

## SENATE BILL No. 40

By Committee on Agriculture and Natural Resources

1-21

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 conservation programs and *annual* budget recommendations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (i) to sue and be sued in the name of the district; to have a seal, which  
40 seal shall be judicially noticed; to have perpetual succession unless  
41 terminated as hereinafter provided; to make and execute contracts and  
42 other instruments, necessary or convenient to the exercise of its powers; to  
43 make, and from time to time amend and repeal, rules and regulations not

1 inconsistent with this act, to carry into effect its purposes and powers;

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

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

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

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

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

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

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

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

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

39 (b) A program for protection of riparian and wetland areas shall be  
40 developed by the ~~Kansas department of agriculture~~ *division of*  
41 ~~conservation~~ and implemented by the conservation districts. The  
42 conservation districts shall prepare district programs to address resource  
43 management concerns of water quality, erosion and sediment control and

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

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

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

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

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

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

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

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

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

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

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

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

41 Upon issuance of a certificate of dissolution under the provisions of this  
42 section, all ordinances and regulations ~~heretofore~~ adopted and in force  
43 within such districts shall be of no further force and effect. All contracts

1 ~~theretofore entered into~~, to which the district or supervisors are parties,  
2 shall remain in force and effect for the period provided in such contracts.  
3 ~~The state soil conservation committee~~ *division* shall be substituted for the  
4 district or supervisors as party to such contracts. ~~The committee~~ *division*  
5 shall be entitled to all benefits and subject to all liabilities under such  
6 contracts and shall have the same right and liability to perform, to require  
7 performance, to sue and be sued thereon; and to modify or terminate such  
8 contracts by mutual consent or otherwise, as the supervisors of the district  
9 would have had. Such dissolution shall not affect the lien of any judgment  
10 entered under the provisions of K.S.A. 2-1911, *prior to its repeal*, nor the  
11 pendency of any action instituted under the provisions of such section, and  
12 the committee shall succeed to all the rights and obligations of the district  
13 or supervisors as to such liens and actions. The state soil conservation  
14 committee shall not entertain petitions for the discontinuance of any  
15 district nor conduct referenda upon such petitions nor make determinations  
16 pursuant to such petitions in accordance with the provisions of this act,  
17 more often than once in five ~~(5)~~ years.

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

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

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

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

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

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

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

1 engineer and the groundwater management districts regarding market  
2 conditions.

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

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

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

15 (1) The applicant's bid price;

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

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

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

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

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

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

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

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

1 15 acre-feet or less, if the use, permit or exemption does not conflict with  
2 this program.

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

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

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

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

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

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

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

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

1 water rights involved.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (d) The division may request the assistance of other state agencies,

1 Kansas state university, local governments and private entities in the  
2 implementation of CREP.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (j) The Kansas department of agriculture shall submit a report on the

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

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

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

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

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

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

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

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

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

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

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

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

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

1 regular operation of a business.

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

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

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

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

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

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

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

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

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

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

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

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

38 (b) Licenses shall be issued upon application submitted on a form  
39 provided by the director and shall be accompanied by a fee of \$300. Each  
40 applicant shall be required to furnish on the form information necessary to  
41 identify the applicant. Licenses shall expire one year from the date of  
42 issuance and shall be renewed by the director upon application submitted  
43 within 30 days prior to the expiration date and accompanied by the

1 renewal fee established by the director under K.S.A. 49-623, *and*  
2 *amendments thereto*.

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

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

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

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

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

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

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

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

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

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

1 operator or responsibility is transferred under K.S.A. 49-610, *and*  
2 *amendments thereto.*

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

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

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

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

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

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

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

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

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

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

41 ~~The attorney general, upon request of the commission, Once an order~~  
42 ~~issued pursuant to this act becomes a final order, the secretary, upon~~  
43 ~~request of the director, shall institute proceedings for forfeiture of the bond~~

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

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

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

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

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

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

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

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

1 regulations.

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

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

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

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

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

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

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

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

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

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

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

43 (e) *"Division" means the division of conservation established within*

1 *the Kansas department of agriculture in K.S.A. 74-5,126, and amendments*  
2 *thereto.*

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

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

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

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

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

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

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

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

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

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

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

43 ~~(o)~~(q) "Water user" means any city, rural water district, wholesale

1 water district or any other political subdivision of the state ~~which~~ *that* is in  
 2 the business of furnishing municipal or industrial water to the public.

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

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

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

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

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

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

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

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

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

1 each be made at and in such manner as is provided by procedural rules and  
2 regulations—~~which~~ *that* shall be adopted by the Kansas department of  
3 agriculture division of conservation with the approval of the—~~state~~  
4 ~~conservation commission~~ *secretary*.

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

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

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