

July, 2017



Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
Tel: 785-564-6700
FAX 785-564-6777

The following copy of selected statutes and regulations is being made available by the Kansas Department of Agriculture for the convenience of the public and is meant to be used only as a reference. While the Kansas Department of Agriculture has made every effort to accurately reproduce these statutes and regulations, they are not the official statutes and regulations of the State. The Kansas Statutes Annotated (K.S.A.), published by the Revisor of Kansas Statutes, and the Kansas Administrative Regulations (K.A.R.), published by the Secretary of State should be consulted for the text of the official statutes and administrative regulations of the State.

KANSAS STATUTES ANNOTATED

Powers and Duties of the Secretary

K.S.A. 2-3709. Kansas agricultural remediation board; creation. (a) There is hereby created the Kansas agricultural remediation board. The board shall consist of five members appointed by the governor. Of the five members, one shall be a representative of agricultural retailers, one shall be a representative of agricultural producers, one shall be a representative of agricultural processors, one shall be a representative of specialty chemical distributors or retailers and one shall be a representative of agricultural and specialty chemical registrants. Not more than three voting members shall be members of the same political party. One representative of the Kansas department of agriculture and one representative of the Kansas department of health and environment shall serve as members of the board ex officio.

(b) Except as provided by this section, the term of office of each member of the board shall be four years. Each member shall serve until a successor is appointed. Whenever a vacancy occurs in the membership of the board prior to the expiration of a term of office, the governor shall appoint a qualified successor to fill the unexpired term.

(c) The governor shall designate the chairperson and vice-chairperson of the board from the members of such board.

(d) Meetings shall be held as determined by the board.

(e) Members of the board attending meetings of the board, or attending a subcommittee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

History: L. 2000, ch. 82, § 9; L. 2005, ch. 5, § 1; July 1; L. 2012, ch. 140, sec. 1; July 1.

Chapter 41.--INTOXICATING LIQUORS AND BEVERAGES Article 3.--LICENSING AND RELATED PROVISIONS; CITY OPTION

41-351. (a) Notwithstanding any other provisions of the Kansas liquor control act, the club and drinking establishment act or the Kansas cereal malt beverage act, any person who is licensed to sell wine pursuant to K.S.A. 41-308a, and amendments thereto, may apply to the director for an annual bona fide farmers' market sales permit. Such permit shall authorize the licensee, a member of the licensee's family or an employee of the licensee to sell wine in the original unopened container produced and bottled by the licensee at farmers' markets.

(b) An application submitted pursuant to this section shall be accompanied by an application fee of \$25. Permits issued under this section shall be valid for one year from the date of issuance.

(c) The locations of the farmers' markets at which wine shall be sold shall be specified in the application submitted to the director. If the licensee elects to sell wine at a farmers' market, the location of which was not reported to the director in the application, such licensee shall notify the director of the location before any wine may be sold at that location. The director shall notify the city, county and applicable law enforcement agency where farmers' markets are to be held and of the issuance of a permit under this section for the sale of wine at such farmers' markets.

(d) For the purposes of this section, “farmers’ market” means any common facility or area where producers or growers gather on a regular, recurring basis to sell fruits, vegetables, meats and other farm products directly to consumers.

(e) The secretary may adopt rules and regulations as necessary to implement the provisions of this section.

(f) This section shall be a part of and supplemental to the Kansas liquor control act.

History: L. 2009, ch. 114, § 2; July 1; 2015, ch. 82; § 29; July 1.

Chapter 65.--PUBLIC HEALTH
Article 57.--EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW

65-5721. Commission on emergency planning and response; establishment; members; terms, compensation and expenses. (a) There is hereby established the commission on emergency planning and response.

(b) The membership of the commission on emergency planning and response shall consist of the agency head or secretary or a designated person of authority from the following agencies:

- (1) the fire marshal;
- (2) the department of health and environment;
- (3) the department of transportation;
- (4) the Kansas highway patrol;
- (5) the adjutant general;
- (6) the department of commerce;
- (7) the Kansas bureau of investigation;
- (8) the Kansas department of agriculture; and
- (9) the Kansas animal health department.

(c) In addition, the membership of the commission on emergency planning and response shall also consist of 18 members appointed by the governor as follows:

- (1) One individual shall be representative of counties;
- (2) one individual selected to represent cities;
- (3) three individuals selected to represent businesses and industries, one of which represents broadcasting;
- (4) one individual selected to represent agriculture, crop or livestock;
- (5) one individual selected to represent transportation, trucking or rail;
- (6) one individual selected to represent energy;
- (7) one individual selected to represent law enforcement officers;
- (8) one individual selected to represent fire fighters;
- (9) one individual selected to represent county emergency managers;
- (10) one individual selected to represent emergency medical services;
- (11) one individual selected to represent public works services;
- (12) one individual selected to represent hospitals;
- (13) one individual selected to represent public health;
- (14) one individual selected to represent the tribes of Kansas;
- (15) one individual selected to represent individuals with disabilities; and
- (16) one individual selected to represent the seven regional homeland security councils.

(d) A designee of the adjutant general shall serve as the secretary of the commission on emergency planning and response. The adjutant general shall provide staff support for the commission on emergency planning and response.

(e) Of the members first appointed to the commission on emergency planning and response by the governor, one representative of cities, one representative of counties, and one representative of business and industry shall serve a term of two years, and the remainder of the members appointed by the governor shall serve terms of three years. Thereafter, members appointed pursuant to subsection (c) shall serve terms of four years and until the successor has been appointed. Any vacancy in the office of an appointed member shall be filled for the unexpired term by appointment by the governor.

(f) A chairperson shall be elected annually by the members of the commission. A vice-chairperson shall be designated by the chairperson to serve in the absence of the chairperson.

(g) For attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, those members of the commission appointed by the governor shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

History: Executive Reorganization Order No. 29, L. 1999, ch. 192, § 1; L. 2003, ch. 154, § 19; L. 2007, ch. 8, § 1; July 1.

65-5722. Same; powers and duties. The commission on emergency planning and response shall have the following functions, powers and duties:

- (a) Carry out all requirements of the federal emergency planning and community right-to-know act of 1986, 42 U.S.C. 11001-11005, and amendments thereto, hereinafter called the "federal act";
- (b) provide assistance and advice in establishing policy for the coordination of state agency activities relating to emergency training, preparedness, planning, and response;
- (c) provide assistance and advice in establishing policy and procedures for chemical release reporting and prevention, transportation, manufacture, storage, handling, and use;
- (d) facilitate and advise the division of emergency management, the adjutant general, and others in the preparation and implementation of all emergency plans prepared by state agencies;
- (e) facilitate and advise the division of emergency management, the adjutant general, and others in the preparation and implementation of statewide, interjurisdictional, and local emergency plans prepared in accordance with state and federal law;
- (f) designate, and revise as necessary, the boundaries of emergency planning districts in accordance with the federal act;
- (g) approve the local emergency planning committee for each emergency planning district;
- (h) review reports about responses to disaster emergencies and make recommendations to the appropriate parties involved in the response concerning improved prevention, mitigation, and preparedness;
- (i) provide assistance and advice to the division of emergency management and the adjutant general in coordinating, advising, or planning tasks related to community right-to-know reporting, toxic chemical release reporting, management of hazardous substances, emergency planning and preparedness for all types of hazards and emergency planning and preparedness for all types of disasters, as defined in K.S.A. 48-904, and amendments thereto;
- (j) recommend procedures to integrate, as appropriate, hazardous substance response planning under 42 U.S.C. 11001-11005, federal contingency planning under 33 U.S.C. 1321 and other federal laws as applicable to hazardous substance discharges, and state, regional, and local planning;
- (k) provide recommendations and advice to the adjutant general and the secretary of health and environment regarding the adoption of regulations as authorized to carry out the purposes of all state hazard preparedness and planning laws and the federal act, 42 U.S.C. 11001-11005;
- (l) approve the fees established by rules and regulations of the adjutant general to cover all or part of the total operational costs of implementing the provisions of the federal act; and
- (m) provide assistance and advice to the division of emergency management and the adjutant general in developing and implementing a plan for regional emergency medical response teams.

History: Executive Reorganization Order No. 29, L. 1999, ch. 192, § 2; L. 2002, ch. 149, § 6; July 1.

Chapter 74.--STATE BOARDS, COMMISSIONS AND AUTHORITIES

Article 5.--DEPARTMENT OF AGRICULTURE

74-504. Annual reports; publications; cooperation with Kansas state university and experiment stations.

The secretary of agriculture shall publish an annual report, embracing a general view of the condition of agriculture throughout the state, accompanied by such essays, statements, statistics, diagrams, illustrations and recommendations as may be interesting and useful. Each legislator shall receive a copy of the annual report. In addition the secretary of agriculture may gather and prepare in the form of reports, pamphlets or press notices, such other information as may be of value in promoting the agricultural industry of the state or calculated to encourage immigration. The material may be printed and bound by the state in such editions as, in the judgment of the secretary of agriculture, may be necessary, if sufficient funds are available to the secretary of agriculture for that purpose. There shall be close cooperation between the Kansas department of agriculture and Kansas state university, and the staff of Kansas state university and experiment stations, on approval of the president of Kansas state university, shall render such services as they may be called upon to render in promoting the work of the Kansas department of agriculture.

History: L. 1872, ch. 37, § 4; L. 1917, ch. 310, § 3; R.S. 1923, 74-504; L. 1943, ch. 269, § 13; L. 1985, ch. 248, § 1; L. 2004, ch. 101, § 109; July 1.

74-504a. Statistical service. To meet the needs and increasing demands for factual data in agricultural and marketing research and for sound practices and wise land use in the growth and development of the state's agricultural industry, the secretary of agriculture is hereby authorized to enlarge and improve its statistical service to provide more adequate and complete information than present facilities make possible.

History: L. 1947, ch. 9, § 1; L. 2004, ch. 101, § 110; July 1.

74-504b. Statistical service; authority of secretary. For the attainment of these objectives, the secretary of agriculture is authorized:

- (a) To provide means of more effective assistance to county clerks and deputy assessors in securing a complete and accurate annual agricultural enumeration;
- (b) to secure statistics relating to summer fallow and continuous crop acreage, depth of soil moisture, winter wheat abandonment and utilization of abandoned wheat acreage;

- (c) to secure information relative to acreage of wheat by varieties;
- (d) to secure monthly information on prices received by farmers for agricultural commodities sold by grades and classes;
- (e) to gather monthly information relating to livestock slaughtered, market receipts by class, average weight and price;
- (f) to gather information on monthly receipts and sales of milk for fluid consumption and prices received by producers and paid by consumers for milk;
- (g) to determine farm and commercial grain storage capacity and secure information concerning soybean and flaxseed processing and alfalfa dehydrating plants in Kansas;
- (h) to secure such other data as may be of service in the upbuilding and prosperity of the state's agriculture;
- (i) to prepare and disseminate the information thus gathered in a suitable manner on a county, area and state basis;
- (j) to make agreements with any other agency or educational institution of this state or its subdivisions or with any agency or educational institution of any other state or with the United States government or any of its agencies or any not-for-profit corporation or organization for data collection, processing of data, research studies, or any other purpose related to performing the duties of the statistical service of the Kansas department of agriculture;
- (k) to conduct statistical surveys and studies for any other agency or educational institution of this state or its subdivisions or with any agency or educational institution of any other state or with the United States government or any of its agencies or any not-for-profit corporation or organization for a purpose related to performing the duties of the statistical service of the Kansas department of agriculture, and to make a reasonable service charge for conducting such studies; and
- (l) to receive and accept funds from the United States government, or any of its agencies, or from any agency or educational institution of the state of Kansas or from any not-for-profit corporation or organization for performing statistical studies, data collection or for any other purposes related to the performance of any duties of the statistical service of the Kansas department of agriculture.

History: L. 1947, ch. 9, § 2; L. 1990, ch. 275, § 1; L. 2004, ch. 101, § 111; July 1.

74-504e. Agricultural statistics fund; creation, deposits and expenditures. The secretary of agriculture shall remit all moneys received under K.S.A. 74-504b, and amendments thereto, to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the agricultural statistics fund which is hereby created. All expenditures from such fund shall be made for any purpose consistent with K.S.A. 74-504b, and amendments thereto, and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or a person designated by the secretary.

History: L. 1990, ch. 275, § 2; L. 2001, ch. 5, § 297; L. 2004, ch. 101, § 112; July 1.

74-505. Office in Topeka. The Kansas department of agriculture shall be in the city of Topeka.

History: L. 1872, ch. 37, § 6; R.S. 1923, 74-505; L. 1957, ch. 442, § 5; L. 2004, ch. 101, § 113; July 1.

74-505b. Permanent status to certain personnel; sick and annual leave; salary range. The personnel affected by this act [*] who have more than six (6) months satisfactory service shall upon the effective date of this act attain permanent status without examination or probationary period in the class to which the position is allocated. Accumulated sick and annual leave shall be credited to the individuals as determined by the appointing authority as of the effective date of this act, and their initial salary shall be at the step nearest their present salary but not above the top of the range. The time served by each of them prior to July 1, 1965, shall be credited in determining longevity and longevity benefits under the Kansas civil service act.

History: L. 1965, ch. 435, § 6; July 1.

74-505c. Acceptance reports by secretary in lieu of affidavits and verified reports. The secretary of agriculture is hereby authorized to accept, in lieu of affidavits and verified reports required to be filed pursuant to K.S.A. 2-1004, 2-1205 and 2-2507, and amendments thereto, a report which otherwise complies with the requirements of the appropriate section, and is signed by an authorized person or official. The provisions of this act are supplemental to the statutes specified in this section.

History: L. 1967, ch. 7, § 1; L. 2004, ch. 101, § 114; July 1.

74-506a. Division of water resources; creation. For the purpose of consolidating the Kansas water commission and the division of irrigation there is hereby created a division of water resources within the Kansas department of agriculture.

History: L. 1927, ch. 293, § 1; L. 2004, ch. 101, § 115; July 1.

74-506b. Authority, powers and duties conferred upon division of water resources. All of the authority, powers and duties now conferred and imposed by law upon the Kansas water commission and the state irrigation commissioner are hereby conferred upon the division of water resources created by this act, under the control, administration and supervision of the secretary of agriculture.

History: L. 1927, ch. 293, § 2; L. 2004, ch. 101, § 116; July 1.

74-506c. Certain commissions abolished. The Kansas water commission and the division of irrigation are hereby abolished.

History: L. 1927, ch. 293, § 3; Feb. 11.

74-506d. Chief engineer, assistants and employees; compensation. The secretary of agriculture is hereby authorized to employ a chief engineer of the division of water resources and such expert assistants, clerical and other help as may be necessary to properly carry out the provisions of this act, and to fix their compensation. The chief engineer shall be under the classified service of the Kansas civil service act, but any vacant position of such expert assistants, clerical and other help necessary to carry out the provisions of this act may be converted by the secretary of agriculture to an unclassified position.

History: L. 1927, ch. 293, § 4; L. 1933, ch. 271, § 7; L. 1937, ch. 329, § 12; L. 1965, ch. 435, § 1; L. 2004, ch. 101, § 117; July 1; L. 2016, ch. 71, § 3; July 1.

74-510. Information and assistance to chief engineer. It is hereby made the duty of all departments of the state government and of the university of Kansas and Kansas state university of agriculture and applied science and its branches and experiment stations to furnish information and assistance to such chief engineer upon his request therefor.

History: L. 1919, ch. 218, § 5; R.S. 1923, 74-510; L. 1945, ch. 390, § 22; June 28.

74-510a. Delegation of duties by chief engineer. The chief engineer of the division of water resources of the Kansas department of agriculture is hereby authorized to delegate to staff members any duty or function prescribed for the chief engineer by law. The chief engineer may designate any staff member to represent the chief engineer officially for any specifically designated purpose.

History: L. 1977, ch. 354, § 1; L. 2004, ch. 101, § 119; July 1.

74-511. Establishment; purposes. A state entomological commission shall be established by the state of Kansas. The purpose of the commission is to suppress and eradicate San Jose scale and other dangerous insect pests and plant diseases throughout the state of Kansas, and making the commission an auxiliary of the Kansas department of agriculture and placing the same under the supervision of the department.

History: L. 1907, ch. 386, § 1; L. 1919, ch. 9, § 1; R.S. 1923, 74-511; L. 2004, ch. 101, § 120; July 1.

74-515a. Powers, duties, authority and jurisdiction of entomological commission conferred on department of agriculture; commission abolished. All the powers, duties, authority, and jurisdiction now vested in and imposed upon the state entomological commission and its secretary by articles 4, 7, 21, and 24, chapter 2 of the Kansas Statutes Annotated and amendments thereto are hereby transferred to and conferred upon the Kansas department of agriculture and its secretary, and the secretary of agriculture is hereby empowered and directed to do all things necessary and convenient for the proper exercise of all such powers, duties, authority and jurisdiction. The state entomological commission is hereby abolished.

History: L. 1963, ch. 395, § 1; L. 2004, ch. 101, § 121; July 1.

74-515b. Same; employees to retain rights and status; employment of entomologists and assistants.

Employees of the state entomological commission in the classified service under the Kansas civil service act on the effective date of this act, shall be employed in the same or comparable positions in the Kansas department of agriculture, and shall retain, rights and status acquired under said civil service act. The secretary of the Kansas department of agriculture shall have the power and authority to appoint, in accordance with the provisions of the Kansas civil service act, such entomologists, and other assistants as may be necessary to administer articles 4, 7, 21, and 24 of chapter 2 of the Kansas Statutes Annotated and amendments thereto.

History: L. 1963, ch. 395, § 2; L. 2004, ch. 101, § 122; July 1.

74-520a. Establishment of state fair board; membership; division of state for districts. (a) On and after March 15, 1995, the Kansas state fair board is hereby established. The Kansas state fair board shall consist of the following members:

- (1) The secretary of agriculture or the successor of the secretary of agriculture, or the secretary's designee;
- (2) the secretary of commerce, or the secretary's designee;
- (3) the director of extension of Kansas state university of agriculture and applied science, or the director's designee;

- (4) one person appointed by the governor from three persons nominated by the Kansas chamber of commerce and industry;
- (5) one person appointed by the governor from three persons nominated by the travel industry association of Kansas;
- (6) one person appointed by the governor from three persons nominated by the Kansas fairs association;
- and
- (7) seven people from the general public appointed by the governor. Of such people appointed, one shall be from each of the five extension areas, as established in subsection (e), and two shall represent the state at large. Directors of each extension area shall submit three nominations to the governor. Such persons nominated shall be actively involved in agriculture production or agribusiness.
- (b) Of the persons initially appointed by the governor under subsection (a), three shall have a term of one year, three shall have a term of two years and three shall have a term of three years and until a successor is appointed and qualified. Thereafter, all members shall have terms of three years and until a successor is appointed and qualified.
- (c) Any vacancy occurring on the Kansas state fair board shall be filled as the original appointment was made.
- (d) If any of the members able to appoint a designee does so, the designee shall be appointed for a term of not less than one year.
- (e) For the purpose of this section the state shall be divided into five extension areas. The northwest extension area shall include the following counties: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan, Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis, Russell, Barton, Rush and Ness. The southwest extension area shall include the following counties: Greeley, Wichita, Scott, Lane, Pawnee, Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell, Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and Kiowa. The south central extension area shall include the following counties: Lincoln, Ottawa, Dickinson, Ellsworth, Saline, Rice, McPherson, Marion, Reno, Harvey, Butler, Kingman, Sedgwick, Cowley, Sumner, Harper, Barber, Pratt and Stafford. The southeast extension area shall include the following counties: Morris, Chase, Lyon, Osage, Franklin, Miami, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Greenwood, Elk, Wilson, Neosho, Crawford, Chautauqua, Montgomery, Labette and Cherokee. The northeast extension area shall include the following counties: Jewell, Republic, Washington, Marshall, Nemaha, Brown, Doniphan, Mitchell, Cloud, Clay, Riley, Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth, Wyandotte, Johnson, Douglas, Shawnee, Wabaunsee and Geary.

History: L. 1994, ch. 311, § 1; L. 2003, ch. 154, § 24; L. 2011, ch. 104, § 10; July 1.

74-521. Officers, election and term; seal; control and regulation of state fair; secretary, appointment and civil service status; compensation and expenses of board members. The Kansas state fair board shall organize by the election, from their own number, of a president, a vice-president and a treasurer, each of whom shall hold office for a term of one year, and until their successors are elected and qualified. The Kansas state fair board shall select and purchase a seal to authenticate such board's acts. The board shall have power to meet for the transaction of business under the call of the president when necessary; to fully control and regulate the time and manner of holding a state fair; to appoint all necessary subordinate officers and employees within appropriations therefor; to fix and establish premiums and awards for exhibitors and contestants, and pay the premiums and awards; to budget and expend funds for necessary printing and advertising for a state fair; and to do and perform all other matters pertinent in connection with the holding of a state fair. The board shall appoint a secretary, who will be designated the general manager of the state fair, and shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the board and approved by the governor. The board members shall serve on committees which may be established by the board, or the president, and to which the board members are assigned by the board or the president. Members of the Kansas state fair board attending meetings of such board, or attending a subcommittee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

History: L. 1913, ch. 293, § 4; R.S. 1923, 74-521; L. 1925, ch. 252, § 2; L. 1967, ch. 413, § 2; L. 1974, ch. 348, § 47; L. 1987, ch. 5, § 20; L. 1988, ch. 293, § 1; L. 1994, ch. 311, § 4; Mar. 15, 1995.

74-522. Expenses of members. The members of the Kansas state fair board when attending meetings authorized by the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

History: L. 1913, ch. 293, § 5; L. 1921, ch. 13, § 4; R.S. 1923, 74-522; L. 1925, ch. 252, § 3; L. 1987, ch. 5, § 21; L. 1994, ch. 311, § 5; Mar. 15, 1995.

74-523. Rules and regulations. The Kansas state fair board may adopt rules and regulations regarding the holding of the state fair and the control and government thereof.

History: L. 1913, ch. 293, § 6; R.S. 1923, 74-523; L. 1987, ch. 5, § 22; L. 1994, ch. 311, § 6; Mar. 15, 1995.

74-524. Quorum. A majority of the current members of the state fair board shall constitute a quorum to transact business.

History: L. 1913, ch. 293, § 7; R.S. 1923, 74-524; L. 1987, ch. 5, § 23; L. 1994, ch. 311, § 3; May 12.

74-524a. Powers, duties and functions of the board of state fair managers transferred. The name of the board of state fair managers is hereby changed to the state fair board. All properties, moneys, appropriations, powers, duties and authority now vested in the board of state fair managers shall be vested in the state fair board. Whenever the board of state fair managers, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the state fair board.

History: L. 1987, ch. 5, § 4; April 30.

74-524b. Abolishment of prior state fair board. On and after March 15, 1995, the state fair board established by K.S.A. 74-520 is hereby abolished.

History: L. 1994, ch. 311, § 7; May 12.

74-524c. Powers, duties and functions of prior state fair board transferred. On and after March 15, 1995: (a) All of the powers, duties, functions, records, property and personnel of the existing state fair board are hereby transferred to and conferred and imposed upon the Kansas state fair board.

(b) The Kansas state fair board created by this act shall be the successor in every way to the powers, duties and functions of the state fair board in which the same were vested prior to the effective date of this act. Every act performed under the authority of the Kansas state fair board created by this act shall be deemed to have the same force and effect as if performed by the state fair board in which such functions were vested prior to the effective date of this act.

(c) Whenever the state fair board or words of like effect, is referred to or designated by statute, contract or other document, such reference or designation shall be deemed to apply to the Kansas state fair board created by this act.

(d) All rules and regulations and all orders or directives of the state fair board in existence on the effective date of this act, shall continue to be effective and shall be deemed to be the rules and regulations and orders or directives of the Kansas state fair board created by this act, until revised, amended, repealed or nullified pursuant to law.

(e) The Kansas state fair board created by this act shall be a continuation of the state fair board provided under K.S.A. 74-520 and amendments thereto.

History: L. 1994, ch. 311, § 8; May 12.

74-524d. Necessary employees retain rights and status. On and after March 15, 1995, all officers and employees who were engaged immediately prior to the effective date of this act in the performance of powers, duties and functions of any existing state fair board which is abolished by this act, and who, in the opinion of the Kansas state fair board, are necessary to perform the powers, duties and functions of the Kansas state fair board shall remain officers and employees of the Kansas state fair board, and shall retain all retirement benefits and all rights of civil service which such officer or employee had before such date, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions of personnel in the classified service shall be in accordance with civil service laws and rules and regulations.

History: L. 1994, ch. 311, § 9; May 12.

74-531. Rules and regulations; standards, grades and classifications. The secretary of agriculture may adopt rules and regulations necessary to carry out provisions of K.S.A. 74-532, 74-534, 74-535, 74-536, 74-538 and 74-539, and amendments thereto, and to make and promulgate standards, both for receptacles and for the grade and classification of agricultural products, by which their identity, quantity, quality, and value may be determined, and recommend the same for voluntary use by producers, distributors, vendors and others as the standards, grades or classifications to be adopted for the marketing of same. Such standards, grades or classifications shall not be lower in their requirements than the minimum requirements of the official standards for corresponding standards, grades and classifications commonly known as United States grades promulgated from time to time by the secretary of agriculture of the United States. Such rules and regulations shall be duly promulgated and filed as required by law.

History: L. 1947, ch. 8, § 2; L. 1996, ch. 209, § 21; July 1.

74-532. How services provided. The grading and inspection services provided for in K.S.A. 74-531, and amendments thereto, shall be furnished either independently or in cooperation with any federal or state agency, to any person, group of persons, partnership, firm, company, corporation or association engaged in the production, marketing or processing of farm products who requests such services for such person's products when in the judgment of the secretary, such services are warranted.

History: L. 1947, ch. 8, § 3; L. 1996, ch. 209, § 22; July 1.

74-534. Additional personnel; fees; disposition of moneys received; market division fee fund. The secretary of agriculture is authorized to employ, license, or designate qualified persons to inspect and classify agricultural products, and to certify as to grade or classification of such products in accordance with the standards made effective under K.S.A. 74-531 and 74-532, and amendments thereto, and shall fix, assess, and collect necessary and reasonable fees for such service. The secretary of agriculture shall remit all moneys received by or for it under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the market division fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary.

History: L. 1947, ch. 8, § 5; L. 1973, ch. 2, § 29; L. 1996, ch. 209, § 23; L. 2001, ch. 5, § 298; July 1.

74-535. Certificate of or classification grade as evidence. A certificate of the grade, or other classification of any farm products issued under this act, shall be accepted in any court of this state as prima facie evidence of the true grade or classification of such farm products as the same existed at the time of its classification.

History: L. 1947, ch. 8, § 6; June 30.

74-536. Grain and dairy inspection not affected. Nothing herein contained shall be construed as limiting or extending the authority conferred by law upon the chief inspector of grain, or the state dairy commissioner, nor giving any authority in regard to grain or dairy products, which will in any way conflict with authority heretofore conferred by law upon the said chief inspector of grain and the state dairy commissioner.

History: L. 1947, ch. 8, § 7; June 30.

74-538. Unlawful acts; penalty. It shall be unlawful to stamp, label or mark any product or container of products so as to indicate that such product or products have been graded or inspected hereunder, unless such product or products have been actually so graded or inspected. Any person, partnership, firm, company, corporation or association violating any of the provisions of this act or any rule or regulation promulgated by the board and filed as provided by law shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars.

History: L. 1947, ch. 8, § 10; June 30.

74-539. Invalidity of part. If any part of this act be declared unconstitutional by any court of competent jurisdiction, the validity of the remaining parts of the act shall not thereby be affected or impaired.

History: L. 1947, ch. 8, § 11; June 30.

74-541. Legislative findings and declarations. The legislature finds and declares as follows: (a) That there exists in this state a pressing need to bring financial aid to the agricultural economy; (b) that there currently exists in this state an inadequate supply of funds at interest rates sufficiently low to enable persons engaged in agriculture in this state to continue their operations at current production levels; (c) that such inability to continue operations over a period of time will decrease available employment in the agricultural sector of the state and result in unemployment and its attendant problems; (d) that the federal farmers home administration currently has a huge backlog of loan applications and has need for additional personnel to process this backlog and help make such money available to Kansas farmers; (e) that current bank employees, retired bankers and other persons who have an agricultural lending background could be of assistance in processing such applications and in counseling farm borrowers; and (f) that in order to help alleviate the current shortage of funds and to speed the processing and distribution of funds available through the federal farmers home administration a cooperative effort between state and private nonprofit organizations or professional and trade associations should be undertaken to help process the funds which are available on a timely basis.

History: L. 1985, ch. 2, § 1; March 21.

74-542. Program to assist farmers home administration in processing farm loan applications and counseling borrowers; expenses of volunteers; contracts. The secretary of agriculture is hereby authorized and directed to coordinate a program with the Kansas bankers association and other such nonprofit organizations and associations in which persons who have an agricultural lending background and experience are encouraged to volunteer to assist the federal farmers home administration in the processing of farm loan applications and counseling borrowers on financial and technical matters related thereto. Within the limits of appropriations therefor and subject to the provisions of appropriations acts relating thereto, the secretary of agriculture may provide reimbursement of necessary mileage and may pay subsistence expenses to persons participating in such programs of providing voluntary assistance to the federal farmers home administration in the processing of farm loan applications. The amount of payment for mileage and subsistence expenses provided to any person under this section shall not exceed the amounts authorized to be paid for mileage and subsistence expenses under

K.S.A. 75-3223 and amendments thereto. The secretary may enter into contracts to carry out the purposes of this act. These contracts shall not be subject to the competitive bidding requirements of K.S.A. 75-3739 and amendments thereto.

History: L. 1985, ch. 2, § 2; L. 2004, ch. 101, § 123; July 1.

74-543. Citation of act. This act shall be known and may be cited as the emergency farm credit relief act.

History: L. 1985, ch. 2, § 3; March 21.

74-550. Federal grants and other funds, authority to apply for and receive; contracts. For the purposes of the powers, duties and functions of the Kansas department of agriculture and the divisions and offices thereunder, the secretary of agriculture may apply for, receive and administer federal funds and may enter into contracts therefor with the federal government and its agencies and with other state agencies.

History: L. 1984, ch. 277, § 1; L. 2004, ch. 101, § 124; July 1.

74-551. Grape growing and wine making advisory program authorized. **History:** L. 1988, ch. 165, § 2; L. 1996, ch. 209, § 24; July 1; REVOKED L. 2012., ch. 140, sec. 146; July, 1.

74-552. Grape and wine industry advisory council; membership; officers; organization. (a) There is hereby established within the Kansas department of agriculture a grape and wine industry advisory council consisting of no less than nine members who shall be appointed by the secretary of agriculture. The membership of such council shall include:

(1) One member from a Kansas higher education institution involved in related academic or research enterprises;

(2) no less than two members representing the commercial grape growing industry, with one appointed by each of the state's grape and wine industry organizations that are registered and in good standing with the secretary of state's office;

(3) no less than two members representing the licensed farm winery industry, with one appointed by each of the state's grape and wine industry organizations that are registered and in good standing with the secretary of state's office;

(4) one member who is a licensed wine distributor or wholesaler;

(5) one member who is a licensed retail liquor store owner;

(6) one member who is a registered agritourism operator; and

(7) one member with marketing or business development expertise.

(b) All members of the council shall be appointed for terms ending on June 30, 2016. All vacancies shall be filled by appointment for the remainder of the unexpired term of the member creating the vacancy.

(c) The secretary of the Kansas department of agriculture and secretary of the Kansas department of wildlife, parks and tourism, or their designees, shall designate staff as nonvoting, ex officio members of the council. The director of the state alcoholic beverage control division of the Kansas department of revenue or such director's designee shall also be a nonvoting, ex officio member.

(d) The advisory council shall organize biannually by the election from the council's membership a chairperson and a vice-chairperson. The advisory council shall adopt such rules of procedure as the council deems necessary for conducting the council's business.

(e) The provisions of this section shall expire on July 1, 2016.

History: L. 1994, ch. 308, § 1; L. 1996, ch. 209, § 25; L. 2004, ch. 101, § 196; July 1; L. 2012, ch. 140, sec. 2; July 1.

74-553. Same; duties, authorities and powers. (a) The grape and wine industry advisory council shall have the following duties, authorities and powers:

(1) Advise the Kansas department of agriculture and other state agencies on the grape and wine industry initiatives, concerns and needs;

(2) facilitate improved communication and interaction among grape and wine producers, wine and liquor wholesalers and retailers, governmental agencies, both federal and state, and state tourism interests;

(3) develop and recommend a long-term plan for financing continued programs for promotion, marketing, research and extension in support of the Kansas grape and wine industry; and

(4) report to the Kansas department of agriculture and to the standing agriculture committees of the legislature on the status of the Kansas grape and wine industry.

(b) To facilitate the organization and start-up of such plan and structure, the Kansas department of agriculture shall provide administrative assistance until such time as the secretary of the department of agriculture determines that the advisory council has resources to provide staffing on its own.

(c) The provisions of this section shall expire on July 1, 2016.

History: L. 1994, ch. 308, § 2; L. 1996, ch. 209, § 26; L. 2004, ch. 101, § 175; July 1; L. 2012, ch. 140, sec. 3; July 1.

74-554. Creation of the laboratory equipment fund; moneys credited, expenditures. (a) There is hereby created a laboratory equipment fund in the state treasury. All moneys credited to the laboratory equipment fund shall be expended for the acquisition, maintenance and replacement of equipment used by the Kansas department of agriculture laboratory and metrology laboratory.

(b) Upon request of the secretary of agriculture the director of accounts and reports shall transfer no more than 10% of the carry-over balance of any fee fund specified in subsection (c) on June 30 in any fiscal year to the laboratory equipment fund.

(c) The following fee funds are subject to this transfer:

(1) The dairy fee fund established pursuant to K.S.A. 65-782, and amendments thereto;

(2) the feeding stuffs fee fund established pursuant to K.S.A. 2-1012, and amendments thereto;

(3) the fertilizer fee fund established pursuant to K.S.A. 2-1205, and amendments thereto;

(4) the pesticide use fee fund established pursuant to K.S.A. 2-2464a, and amendments thereto;

(5) the agricultural liming materials fee fund established pursuant to K.S.A. 2-2911, and amendments thereto;

(6) the petroleum inspection fund established pursuant to K.S.A. 55-427, and amendments thereto;

(7) the meat and poultry inspection fee fund established pursuant to K.S.A. 65-6a45, and amendments thereto;

(8) the entomology fee fund established pursuant to K.S.A. 2-2128, and amendments thereto; and

(9) the weights and measures fee fund as described pursuant to K.S.A. 83-302, and amendments thereto.

(d) In any fiscal year, the total amount of fees in the fund shall not exceed \$500,000.

(e) All expenditures from the laboratory equipment fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or by a person or persons designated by the secretary.

History: L. 1994, ch. 336, § 1; L. 2004, ch. 101, § 125; July 1; amended L. 2010.

74-555. Dairy marketing advisory board; members; terms; duties. **History:** L. 1994, ch. 174, § 1; L. 1995, ch. 81, § 1; L. 1995, ch. 241, § 7; L. 2004, ch. 101, § 126; July 1. REVOKED L. 2012., ch. 140, sec. 146; July, 1.

74-560. Kansas department of agriculture; creation; appointment of secretary of agriculture; annual public informational meeting; application of K-GOAL. (a) On and after the effective date of this act, in order to reorganize the administration, planning and regulation of the state's agriculture industry there is hereby established within the executive branch of government the Kansas department of agriculture, which shall be administered under the direction and supervision of a secretary of agriculture.

(b) The secretary shall be appointed by the governor. The secretary shall have a demonstrated executive and administrative ability to discharge the duties of the office of secretary. Every appointed secretary of agriculture shall be appointed subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as secretary shall exercise any power, duty or function as secretary until confirmed by the senate. The secretary shall be a member of the governor's cabinet. The secretary shall serve at the pleasure of the governor. The secretary shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary to be fixed by the governor.

(c) The secretary shall organize an annual public informational meeting. The meeting shall take place in each congressional district on a rotating basis.

(d) The provisions of the Kansas governmental operations accountability law apply to the Kansas department of agriculture, and the department is subject to audit, review and evaluation under such law.

History: L. 1995, ch. 236, § 1; L. 2001, ch. 86, § 5; L. 2004, ch. 147, § 15; L. 2008, ch. 121, § 10; July 1.

74-561. Appointment of assistant secretaries of agriculture, staff assistants and employees. The secretary of agriculture may appoint an assistant secretary or secretaries of agriculture, who shall serve at the pleasure of the secretary of agriculture. Any such assistant secretary of agriculture shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of agriculture with the approval of the governor. The secretary of agriculture also may appoint such other staff assistants and employees as are necessary to enable the secretary to carry out the duties of the office. Except as otherwise provided in this act and in K.S.A. 75-2935, and amendments thereto, such staff assistants and employees shall be within the classified service under the Kansas civil service act. The assistant secretary or secretaries of agriculture and such other staff assistants and employees shall be within the Kansas department of agriculture and shall have such powers, duties and functions as are assigned to them by the secretary or are prescribed by law. Such assistant secretary or secretaries of agriculture, staff assistants and employees shall act for and exercise the powers of the secretary of agriculture to the extent authority to do so is delegated by the secretary of agriculture.

History: L. 1995, ch. 236, § 2; L. 2004, ch. 101, § 197; July 1.

74-562. State board of agriculture; creation; members, appointment, terms, vacancies. (a) On the effective date of this act, there is hereby created within and as part of the Kansas department of agriculture a state board of agriculture.

(b) The board shall be composed of nine members who shall be appointed by the governor. One member shall be appointed from each congressional district with the remaining members appointed at large, however, no two members shall reside in the same county at the time of their appointment. At no time shall more than five members of the board of agriculture be members of the same political party.

(c) Subsequent redistricting shall not disqualify any member of the board from service for the remainder of such member's term.

(d) The regular term of office of members of the board of agriculture shall be four years. Regular terms shall commence on the second Monday in January following appointment of the board member.

(e) Of the members of the board appointed in the year 1995: (1) Four members shall have terms ending on the second Monday in January 2001 and no more than two such members shall be members of the same political party; and (2) five members shall have terms ending on the second Monday in January 1999 and no more than three such members shall be members of the same political party.

(f) Any member appointed subsequent to 1995 shall be appointed for a four-year term, unless such appointment is to fill the unexpired term where a vacancy has occurred on the board, in which case the member shall be appointed for the remainder of the unexpired term.

(g) No officer or employee of the Kansas department of agriculture shall be a member of the state board of agriculture.

History: L. 1995, ch. 236, § 3; L. 2004, ch. 101, § 176; July 1.

74-563. Same; initial meeting; subsequent meetings. (a) The initial meeting of the board shall commence following the appointment of all board members by the governor. The governor shall certify to the secretary of state that all board members have been appointed. Such certification shall be published in the Kansas register. One week following such publication, the board shall meet in the office of the secretary of state in the state capitol building, and such meeting shall commence at 10:00 o'clock a.m. The initial meeting of the board may be recessed and moved to another meeting place by common consent of the members.

(b) Meetings of the board subsequent to its initial meeting shall be held and conducted as provided in this act in accordance with policies and procedures established by the board.

(c) Commencing at the time of the initial meeting of the board, the powers, authorities, duties and responsibilities conferred and imposed upon the board by this act shall be operative and effective.

History: L. 1995, ch. 236, § 4; May 4.

74-564. Same; election of officers. At the board's initial meeting and at the board's first meeting after the second Monday in January of each odd-numbered year, the board shall organize by election of a chairperson, vice-chairperson and such other officers as the board deems appropriate.

History: L. 1995, ch. 236, § 5; May 4.

74-565. Same; quorum; official actions. A quorum of the board shall be five members and no meeting shall commence until a quorum is present, but any number of members less than a quorum may recess a meeting to a later time. Official actions of the board shall be adopted by a favorable vote of five or more members. A recorded vote shall be taken and made a part of the board's public record.

History: L. 1995, ch. 236, § 6; May 4.

74-566. Same; compensation, travel expenses and subsistence allowances. The state board of agriculture may authorize members thereof to attend in-state meetings for participation in matters of agricultural interest to the state of Kansas, and when attending a meeting so authorized, members shall receive compensation and travel expenses and subsistence allowances as provided in K.S.A. 75-3212, and amendments thereto, for members of the legislature. Whenever under any provision of law, a member of the state board of agriculture is authorized to attend an out-of-state meeting, or whenever the state board of agriculture authorizes one of its members to attend an out-of-state meeting for participation in matters of agricultural interest to the state of Kansas, such members, when attending a meeting so authorized, shall receive compensation and travel expenses and subsistence allowances as provided in K.S.A. 75-3212, and amendments thereto, for members of the legislature.

History: L. 1995, ch. 236, § 7; May 4.

74-567. Same; powers, duties and functions. (a) The state board of agriculture shall have such powers, duties and functions as prescribed by this section. The board shall serve in an advisory capacity to the governor and the secretary to review and make recommendations on department legislative initiatives and proposed rules and regulations or proposed revised rules and regulations prior to the submission of such rules and regulations to the secretary of administration pursuant to K.S.A. 77-420, and amendments thereto, other than rules and regulations pertaining to personnel matters of the department, rules and regulations of the division of water resources and

rules and regulations of the division of food safety. The board shall not have any powers, duties or functions concerning the day-to-day operations of the Kansas department of agriculture.

(b) The board shall serve in an advisory capacity to the agriculture marketing and promotions program within the Kansas department of agriculture. The board shall advise the program on issues and concerns relating to agriculture products development and marketing.

(c) The agriculture marketing and promotions program of the Kansas department of agriculture shall report to the board, at not less than two meetings of such board each year, on the activities and functions of the program.

History: L. 1995, ch. 236, § 8; L. 1996, ch. 209, § 28; L. 2003, ch. 154, § 25; L. 2004, ch. 147, § 9; July 1; L. 2012, ch. 140, sec. 120; July 1.

74-568. State board of agriculture and secretary of the state board of agriculture abolished; transfer of powers and duties to the department of agriculture and secretary of agriculture. (a) The state board of agriculture created by K.S.A. 74-503, and amendments thereto, and the office of secretary of the state board of agriculture created by K.S.A. 74-503, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing state board of agriculture and the existing secretary of the state board of agriculture are hereby transferred to and conferred and imposed upon, the department of agriculture and the secretary of agriculture established by this act. (c) Except as otherwise provided by this act, the department of agriculture and the secretary of agriculture established by this act shall be the successor in every way to the powers, duties and functions of the state board of agriculture and the secretary of agriculture in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of agriculture or the secretary of agriculture established by this act shall be deemed to have the same force and effect as if performed by the state board of agriculture or the secretary of the state board of agriculture, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided by this act, whenever the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(e) Except as otherwise provided by this act, whenever the secretary of the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(f) All rules and regulations of the state board of agriculture or the secretary of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of agriculture established by this act until revised, amended, revoked or nullified pursuant to law.

(g) All rules and regulations of the division of water resources of the state board of agriculture or the chief engineer of the division of water resources of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the chief engineer of the division of water resources of the department of agriculture established by this act until revised, amended, revoked or nullified pursuant to law.

(h) All orders and directives of the state board of agriculture or the secretary of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the secretary of agriculture established by this act, until revised, amended or nullified pursuant to law.

(i) On the effective date of this act, the secretary of agriculture shall succeed to whatever right, title or interest the state board of agriculture has acquired in any real property in this state, and the secretary shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the state board of agriculture or the secretary of the state board of agriculture to acquire, hold or dispose of real property or any interest therein, the secretary of agriculture shall succeed to such power or authority.

(j) The secretary of agriculture established by this act shall be continuations of the state board of agriculture and the secretary of the state board of agriculture.

History: L. 1995, ch. 236, § 9; May 4.

74-569. Organization of the department of agriculture. (a) The secretary of agriculture may organize the department of agriculture in the manner the secretary deems most efficient, so long as the same is not in conflict with the provisions of this act or with the provisions of law, and the secretary may establish policies governing the transaction of business of the department and the administration of each of the divisions within the department. Except as provided in K.S.A. 83-205, and amendments thereto, the chief administrative officer of each division of the department shall be within the classified service under the Kansas civil service act and shall perform such duties and exercise such powers as the secretary of agriculture may prescribe and such duties and powers as are prescribed by law. Such chief administrative officers shall act for and exercise the powers of the secretary of agriculture to the extent authority to do so is delegated by the secretary of agriculture.

(b) Except as otherwise provided in this act, and subject to the Kansas civil service act, the chief administrative officer of each division of the department of agriculture shall appoint all subordinate officers and

employees of such officer's division, subject to the approval of the secretary, and all such subordinate officers and employees shall be within the classified service of the Kansas civil service act. Personnel of each such division shall perform such duties and exercise such powers as the chief administrative officer of their division to the extent authority to do so is delegated by such administrative officer.

History: L. 1995, ch. 236, § 10; L. 1996, ch. 146, § 3; Apr. 18.

74-570. Transfer of employees; retention of benefits. Except as otherwise provided in this act, on the effective date of this act, officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of any state agency or office which is abolished by this act, or which becomes a part of the department of agriculture, or the powers, duties and functions of which are transferred to the secretary of agriculture, and who, in the opinion of the secretary of agriculture, are necessary to perform the powers, duties and functions of the department of agriculture, shall be transferred to, and shall become officers and employees of the department. Any such officer or employee shall retain all retirement benefits and all rights of civil service which had accrued to or vested in such officer or employee prior to the effective date of this act. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers and any abolition of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder.

History: L. 1995, ch. 236, § 11; May 4.

74-571. Conflicts resolved by governor. (a) When any conflict arises as to the disposition of any power, function or duty or the unexpended balance of any appropriation as a result of any abolition, transfer, attachment or change made by or under authority of this act, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The secretary of agriculture shall succeed to all property and records which were used for or pertain to the performance of the powers, duties and functions transferred to the secretary of agriculture. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the transfer, attachment or abolition of any state agency, or all or part of the powers, duties and functions thereof, shall be determined by the governor, whose decision shall be final.

History: L. 1995, ch. 236, § 12; May 4.

74-572. Secretary of agriculture has custody of records; civil or criminal actions not effected. (a) The secretary of agriculture shall have the legal custody of all records, memoranda, writings, entries, prints, representations or combinations thereof of any act, transaction, occurrence or event of the department of agriculture and any agency or office abolished or transferred thereto under this act.

(b) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency mentioned in this act, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(c) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

History: L. 1995, ch. 236, § 13; May 4.

74-573. Funds and liabilities transferred. (a) On the effective date of this act, the balance of all funds appropriated and reappropriated to any of the state agencies abolished by this act is hereby transferred to the secretary of agriculture and shall be used only for the purpose for which the appropriation was originally made.

(b) On the effective date of this act, the liability for all accrued compensation or salaries of officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of any state agency or office abolished by this act, or which becomes a part of the department of agriculture established by this act, or the powers, duties and functions of which are transferred to the secretary of agriculture provided for by this act, shall be assumed and paid by the secretary of agriculture established by this act.

History: L. 1995, ch. 236, § 14; May 4.

74-574. Transfer of functions to the secretary of agriculture. The following programs and functions are hereby transferred from the division of marketing, department of agriculture, and conferred upon the secretary of agriculture: (a) The functions relating to standards, grades, and classifications for agricultural products and receptacles, pursuant to K.S.A. 74-531, 74-532, and 74-534, and amendments thereto; (b) the functions relating to labeling of agricultural products established under K.S.A. 2-2306, and amendments thereto; and (c) functions relating to the grape and wine industry advisory council established by K.S.A. 74-552, and amendments thereto.

History: L. 1996, ch. 209, § 3; L. 2000, ch. 116, § 12; July 1.

74-575. Division of marketing and director of marketing; transfer of powers and duties to the secretary of agriculture. (a) Except as otherwise provided by this act, the secretary of agriculture shall be the successor in every way to the powers, duties, and functions of the division of marketing and director of marketing in which the same were vested prior to the effective date of this act and which are transferred pursuant to K.S.A. 74-574. Every act performed in the exercise of such powers, duties, and functions by or under the authority of the secretary of agriculture shall be deemed to have the same force and effect as if performed by the division of marketing or director of marketing in which such powers, duties, and functions were vested prior to the effective date of this act.

(b) Whenever the "division of markets," or words of like effect, are referred to or designated by a statute, contract, or other document, and such reference is in regard to one of the powers and duties transferred to the department of agriculture pursuant to K.S.A. 74-574, such reference or designation shall be deemed to apply to the department of agriculture. Whenever the "director of marketing," or words of like effect, are referred to or designated by a statute, contract, or other document, and such reference is in regard to one of the powers and duties transferred to the department of commerce pursuant to K.S.A. 74-574, such reference or designation shall be deemed to apply to the secretary of agriculture.

(c) All rules and regulations, orders, and directives of the division of marketing or director of marketing pertaining to powers and duties transferred pursuant to K.S.A. 74-574 shall continue to be effective and shall be deemed to be rules and regulations, orders, and directives of the secretary of agriculture until revised, amended, or nullified pursuant to law.

History: L. 1996, ch. 209, § 6; L. 2003, ch. 154, § 26; July 1.

74-576. Powers and duties of the secretary of agriculture. In addition to the specific powers and duties conferred upon the secretary of agriculture by the laws of this state, the secretary is hereby authorized to:

(a) Make and enter into contracts and agreements necessary or incidental to the execution of the laws relating to the department of agriculture;

(b) charge and collect, by order, a fee necessary for the administration and processing of paper documents, including applications, registrations, permits, licenses, certifications, renewals, reports and remittance of fees that are necessary or incidental to the execution of the laws relating to the department of agriculture, when an electronic system for processing such documents exists. Such fee shall be in addition to any fee the secretary is authorized to charge by law and may be up to 6% of such applicable fee amount, but shall not exceed \$50; and

(c) foster and promote the development and economic welfare of the agricultural industry of the state.

History: L. 1996, ch. 93, § 1; Apr. 4; L. 2017, ch. 86, § 11; July 1.

74-577. Dairy interstate compact; powers and duties of secretary of agriculture. The state of Kansas may seek to enter into a dairy interstate compact with other states for the purpose of the orderly marketing of milk. Prior to entering into such compact, an economic impact study shall be conducted by the secretary of agriculture to determine the impact on producers, processors and consumers. Subject to the approval of the legislature or in the event the legislature is not in session, the legislative coordinating council, the secretary of agriculture is hereby authorized to enter into such compact on behalf of the state of Kansas.

History: L. 1999, ch. 97, § 2; July 1.

74-578. Grain commodities commission service fund; expenditures. On and after July 1, 2000, there is hereby created in the state treasury the grain commodities commission services fund. All moneys received by the Kansas department of agriculture for services performed by the department for the grain commodities commission created pursuant to the provisions of K.S.A. 2-3001 *et seq.* and K.S.A. 2-3002a, and amendments thereto, shall be remitted to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the grain commodities commission services fund. All costs and expenses incurred by the department in providing services to the grain commodities commissions shall be paid from the grain commodities commission services fund. All expenditures from the grain commodities commission services fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

History: L. 2000, ch. 116, § 11; L. 2004, ch. 101, § 178; July 1.

74-5,134. Laboratory testing; fee; laboratory testing services fee fund. (a) The secretary of agriculture may fix, charge and collect fees for providing laboratory testing of samples from other states upon request. The fees shall be fixed in order to recover all or part of the costs incurred to provide the services and any other necessary and incidental expenses incurred in conjunction with such laboratory testing.

(b) The secretary of agriculture shall remit all moneys received by or for the secretary from fees collected under this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the laboratory testing services fee fund.

(c) The secretary of agriculture may adopt rules and regulations to establish fees and to implement and administer the provisions of this section for such laboratory testing.

History: L. 2012, ch. 2, sec. 1; Mar. 8.

74-5,135. Temporary transfer of state board of veterinary examiners within the Kansas department of agriculture. (a) On and after July 1, 2014, through June 30, 2016, the state board of veterinary examiners is hereby established within the division of animal health of the Kansas department of agriculture.

(b) The Kansas department of agriculture shall provide all administrative services for the board, including fiscal, information technology, human resources, records, legal, facilities and procurement services.

(c) The provisions of this section shall expire on June 30, 2016.

History: L. 2014, ch. 12, § 1; July 1.

75-37,121. Office of administrative hearings; presiding officers; director, duties of; rules and regulations; required utilization of presiding officers; personnel transfers. (a) There is created the office of administrative hearings within the department of administration, to be headed by a director appointed by the secretary of administration. The director shall be in the unclassified service under the Kansas civil service act.

(b) The office may employ or contract with presiding officers, court reporters and other support personnel as necessary to conduct proceedings required by the Kansas administrative procedure act for adjudicative proceedings of the state agencies, boards and commissions specified in subsection (h). The office shall conduct adjudicative proceedings of any state agency which is specified in subsection (h) when requested by such agency. Only a person admitted to practice law in this state or a person directly supervised by a person admitted to practice law in this state may be employed as a presiding officer. The office may employ regular part-time personnel. Persons employed by the office shall be under the classified civil service.

(c) If the office cannot furnish one of its presiding officers within 60 days in response to a requesting agency's request, the director shall designate in writing a full-time employee of an agency other than the requesting agency to serve as presiding officer for the proceeding, but only with the consent of the employing agency. The designee must possess the same qualifications required of presiding officers employed by the office.

(d) The director may furnish presiding officers on a contract basis to any governmental entity to conduct any proceeding other than a proceeding as provided in subsection (h).

(e) The secretary of administration may adopt rules and regulations:

(1) To establish procedures for agencies to request and for the director to assign presiding officers. An agency may neither select nor reject any individual presiding officer for any proceeding except in accordance with the Kansas administrative procedure act;

(2) to establish procedures and adopt forms, consistent with the Kansas administrative procedure act, the model rules of procedure, and other provisions of law, to govern presiding officers; and

(3) to facilitate the performance of the responsibilities conferred upon the office by the Kansas administrative procedure act.

(f) The director may implement the provisions of this section and rules and regulations adopted under its authority.

(g) The secretary of administration may adopt rules and regulations to establish fees to charge a state agency for the cost of using a presiding officer.

(h) The following state agencies, boards and commissions shall utilize the office of administrative hearings for conducting adjudicative hearings under the Kansas administrative procedures act in which the presiding officer is not the agency head or one or more members of the agency head:

(1) On and after July 1, 2005: Kansas department for children and families, juvenile justice authority, Kansas department for aging and disability services, department of health and environment, Kansas public employees retirement system, Kansas water office, Kansas department of agriculture division of animal health and Kansas insurance department.

(2) On and after July 1, 2006: Emergency medical services board, emergency medical services council, Kansas health policy authority and Kansas human rights commission.

(3) On and after July 1, 2007: Kansas lottery, Kansas racing and gaming commission, state treasurer, pooled money investment board, Kansas department of wildlife and parks and state board of tax appeals.

(4) On and after July 1, 2008: Department of human resources, state corporation commission, Kansas department of agriculture division of conservation, agricultural labor relations board, department of administration, department of revenue, board of adult care home administrators, Kansas state grain inspection department, board of accountancy and Kansas wheat commission.

(5) On and after July 1, 2009, all other Kansas administrative procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

(i) (1) Effective July 1, 2005, any presiding officer in agencies specified in subsection (h)(1) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative

hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(2) Effective July 1, 2006, any presiding officer in agencies specified in subsection (h)(2) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(3) Effective July 1, 2007, any presiding officer in agencies specified in subsection (h)(3) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(4) Effective July 1, 2008, any full-time presiding officer in agencies specified in subsection (h)(4) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(5) Effective July 1, 2009, any full-time presiding officer in agencies specified in subsection (h)(5) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment occurred.

History: L. 1997, ch. 182, § 88; L. 2000, ch. 132, § 1; L. 2004, ch. 145, § 34; L. 2006, ch. 4, § 1; L. 2007, ch. 192, § 1; L. 2008, ch. 109, § 67; July 1; L. 2012, ch. 140, sec. 119; L. 2014, ch. 115, sec. 337; July 1; 2015, ch. 100, § 13; July 1.

Revisor's Note:

Section was amended twice in the 2012 session, see also 75-37, 121a.

Section was also amended by L. 2012, ch. 102, § 33, but that version was repealed by L. 2012, ch. 166, § 24.

Section was amended twice in the 2014 session, see also [75-37,121b](#).