for each uncertified individual employed by the applicant to
24 apply pesticides. The application fee per category shall be \$140 per
25 category in which the licensee applies, except that on and after July 1,
26 ~~2023~~ 2028, the application fee per category shall be \$112 per category in
27 which the licensee applies. An additional fee of \$15 shall be paid for each
28 uncertified individual employed by the applicant to apply pesticides,
29 except that on and after July 1, ~~2023~~ 2028, an additional fee of \$10 shall
30 be paid for each uncertified individual employed by the applicant to apply
31 pesticides. The application fee per category and the additional fee for each
32 uncertified employee in effect on the day preceding the effective date of
33 this act shall continue in effect until the secretary adopts rules and
34 regulations fixing a different fee under this subsection. Any uncertified
35 individual employed for a period of more than 10 days in a 30-day period
36 or for five consecutive days by a licensee to apply pesticides subsequent to
37 such application shall be reported to the secretary within 30 days of such
38 employee's hiring and the fee shall be paid at that time. Each application
39 shall also include the following:

40 (1) The business name of the person applying for such license or
41 renewal;

42 (2) if the applicant is an individual, receiver, trustee, representative,
43 agent, firm, partnership, association, corporation or other organized group

1 of persons, whether or not incorporated, the full name of each owner of the
2 firm or partnership or the names of the officers of the association,
3 corporation or group;

4 (3) the principal business address of the applicant in the state and
5 elsewhere; and

6 (4) any other information the secretary, by rules and regulations,
7 deems necessary for the administration of this act.

8 (c) The secretary may issue a pesticide business license to apply
9 pesticides in categories for which an applicant has applied if the applicant
10 files the bond, insurance, letter of credit or proof of an escrow account as
11 required under K.S.A. 2-2448, and amendments thereto, satisfies the
12 requirements of subsection (b), and pays the required fees. Such license
13 shall expire at the end of the calendar year for which it is issued unless it
14 has been revoked or suspended prior thereto. If a license is not issued as
15 applied for, the secretary shall inform the applicant in writing of the
16 reasons therefor.

17 (d) The following persons shall be exempted from the licensing
18 requirements of this act:

19 (1) State or federal personnel using pesticides or pest control services
20 while engaged in pesticide use research;

21 (2) veterinarians or physicians using pesticides as a part of their
22 professional services; and

23 (3) any person or such person's employee who applies pesticides on
24 or at premises owned, leased or operated by such person.

25 (e) Subject to the provisions of subsection (d), it is unlawful for any
26 governmental agency ~~which~~ *that* has not been issued a government agency
27 registration to apply pesticides within this state. Application for
28 government agency registration shall be made on a form obtained from the
29 secretary and shall be accompanied by a fee fixed by rules and regulations
30 adopted by the secretary, except that such fee shall not exceed \$50, except
31 that on and after July 1, ~~2023~~ 2028, such fee shall not exceed \$35. The
32 governmental agency registration fee in effect on the day preceding the
33 effective date of this act shall continue in effect until the secretary adopts
34 rules and regulations fixing a different fee therefor under this subsection.
35 No fee shall be required of any township located within a county ~~which~~
36 *that* has previously applied for and received government agency
37 registration. Each application for registration shall contain information
38 including, but not limited to:

39 (1) The name of the government agency;

40 (2) the mailing address of the applicant;

41 (3) the name and mailing address of the person who heads such
42 agency and who is authorized to receive correspondence and legal papers.
43 Such person shall be: (A) The mayor or city manager for municipalities;

1 (B) the chairperson of the board of county commissioners for counties; (C)
2 the township trustee for townships; or (D) any person designated by any
3 other governmental agency; and

4 (4) any other information the secretary, by rules and regulations,
5 deems necessary for the administration of this act.

6 (f) If the secretary finds the application to be sufficient, the secretary
7 shall issue a government agency registration. The government agency is
8 not required to furnish a surety bond under this act. Such government
9 agency registration shall expire at the end of the calendar year for which it
10 is issued unless it has been revoked or suspended prior thereto. If a
11 registration is not issued as applied for, the secretary shall inform the
12 applicant in writing of the reasons therefor.

13 (g) A pesticide business license or government agency registration
14 may be renewed by meeting the same requirements as for a new license or
15 registration. Neither the pesticide business license nor the government
16 agency registration shall be transferable, except that, in the event of the
17 disability, incapacity or death of the owner, manager or legal agent of a
18 pesticide business licensee, a permit may be issued by the secretary to
19 permit the operation of such business until the expiration period of the
20 license in effect at the time of such disability, incapacity or death if the
21 applicant therefor can show that the policies and services of such business
22 will continue substantially as before, with due regard to protection of the
23 public and the environment.

24 (h) No pesticide business license may be issued to any person until
25 such person is or has in such person's employ one or more individuals who
26 are certified commercial applicators in each of the categories for which the
27 license application is made.

28 Sec. 4. K.S.A. 2021 Supp. 2-2440b is hereby amended to read as
29 follows: 2-2440b. (a) It shall be unlawful for any pesticide business
30 licensee to apply pesticides for the control of wood destroying pests,
31 structural pests, ornamental pests, turf pests or interior landscape pests
32 unless the applicator of the pesticide is a certified commercial applicator or
33 is a registered pest control technician, except that an uncertified
34 commercial applicator may apply pesticides when either a certified
35 applicator or registered pest control technician is physically present.

36 (b) Any such employee applying for a pest control technician
37 registration shall file an application on a form prescribed by the secretary.
38 Application for such registration shall be accompanied by an application
39 fee established by rules and regulations adopted by the secretary, except
40 that such fee shall not exceed \$40, except that on and after July 1, ~~2023~~
41 2028, such fee shall not exceed \$25, and shall be reduced, but not below
42 zero, by an amount equal to the additional fee paid under K.S.A. 2-
43 2440(b), and amendments thereto, for such uncertified individual.

1 (c) If the secretary finds the applicant qualified to be a registered pest
 2 control technician after meeting the training requirements determined by
 3 the secretary in rules and regulations, the secretary shall issue a pest
 4 control technician registration—~~which~~ *that* will expire at the end of the
 5 calendar year.

6 (d) This section shall be part of and supplemental to the Kansas
 7 pesticide law.

8 Sec. 5. K.S.A. 2021 Supp. 2-2443a is hereby amended to read as
 9 follows: 2-2443a. (a) An applicant for a commercial applicator's certificate
 10 shall show upon written examination that the applicant possesses adequate
 11 knowledge concerning the proper use and application of pesticides in the
 12 categories or subcategories for which the applicant has applied. A
 13 commercial applicator who holds a current certificate to apply pesticides
 14 commercially in any other state or political subdivision of the United
 15 States may be exempted from examination for certification in this state
 16 upon approval of the secretary and payment of a \$75 fee per category,
 17 unless a fee not to exceed \$75 is established in rules and regulations
 18 adopted by the secretary.

19 (b) Applicants shall submit with each application a fee per
 20 examination taken, including each category, subcategory and general core
 21 examination. The examination fee shall be fixed by rules and regulations
 22 adopted by the secretary, except that such fee shall not exceed \$45 per
 23 examination, except that on and after July 1, ~~2023~~ 2028, such fee shall not
 24 exceed \$35 per examination. Applicants who fail to pass the examination
 25 may reapply and take another examination upon paying another
 26 examination fee, ~~which~~. *Such* fee shall be fixed by rules and regulations
 27 adopted by the secretary, except that such fee shall not exceed \$45 per
 28 examination, except that on and after July 1, ~~2023~~ 2028, such fee shall not
 29 exceed \$35 per examination. The general core examination ~~shall include~~
 30 *includes*, but is not limited to, the following:

31 ~~(a)~~(1) The proper use of the equipment.

32 ~~(b)~~(2) The hazards that may be involved in applying the pesticides,
 33 including:

34 ~~(1)~~(A) The effect of drift of the pesticides on adjacent and nearby
 35 lands and other non-target organisms;

36 ~~(2)~~(B) the proper meteorological conditions for the application of
 37 pesticides and the precautions to be taken with such application;

38 ~~(3)~~(C) the effect of the pesticides on plants or animals in the area,
 39 including the possibility of damage to plants or animals or the possibility
 40 of illegal pesticide residues resulting on them;

41 ~~(4)~~(D) the effect of the application of pesticides to wildlife in the
 42 area, including aquatic life;

43 ~~(5)~~(E) the identity and classification of pesticides used and the effects

- 1 of their application in particular circumstances; and
- 2 ~~(6)~~(F) the likelihood of contamination of water or injury to persons,
- 3 plants, livestock, pollinating insects and vegetation.
- 4 ~~(e)~~(3) Calculating the concentration of pesticides to be used.
- 5 ~~(d)~~(4) Identification of common pests to be controlled and damages
- 6 caused by such pests.
- 7 ~~(e)~~(5) Protective clothing and respiratory equipment for handling and
- 8 application of pesticides.
- 9 ~~(f)~~(6) General precautions to be followed in the disposal of containers
- 10 as well as the cleaning and decontamination of the equipment which the
- 11 applicant proposes to use.
- 12 ~~(g)~~(7) Applicable state and federal pesticide laws and regulations.
- 13 ~~(h)~~(8) Any other subject which the secretary deems necessary.

14 Sec. 6. K.S.A. 2021 Supp. 2-2445a is hereby amended to read as
 15 follows: 2-2445a. (a) In lieu of obtaining a commercial applicator's
 16 certificate under the provisions of K.S.A. 2-2441a, and amendments
 17 thereto, a private applicator's certificate may be applied for by and issued
 18 to individuals using restricted use pesticides for the purpose of producing
 19 any agricultural commodity on property owned or rented by the individual
 20 or such individual's employer, or on the property of another for no
 21 compensation other than the trading of personal services between
 22 producers. Such certificates shall expire on the anniversary of the
 23 individual's date of birth occurring in the fifth calendar year following the
 24 year of issue. No certification shall be required hereunder for individuals
 25 operating under the supervision of a certified private applicator.

26 (b)(1) Certified private applicator certificates may be issued to
 27 individuals who have ~~paid~~:

28 ~~(a)~~(A) ~~Paid~~ a fee fixed by rules and regulations adopted by the
 29 secretary, except that on and after July 1, ~~2023~~ 2028, such fee shall not
 30 exceed \$10; and

31 ~~(b)~~ ~~who have~~(B) acquired practical knowledge of pest problems,
 32 proper storage, use, handling and disposal of pesticides and pesticide
 33 containers, pertinent information found on the pesticide labels, pesticide
 34 use safety and environmental considerations, either through Kansas state
 35 university extension service educational training or through individual
 36 study of educational materials available at county extension offices or the
 37 secretary.

38 (2) The certified private applicator certificate fee in effect on the day
 39 preceding the effective date of this act shall continue in effect until the
 40 secretary adopts rules and regulations fixing a different fee therefor under
 41 this section. Individuals shall indicate adequate knowledge of the subjects
 42 enumerated herein by passing an open-book examination approved by the
 43 secretary.

1 (c) Educational materials and examination blanks shall be made
2 available at county extension offices and at places where extension
3 educational training is conducted. The examinations shall be scored by
4 members of the extension or secretary's staff. If an individual passes the
5 examination by equaling or exceeding a standard authorized by the
6 secretary, a certified private applicator's certificate shall be issued to such
7 individual. Such staff member shall send a copy of the certificate issued,
8 together with the fee, to the secretary.

9 (d) A certified applicator who holds a current certificate to apply
10 pesticides as a certified private applicator in any other state or political
11 subdivision of the United States may be exempted from examination for
12 private applicator certification in this state upon payment of proper fees
13 and approval by the secretary.

14 Sec. 7. K.S.A. 2021 Supp. 2-3304 is hereby amended to read as
15 follows: 2-3304. (a) Any user of the chemigation process shall register and
16 obtain a chemigation user's permit before using the process.

17 (b) Registration shall consist of making application on a form
18 supplied by the secretary. Such application shall include, but not be limited to:
19

20 (1) The name of the persons to whom a permit is to be issued,
21 including an owner or operator of land on which chemigation is to be used;

22 (2) a plan for using anti-pollution devices;

23 (3) a plan for handling tail water or accumulations of water;

24 (4) the number and locations, including a legal description, of
25 wellheads—~~which~~ that may be involved in the chemigation process and
26 surface water supply withdrawal points, not to include siphon tubes; and

27 (5) payment of fees.

28 (c) The application fee for a chemigation user's permit shall be \$75
29 plus \$15 for each additional point of diversion, except that on and after
30 July 1, ~~2023~~ 2028, a chemigation user's permit shall be \$55 plus \$10 for
31 each additional point of diversion. A chemigation user's permit may be
32 renewed each year upon making an application, payment of the application
33 fee and completing the report form providing information used in
34 chemigation the previous year.

35 Sec. 8. K.S.A. 2021 Supp. 2-3306 is hereby amended to read as
36 follows: 2-3306. (a) Any individual operating chemigation equipment
37 under a chemigation user permit shall be responsible for the safe operation
38 of such chemigation equipment and any such equipment shall be
39 considered to be under the direct supervision of the chemigation user
40 permit holder.

41 (b) The secretary shall not issue a chemigation user permit to any
42 person unless such person is a certified chemigation equipment operator or
43 has in such person's employment at least one certified chemigation

1 equipment operator. A chemigation equipment operator is an individual
2 who has successfully completed an examination given by the secretary or
3 the secretary's designee. Except as provided in subsection (c), if the
4 chemigation user permit is issued to an individual, that individual must
5 have successfully completed the chemigation equipment operator
6 examination. Such examination shall include, but not be limited to, the
7 following:

- 8 (1) The proper use of anti-pollution devices;
- 9 (2) preparing the chemical solution and filling the chemical supply
10 container;
- 11 (3) calibrating of injection equipment;
- 12 (4) supervision of chemigation equipment to assure its safe operation;
- 13 (5) environmental and human hazards that may be involved in
14 chemigation;
- 15 (6) protective clothing and respiratory equipment;
- 16 (7) general precautions to be followed in disposal of containers and
17 decontamination of the equipment;
- 18 (8) handling of tail water and other accumulations of water containing
19 chemicals;
- 20 (9) information of procedures to be followed should chemicals
21 inadvertently enter the water supply source as a result of the chemigation
22 process;
- 23 (10) label information, especially chemigation instructions;
- 24 (11) applicable state and federal laws and regulations; and
- 25 (12) any other subject ~~which~~ that the secretary deems necessary.

26 (c) The examination provided for in subsection (b) may be waived for
27 any individual who has been certified as a pesticide applicator in the
28 category of chemigation pursuant to the Kansas pesticide law.

29 (d) The chemigation equipment operator certification shall expire on
30 December 31 of the fourth calendar year after the year of issue. A
31 chemigation equipment operator certification shall be renewed for a
32 succeeding five year period upon payment of the certification fee and
33 passing the examination specified in either subsection (b) or (c).

34 (e) The fee for certification as a chemigation equipment operator or
35 for renewal of such certification shall be \$25, except that on and after July
36 1, ~~2023~~ 2028, such certification shall be \$10.

37 Sec. 9. K.S.A. 82a-708a is hereby amended to read as follows: 82a-
38 708a. (a) Any person may apply for a permit to appropriate water to a
39 beneficial use, notwithstanding that the application pertains to the use of
40 water by another, or upon or in connection with the lands of another. Any
41 rights to the beneficial use of water perfected under such application shall
42 attach to the lands on or in connection with which the water is used and
43 shall remain subject to the control of the owners of the lands as in other

1 cases provided by law.

2 (b) Except as otherwise provided in subsections (d), (e) and (f), each
3 application for a permit to appropriate water, except applications for
4 permits for domestic use, shall be accompanied by an application fee fixed
5 by this section for the appropriate category of acre feet in accordance with
6 the following:

7 Acre Feet	Fee
8 0 to 100.....	\$200
9 101 to 320.....	\$300
10 More than 320.....	\$300 + \$20
11	for each additional 100
12	acre feet or any part thereof

13 On and after July 1, ~~2023~~ 2028, the application fee shall be fixed by
14 this section for the appropriate category of acre feet in accordance with the
15 following:

16 Acre Feet	Fee
17 0 to 100.....	\$100
18 101 to 320.....	\$150
19 More than 320.....	\$150 + \$10
20	for each additional 100
21	acre feet or any part thereof

22 The chief engineer shall render a decision on such permit applications
23 within 150 days of receiving a complete application except when the
24 application cannot be processed due to the standards established in K.A.R.
25 5-3-4c. Upon failure to render a decision within 180 days of receipt of a
26 complete application, the application fee is subject to refund upon request.

27 (c) Except as otherwise provided in subsections (d), (e) and (f), each
28 application for a permit to appropriate water for storage, except
29 applications for permits for domestic use, shall be accompanied by an
30 application fee fixed by this section for the appropriate category of
31 storage-acre feet in accordance with the following:

32 Storage-Acre Feet	Fee
33 0 to 250.....	\$200
34 More than 250.....	\$200 + \$20
35	for each additional 250
36	storage-acre feet or any part thereof

37 On and after July 1, ~~2023~~ 2028, the application fee shall be fixed by
38 this section for the appropriate category of storage-acre feet in accordance
39 with the following:

40 Storage-Acre Feet	Fee
41 0 to 250.....	\$100
42 More than 250.....	\$100 + \$10
43	for each additional 250

1 storage-acre feet or any part thereof

2 The chief engineer shall render a decision on such permit applications
 3 within 150 days of receiving a complete application except when the
 4 application cannot be processed due to the standards established in K.A.R.
 5 5-3-4c. Upon failure to render a decision within 180 days of receipt of a
 6 complete application, the application fee is subject to refund upon request.

7 (d) Each application for a term permit pursuant to K.S.A. 82a-736,
 8 and amendments thereto, shall be accompanied by an application fee
 9 established by rules and regulations of the chief engineer in an amount not
 10 to exceed \$400 for the five-year period covered by the permit.

11 (e) For any application for a permit to appropriate water, except
 12 applications for permits for domestic use, ~~which~~ *that* proposes to
 13 appropriate by both direct flow and storage, the fee charged shall be the
 14 fee under subsection (b) or subsection (c), whichever is larger, but not both
 15 fees.

16 (f) Each application for a permit to appropriate water for water power
 17 or dewatering purposes shall be accompanied by an application fee of
 18 \$100 plus \$200 for each 100 cubic feet per second, or part thereof, of the
 19 diversion rate requested in the application for the proposed project.

20 (g) All fees collected by the chief engineer pursuant to this section
 21 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
 22 amendments thereto.

23 Sec. 10. K.S.A. 82a-708b is hereby amended to read as follows: 82a-
 24 708b. (a) (1) Any owner of a water right may change the place of use, the
 25 point of diversion or the use made of the water, without losing priority of
 26 right, provided such owner shall:

27 ~~(1)-(A)~~ Apply in writing to the chief engineer for approval of any
 28 proposed change;

29 ~~(2)-(B)~~ demonstrate to the chief engineer that any proposed change is
 30 reasonable and will not impair existing rights;

31 ~~(3)-(C)~~ demonstrate to the chief engineer that any proposed change
 32 relates to the same local source of supply as that to which the water right
 33 relates; and

34 ~~(4)-(D)~~ receive the approval of the chief engineer with respect to any
 35 proposed change.

36 (2) The chief engineer shall approve or reject the application for
 37 change in accordance with the provisions and procedures prescribed for
 38 processing original applications for permission to appropriate water.

39 (3) If the chief engineer disapproves the application for change, the
 40 rights, priorities and duties of the applicant shall remain unchanged.

41 (4) Any person aggrieved by an order or decision by the chief
 42 engineer relating to an application for change may petition for review
 43 thereof in accordance with the provisions of K.S.A. 82a-1901, and

1 amendments thereto.

2 (b) Each application to change the place of use, the point of diversion
3 or the use made of the water under this section shall be accompanied by
4 the application fee set forth in the schedule below:

- 5 (1) Application to change a point of diversion 300
6 feet or less.....\$100
- 7 (2) Application to change a point of diversion more
8 than 300 feet.....200
- 9 (3) Application to change the place of use..... 200
- 10 (4) Application to change the use made of water..... 300

11 On and after July 1, ~~2023~~ 2028, the application fee shall be set forth in
12 the schedule below:

- 13 (1) Application to change a point of diversion 300
14 feet or less..... \$50
- 15 (2) Application to change a point of diversion more
16 than 300 feet..... 100
- 17 (3) Application to change the place of use..... 100
- 18 (4) Application to change the use made of the water..... 150

19 The chief engineer shall render a decision on such permit applications
20 within 150 days of receiving a complete application except when the
21 application cannot be processed due to the standards established in K.A.R.
22 5-3-4c. Upon failure to render a decision within 180 days of receipt of a
23 complete application, the application fee is subject to refund upon request.

24 (c) All fees collected by the chief engineer pursuant to this section
25 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
26 amendments thereto.

27 Sec. 11. K.S.A. 82a-708c is hereby amended to read as follows: 82a-
28 708c. (a) A term permit is a permit to appropriate water for a limited
29 specified period of time in excess of six months. At the end of the
30 specified time, or any authorized extension approved by the chief engineer,
31 the permit shall be automatically dismissed, and any priority it may have
32 had shall be forfeited. No water right shall be perfected pursuant to a term
33 permit.

34 (b) Each application for a term permit to appropriate water shall be
35 made on a form prescribed by the chief engineer and shall be accompanied
36 by an application fee fixed by this section for the appropriate category of
37 acre feet in accordance with the following:

Acre Feet	Fee
38 0 to 100.....	\$200
39 101 to 320.....	\$300
40 More than 320.....	\$300 + \$20
41	for each additional 100
42	acre feet or any part thereof
43	

1 On and after July 1, ~~2023~~ 2028, the application fee shall be set forth in
2 the schedule below:

3 Acre Feet	Fee
4 0 to 100.....	\$100
5 101 to 320.....	\$100
6 More than 320.....	\$150 + \$10
7	for each additional 100
8	acre feet or any part thereof

9 The chief engineer shall render a decision on such term permit
10 applications within 150 days of receiving a complete application except
11 when the application cannot be processed due to the standards established
12 in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of
13 receipt of a complete application, the application fee is subject to refund
14 upon request.

15 (c) Each application for a term permit to appropriate water for
16 storage, except applications for permits for domestic use, shall be
17 accompanied by an application fee fixed by this section for the appropriate
18 category of storage-acre feet in accordance with the following:

19 Storage-Acre Feet	Fee
20 0 to 250.....	\$200
21 More than 250.....	\$200 + \$20
22	for each additional 250
23	acre feet or any part thereof

24 On and after July 1, ~~2023~~ 2028, the application fee shall be set forth in
25 the schedule below:

26 Storage-Acre Feet	Fee
27 0 to 250.....	\$100
28 More than 250.....	\$100 + \$10
29	for each additional 250
30	acre feet or any part thereof

31 The chief engineer shall render a decision on such term permit
32 applications within 150 days of receiving a complete application except
33 when the application cannot be processed due to the standards established
34 in K.A.R. 5-3-4c. Upon failure to render a decision within 180 days of
35 receipt of a complete application, the application fee is subject to refund
36 upon request.

37 (d) Each application for a term permit pursuant to K.S.A. 82a-736,
38 and amendments thereto, shall be accompanied by an application fee
39 established by rules and regulations adopted by the chief engineer in an
40 amount not to exceed \$400 for the five-year period covered by the permit.

41 (e) Notwithstanding the provisions of K.S.A. 82a-714, and
42 amendments thereto, the applicant is not required to file a notice of
43 completion of diversion works nor pay a field inspection fee. The chief

1 engineer shall not conduct a field inspection of the diversion works
2 required by statute for purposes of certification nor issue a certificate of
3 appropriation for a term permit.

4 (f) A request to extend the term of a term permit in accordance with
5 the rules and regulations adopted by the chief engineer shall be
6 accompanied by the same filing fee applicable to other requests for
7 extensions of time as set forth in K.S.A. 82a-714, and amendments thereto.

8 (g) An application to change the place of use, point of diversion, use
9 made of water, or any combination thereof, pursuant to K.S.A. 82a-708b,
10 and amendments thereto, shall not be approved for a term permit, except
11 as provided in K.S.A. 82a-736, and amendments thereto.

12 (h) The chief engineer shall adopt rules and regulations to effectuate
13 and administer the provisions of this section.

14 Sec. 12. K.S.A. 82a-714 is hereby amended to read as follows: 82a-
15 714. (a) Upon the completion of the construction of the works and the
16 actual application of water to the proposed beneficial use within the time
17 allowed, the applicant shall notify the chief engineer to that effect. The
18 chief engineer or the chief engineer's duly authorized representative shall
19 then examine and inspect the appropriation diversion works and, if it is
20 determined that the appropriation diversion works have been completed
21 and the appropriation right perfected in conformity with the approved
22 application and plans, the chief engineer shall issue a certificate of
23 appropriation in duplicate. The original of such certificate shall be sent to
24 the owner and shall be recorded with the register of deeds in the county or
25 counties wherein the point of diversion is located, as are other instruments
26 affecting real estate, and the duplicate shall be made a matter of record in
27 the office of the chief engineer.

28 (b) Not later than 60 days before the expiration of the time allowed in
29 the permit to complete the construction of the appropriation diversion
30 works or the time allowed in the permit to actually apply water to the
31 proposed beneficial use, the chief engineer shall notify the permit holder
32 by certified mail that any request for extension of such time must be filed
33 with the chief engineer before the expiration of the time allowed in the
34 permit.

35 (c) Unless the applicant requests an extension or the certificate has
36 not been issued due to the applicant's failure to comply with reasonable
37 requests for information or to allow the opportunity to examine and inspect
38 the appropriation diversion works, as necessary for certification, the chief
39 engineer shall certify an appropriation:

40 (1) Before July 1, 2004, if the time allowed in the permit to perfect
41 the water right expired before July 1, 1999, except in those cases in which
42 abandonment proceedings pursuant to K.S.A. 82a-718, and amendments
43 thereto, are pending on July 1, 2004;

1 (2) before July 1, 2006, in such cases in which an abandonment
2 proceeding was pending pursuant to K.S.A. 82a-718, and amendments
3 thereto, on July 1, 2004; or

4 (3) not later than five years after the date the applicant notifies the
5 chief engineer of the completion of construction of the works and the
6 actual application of water to the proposed beneficial use within the time
7 allowed, in all other cases.

8 If the chief engineer fails to issue a certificate within the time provided
9 by this subsection, the applicant may request review, pursuant to K.S.A.
10 82a-1901, and amendments thereto, of the chief engineer's failure to act.

11 (d) Except for works constructed to appropriate water for domestic
12 use, each notification to the chief engineer under subsection (a) shall be
13 accompanied by a field inspection fee of \$400, or on and after July 1, ~~2023~~
14 2028, a fee of \$200, except that for applications filed on or after July 1,
15 2009, for works constructed for sediment control use and for evaporation
16 from a groundwater pit for industrial use shall be accompanied by a field
17 inspection fee of \$200. Failure to pay the field inspection fee, after
18 reasonable notice by the chief engineer of such failure, shall result in the
19 permit to appropriate water being revoked, forfeiture of the priority date
20 and revocation of any appropriation right that may exist.

21 (e) A request for an extension of time to: (1) Complete the diversion
22 works; or (2) perfect the water right, shall be accompanied by a fee of \$50,
23 or commencing July 1, 2002, and ending June 30, ~~2023~~ 2028, a fee of
24 \$100.

25 (f) A request to reinstate a water right or a permit to appropriate water
26 ~~which~~ that has been dismissed shall be filed with the chief engineer within
27 60 days of the date dismissed and shall be accompanied by a fee of \$100,
28 or commencing July 1, 2002, and ending June 30, ~~2023~~ 2028, a fee of
29 \$200.

30 (g) All fees collected by the chief engineer pursuant to this section
31 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
32 amendments thereto.

33 Sec. 13. K.S.A. 82a-727 is hereby amended to read as follows: 82a-
34 727. (a) Subject to existing water rights and the principle of beneficial use,
35 the chief engineer may grant upon application made therefor temporary
36 permits and extensions thereof to appropriate water in any case where the
37 public interest in such water will not be unreasonably or prejudicially
38 affected, except that the chief engineer shall not grant any such permit to
39 appropriate fresh water in any case where other waters are available for the
40 proposed use and the use thereof is technologically and economically
41 feasible. No such temporary permit or any extension thereof shall be
42 granted for a period of time in excess of six months. Each application
43 submitted for a temporary permit or extension thereof shall be

1 accompanied by an application fee of \$200, or on and after July 1, ~~2023~~
2 2028, a fee of \$100.

3 (b) The chief engineer shall adopt rules and regulations to effectuate
4 and administer the provisions of this section.

5 (c) Nothing in this section shall be deemed to vest in the holder of
6 any permit granted pursuant to provisions of this section any permanent
7 right to appropriate water except as is provided by such permit.

8 (d) All fees collected by the chief engineer pursuant to this section
9 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
10 amendments thereto.

11 Sec. 14. K.S.A. 82a-708a, 82a-708b, 82a-708c, 82a-714 and 82a-727
12 and K.S.A. 2021 Supp. 2-1205, 2-1930, 2-2440, 2-2440b, 2-2443a, 2-
13 2445a, 2-3304 and 2-3306 are hereby repealed.

14 Sec. 15. This act shall take effect and be in force from and after its
15 publication in the statute book.