

*As Amended by Senate Committee*

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*Session of 2021*

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

40 (i) to sue and be sued in the name of the district; to have a seal, which  
41 seal shall be judicially noticed; to have perpetual succession unless  
42 terminated as hereinafter provided; to make and execute contracts and  
43 other instruments, necessary or convenient to the exercise of its powers; to

1 make, and from time to time amend and repeal, rules and regulations not  
2 inconsistent with this act, to carry into effect its purposes and powers;

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

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

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

18 (m) to accept and expend funds donated to the district for purposes of  
19 providing at least 20% cost-share for the purchase of an eligible water  
20 right from the holder of the water right under the provisions of K.S.A. 2-  
21 1915, and amendments thereto; and

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

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

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

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

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

40 (b) A program for protection of riparian and wetland areas shall be  
41 developed by the ~~Kansas department of agriculture division of~~  
42 ~~conservation~~ and implemented by the conservation districts. The  
43 conservation districts shall prepare district programs to address resource

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

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

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

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

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

1 feet wide.

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

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

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

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

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

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

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

42 Upon issuance of a certificate of dissolution under the provisions of this  
43 section, all ordinances and regulations ~~theretofore~~ adopted and in force

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

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

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

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

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

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

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

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

1 an annual base rate after considering recommendations from the chief  
2 engineer and the groundwater management districts regarding market  
3 conditions.

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

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

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

16 (1) The applicant's bid price;

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

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

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

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

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

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

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

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

1 permits, term permits for five years or less and small-use exemptions for  
2 15 acre-feet or less, if the use, permit or exemption does not conflict with  
3 this program.

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

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

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

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

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

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

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

42 (2) The applicant may also submit an engineering study that  
43 determines the average historic consumptive water use as an alternative



1 method if it is demonstrated to be more accurate for the water right or  
2 water rights involved.

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

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

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

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

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

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

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

42 (2) any violation of term, condition or limitation defined and or  
43 imposed within the contractual agreement between the ~~Kansas department~~

1 ~~of agriculture division of conservation~~ and the water right owner.

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

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

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

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

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

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

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

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

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

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

1 (d) The division may request the assistance of other state agencies,  
2 Kansas state university, local governments and private entities in the  
3 implementation of CREP.

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

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

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

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

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

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

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

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

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

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

1 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 excavation or mining are not sold, processed for sale or consumed in the  
2 regular operation of a business.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 within 30 days prior to the expiration date and accompanied by the  
2 renewal fee established by the director under K.S.A. 49-623, *and*  
3 *amendments thereto*.

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

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

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

19 Sec. 14. K.S.A. 49-611 is hereby amended to read as follows: 49-611.  
20 (a) An operator authorized under this act to operate a mine, after  
21 completion of mining operations and within the time specified in K.S.A.  
22 49-613, *and amendments thereto*, shall:

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

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

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

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

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

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

1 act, except when a replacement bond or security is posted by a new  
2 operator or responsibility is transferred under K.S.A. 49-610, *and*  
3 *amendments thereto*.

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

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

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

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

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

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

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

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

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

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

42 ~~The attorney general, upon request of the commission, Once an order~~  
43 *issued pursuant to this act becomes a final order, the secretary, upon*



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

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

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

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

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

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

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

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

1 purpose. The director shall adopt such fees by ~~rule rules and regulation~~  
2 ~~regulations~~.

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

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

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

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

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

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

26 Sec. 21. K.S.A. 82a-1603 is hereby amended to read as follows: 82a-  
27 1603. When used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1       ~~(g)~~(g) "Water user" means any city, rural water district, wholesale  
 2 water district or any other political subdivision of the state ~~which~~ that is in  
 3 the business of furnishing municipal or industrial water to the public.

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

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

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

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

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

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

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

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

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

1 bear to the total flood control benefits of the project. Such findings shall  
2 each be made at and in such manner as is provided by procedural rules and  
3 regulations—~~which~~ *that* shall be adopted by the Kansas department of  
4 agriculture division of conservation with the approval of the—~~state—~~  
5 ~~conservation commission secretary.~~

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

18 Sec. 24. K.S.A. 2-1916, 49-605, 49-611, 49-613, 49-618, 49-619, 49-  
19 620, 49-623, 82a-1602, 82a-1603, 82a-1607 and 82a-1702 and K.S.A.  
20 2020 Supp. 2-1903, 2-1904, 2-1907, 2-1907c, 2-1908, 2-1915, 2-1930, 2-  
21 1931, 2-1933, 49-603, 49-606 and 49-621 are hereby repealed.

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