

## HOUSE BILL No. 2147

By Committee on Agriculture and Natural Resources

1-22

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9 AN ACT concerning the environment; establishing the farm and ranch  
10 land protection program; establishing an emissions compensation pro-  
11 gram; amending K.S.A. 2-1904 and repealing the existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2-1904 is hereby amended to read as follows: 2-  
15 1904. (a) There is hereby established, to serve as an agency of the state  
16 and to perform the functions conferred upon it in this act, the state con-  
17 servation commission. The state conservation commission shall succeed  
18 to all the powers, duties and property of the state soil conservation com-  
19 mittee. The commission shall consist of nine members as follows:

20 (1) The director of the cooperative extension service and the director  
21 of the state agricultural experiment station located at Manhattan, Kansas,  
22 or such persons' designees shall serve, ex officio, as members of the  
23 commission.

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

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

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

20 (b) The commission shall keep a record of its official actions, shall  
21 adopt a seal which seal shall be judicially noticed, and may perform such  
22 acts, hold such public hearings and adopt rules and regulations necessary  
23 for the execution of its functions under this act.

24 (c) The state conservation commission may employ an administrative  
25 officer and such technical experts as it may require and shall determine  
26 their qualifications and duties. Such officer and experts shall be in the  
27 unclassified service of the Kansas civil service act and shall receive annual  
28 salaries fixed by the commission and approved by the state finance coun-  
29 cil. All other agents and employees, permanent or temporary, required  
30 by the state conservation commission, shall be within the classified service  
31 of the Kansas civil service act. The commission may call upon the attorney  
32 general of the state for such legal services as it may require. It shall have  
33 authority to delegate to its chairperson, to one or more of its members  
34 or to one or more agents or employees, such powers and duties as it  
35 deems proper. It shall be supplied with suitable office accommodations  
36 at the state capital, and shall be furnished with the necessary supplies and  
37 equipment. Upon request of the commission, for the purpose of carrying  
38 out any of its functions, the supervising officer of any state agency or of  
39 any state institution of learning, insofar as may be possible under available  
40 appropriations and having due regard to the needs of the agency to which  
41 the request is directed, shall assign or detail to the commission members  
42 of the staff or personnel of such agency or institution of learning and  
43 make such special reports, surveys or studies as the commission may

1 request.

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

13 (e) In addition to the duties and powers hereinafter conferred upon  
14 the state conservation commission, it shall have the following duties and  
15 powers:

16 (1) To offer such assistance as may be appropriate to the supervisors  
17 of conservation districts, organized as provided hereinafter, in the carry-  
18 ing out of any of their powers and programs;

19 (2) to keep the supervisors of each of the several districts organized  
20 under the provisions of this act informed of the activities and experience  
21 of all other districts organized hereunder and to facilitate an interchange  
22 of advice and experience between such districts and cooperation between  
23 them;

24 (3) to coordinate the programs of the several conservation districts  
25 organized hereunder;

26 (4) to secure the cooperation and assistance of the United States and  
27 any of its agencies and of agencies of this state, in the work of such districts  
28 and to contract with or to accept donations, grants, gifts and contributions  
29 in money, services or otherwise from the United States or any of its agen-  
30 cies or from the state or any of its agencies in order to carry out the  
31 purposes of this act;

32 (5) to disseminate information throughout the state concerning the  
33 activities and programs of the conservation districts organized hereunder  
34 and to encourage the formation of such districts in areas where their  
35 organization is desirable;

36 (6) to cooperate with and give assistance to watershed districts and  
37 other special purpose districts in the state of Kansas for the purpose of  
38 cooperating with the United States through the secretary of agriculture  
39 in the furtherance of conservation pursuant to the provisions of the wa-  
40 tershed protection and flood prevention act, as amended;

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

1 (8) to enlist the cooperation and collaboration of state, federal, re-  
2 gional, interstate, local, public and private agencies with the conservation  
3 districts; ~~and~~

4 (9) to facilitate arrangements under which conservation districts may  
5 serve county governing bodies and other agencies as their local operating  
6 agencies in the administration of any activity concerned with the conser-  
7 vation of natural resources; *and*

8 (10) *to facilitate the conservation of private working farm and ranch*  
9 *lands in Kansas through grants to eligible entities for the administration*  
10 *and purchase of perpetual conservation easements, or other interests, of*  
11 *eligible farm and ranch lands.*

12 New Sec. 2. As used in sections 3 through 8, and amendments  
13 thereto:

14 (a) "Commission" means the state conservation commission.

15 (b) "Conservation easement" means a conservation easement, as de-  
16 fined in K.S.A. 58-3810, and amendments thereto, which is a permanent  
17 deed restriction.

18 (c) "Eligible entity" means any organization that is an organization as  
19 described in section 170(h)(3) of the internal revenue code of 1986.

20 (d) "Eligible farm and ranch lands" means cropland, rangeland, grass-  
21 land, pastureland or forestland which: (1) Is an incidental part of an ag-  
22 ricultural operation on a farm or ranch; (2) has prime, unique or other  
23 productive soil or contains historical or archaeological resources; and (3)  
24 is subject to a pending offer for purchase or permanent conservation  
25 easements from an eligible entity.

26 New Sec. 3. (a) There is hereby established a Kansas farm and ranch  
27 land protection grant program, to be administered by the commission,  
28 for the purpose of limiting loss of agricultural lands to nonagricultural  
29 uses.

30 (b) The commission may make available matching grants to be of-  
31 fered in cooperation with the United States department of agriculture  
32 under the farm and ranch land protection program or the United States  
33 department of defense, or any other federal or private entity, to eligible  
34 entities for the administration, costs and purchase of permanent conser-  
35 vation easements on eligible farm and ranch lands. Such costs shall in-  
36 clude, but not be limited to, appraisals, surveys and title searches.

37 (c) The commission may adopt rules and regulations to administer  
38 and implement the Kansas farm and ranch land protection grant program.

39 (d) The commission shall not be the holder of conservation  
40 easements.

41 New Sec. 4. To receive grants pursuant to the Kansas farm and ranch  
42 land protection grant program eligible entities must make application to  
43 the commission in the manner prescribed by the commission and shall

1 provide to the commission:

- 2 (1) Documentation from the internal revenue service that the entity  
3 meets the requirement of subsection (c) of section 2, and amendments  
4 thereto;
- 5 (2) a copy of the conservation easement agreement negotiated with  
6 the United States department of agriculture, United States department  
7 of defense or other agency and the landowner of the property for which  
8 funding is sought;
- 9 (3) a written statement that creation and recordation of appropriate  
10 deed restrictions will occur upon disbursement of the funds to the  
11 landowner;
- 12 (4) a written agreement to implement the terms of the conservation  
13 easement and to report the status of the conservation easement as the  
14 commission deems necessary; and
- 15 (5) any other relevant information the commission deems necessary  
16 to assure the appropriate use of grant funds.

17 New Sec. 5. (a) The commission shall evaluate and rank each appli-  
18 cation based upon the following criteria:

- 19 (1) Contiguous acres of farm and ranch land to be conserved and its  
20 ability to economically sustain agricultural activities;
- 21 (2) historic agricultural use and condition of the property;
- 22 (3) proximity of the property to: (A) A military installation or facility  
23 under the supervision of the United States secretary of the army or the  
24 United States secretary of the air force or (B) a military installation or  
25 facility under the supervision of the Kansas national guard;
- 26 (4) imminent threat of development for residential or commercial  
27 purposes;
- 28 (5) the property was previously subject to an unfulfilled contract for  
29 development of wind energy;
- 30 (6) commitment of eligible entity and landowner to the long-term  
31 conservation of the property;
- 32 (7) provide an educational opportunity regarding the land's scenic  
33 value, plant and animal biodiversity, historic and cultural characteristics;  
34 and
- 35 (8) other factors the commission deems critical for fulfillment of the  
36 purposes of this act.

37 (b) For fiscal years 2008 and 2009, the commission shall give funding  
38 priority to applications meeting the provisions of subsections (a)(3)(A) and  
39 (a)(3)(B) of this section.

40 (c) Upon completion of the evaluations and rankings, the commission  
41 shall timely award funds to successful applicants.

42 New Sec. 6. Failure of a property owner to observe and fulfill the  
43 terms of a conservation easement shall render the property liable to the

1 commission for all grant moneys received.

2 New Sec. 7. (a) Notwithstanding the provisions of K.S.A. 58-3816,  
3 and amendments thereto, no city shall use eminent domain to acquire  
4 land placed in a conservation easement under the Kansas farm and ranch  
5 land protection grant program.

6 (b) If the land placed in a conservation easement under the Kansas  
7 farm and ranch law protection grant program is taken for public use, then  
8 the state of Kansas shall be paid from the settlement moneys an amount  
9 equal to the amount the state contributed under this act.

10 New Sec. 8. (a) On July 1, 2008, there is hereby imposed on the  
11 change in classification of real property for purposes of ad valorem taxa-  
12 tion from agricultural use to a use other than agricultural use or use as a  
13 city, county or state park an open space preservation fee in an amount  
14 equal to 0.015% of the fair market value of such property, as determined  
15 by the county appraiser pursuant to law, if such property is reclassified  
16 at the time of or within seven years after transfer of the property.

17 (b) The fee imposed by this section shall be determined by the county  
18 clerk and the certified amount shall be provided to the county treasurer  
19 for collection and remitted to the state treasurer. Upon receipt of the  
20 remittance, the state treasurer shall deposit the entire amount in the state  
21 treasury and credit it to the agricultural land conservation program fund.

22 (c) (1) There is hereby established in the state treasury the agricul-  
23 tural land conservation program fund. Moneys in the fund shall be ex-  
24 pended only for the administration, costs and the purchase of permanent  
25 conservation easements on agricultural lands. Moneys may be used for  
26 matching grants with federal agencies or private entities to conserve ag-  
27 ricultural lands, but may not be used to acquire fee title to land.

28 (2) On or before the 10th of each month, the director of accounts  
29 and reports shall transfer from the state general fund to the agricultural  
30 land conservation program fund interest earnings based on: (A) The av-  
31 erage daily balance of moneys in the agricultural land conservation pro-  
32 gram fund for the preceding month; and (B) the net earnings rate for the  
33 pooled money investment portfolio for the preceding month.

34 (3) All expenditures from the agricultural land conservation program  
35 fund shall be made in accordance with appropriation acts upon warrants  
36 of the director of accounts and reports issued pursuant to vouchers ap-  
37 proved by the chairperson of the commission, or a person designated by  
38 the chairperson, for the purposes set forth in this section.

39 New Sec. 9. (a) As used in this section, terms have the meanings  
40 provided in the Kansas air quality act, K.S.A. 65-3001, and amendments  
41 thereto.

42 (b) Not later than January 1, 2008, the secretary shall establish by  
43 rules and regulations a voluntary emissions compensation program. To

1 the extent authorized by the federal law, such program shall qualify as  
2 this state's harmful emissions capturing and sequestration program.

3 (c) The secretary shall establish a program of voluntary payments for  
4 emissions which contribute to air pollution. Such voluntary payments shall  
5 be rates specified by rules and regulations adopted by the secretary but  
6 shall be not less than \$10 nor more than \$100 per ton of each identified  
7 air contaminant from each emission source.

8 (d) The secretary shall remit all moneys from payments received pur-  
9 suant to this section to the state treasurer in accordance with the provi-  
10 sions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the  
11 remittance, the state treasurer shall credit 90% to the agricultural land  
12 conservation program fund established by section 8, and amendments  
13 thereto, and shall credit the remainder to a special fund for use by the  
14 department for costs of administration of the program.

15 Sec. 10. K.S.A. 2-1904 is hereby repealed.

16 Sec. 11. This act shall take effect and be in force from and after its  
17 publication in the statute book.